

ZONING ORDINANCE

STARKE COUNTY COMPREHENSIVE AIRPORT ZONING ORDINANCE

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH; REGULATING THE USE OF LAND; AND MODE OF CONSTRUCTION OF STRUCTURES WITHIN NOISE IMPACTED AREAS IN PROXIMITY OF STARKE COUNTY AIRPORT; PROVIDING AN EFFECTIVE DATE AND REPEALING ALL ORDINANCES OR PROVISIONS THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE STARKE COUNTY COUNCIL IN LAWFUL SESSION ASSEMBLED AS FOLLOWS:

This ordinance is adopted pursuant to the authority conferred by Indiana Code 8-22-3-14. It is hereby found that an airport obstruction has the potential for being hazardous to aircraft operations as well as to persons and property on the ground in the vicinity of such an obstruction. An obstruction may affect land use in its vicinity and may reduce the size of areas available for taking off, maneuvering and landing of aircraft, thus, tending to impair or destroy the utility of the Starke County Airport, and the public investment therein. Certain other land uses in the vicinity of airports also have the potential for being hazardous to normal aircraft operations or to increase the potential for personal and property damage in the event of an aircraft accident.

Further it is hereby found that aircraft noise may be an annoyance or objectionable to residents in the community surrounding the Starke County Airport.

Accordingly, it is declared that:

1. The creation or establishment of an airport obstruction which is hazardous to aircraft operations or which reduces the size of the area available for such operations is a public nuisance and an injury to the region served by the Starke County Airport.
2. It is necessary in the interest of the public health, public safety and general welfare that the creation of airport obstructions and the incompatible use of land within certain airport zones be prevented; and

3. The prevention of these obstructions and incompatible land uses should be accomplished to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that preventing the creation or establishment of airport obstructions and incompatible land uses and their elimination, removal, alternation, or mitigation to include marking and lighting of existing airport obstructions is a public purpose for which the political subdivision may raise and expend public funds and acquire land or interests in land.

A. Zones, Limitations, Variances

The purpose of this part is to establish standards of heights and land uses to prevent the creation of obstructions hazardous to aeronautical operations or which would impair utility and capacity of the Starke County Airport. This part creates specific land use limitations and; establishes procedures for their orderly administration and enforcement.

1.1 DEFINITIONS – As used in this ordinance, unless the context otherwise requires:

1. **AIRPORT** – An area of land or water designed and set aside for the landing and taking off of aircraft, utilized or to be utilized in the interest of the public for such purpose and validly licensed by the state in the Public Airport category which includes AP.
2. **AIRPORT ELEVATION** – The highest point of the airport's usable landing area measured in feet Above Mean Sea Level (AMSL).
3. **AIRPORT OBSTRUCTION** – Any object of natural growth or structure or use of land which would exceed the federal obstructions standards as contained in 14 CFR S.S. 71.21, 77.23, 77.25, 77.28, 77.29 or which obstruct the airspace required for flight of aircraft in taking off, maneuvering or landing at an airport or may otherwise be hazardous to the taking off, maneuvering or landing of aircraft.
4. **AIRSPACE HEIGHT** – The height limits as established in all zones set forth in this ordinance. AMSL elevation shall be the datum unless otherwise specified.
5. **CLIMB GRADIENT** – Aircraft instrument departure procedure requiring adherence to a minimum climb slope or grade expressed in feet per nautical mile.
6. **DECISION HEIGHT** – The height at which a pilot must decide, during an Instrument Landing System (ILS) approach, to either continue the approach or to execute a missed approach.

7. **MINIMUM DECENT ALTITUDE** – The lowest AMSL altitude to which descent is authorized on final approach or during circling-to-land maneuvering in execution of a Standard Instrument Approach Procedure (SIAP) where electronic glide slope is not provided.
8. **MINIMUM ENROUTE ALTITUDE (MEA)** – The lowest published altitude between radio fixes that assures acceptable navigational signals coverage and meets obstruction clearance requirements between those fixes.
9. **MINIMUM OBSTRUCTION CLEARANCE ALTITUDE (MOCA)** – The lowest published altitude between radio fixes on Federal VOR airways, off-airway routes, on routes segments than meets obstruction clearance requirements for the entire segment and assures acceptable navigational signal coverage only within 22 miles of a VOR.
10. **MINIMUM VECTORING ALTITUDE (MVA)** – The lowest AMSL altitude at which aircraft operating on Instrument Flight Rules (IFR) will be vectoring by a radar controller, except when otherwise authorized for radar approaches, departures or missed approaches.
11. **NONCONFORMING USE** – Any pre-existing structure, object or natural growth or use of land which is inconsistent with the provisions of this Ordinance, or amendments thereto.
12. **NON-PRECISION INSTRUMENT RUNWAY** – A runway having an instrument approach procedure utilizing air navigational facilities with only horizontal guidance, or area type navigational equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision instrument approach facilities are planned or indicated on an appropriate civil or military airport planning document.
13. **NONSTANDARD TAKE OFF MINIMUMS** – Conditions of existing weather required for take off at an airport which exceed the standards prescribed in Federal Aviation Regulations Part 91.
14. **OTHER THAN UTILITY RUNWAY** – A runway designed for an intended to be used by all types of aircraft including those having gross weights greater than 12,500 pounds.
15. **PRECISION INSTRUMENT RUNWAY** – A runway having an instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MLS), or a Precision Approach Radar (PAR) including a runway for which such a

system is planned and is so indicated on an approved civil or military airport layout plan; other FAA planning documents, or comparable military service planning documents.

16. **RUNWAY** – A defined area on an airport prepared for landing and take off of aircraft along its length.
17. **STRUCTURE** – Any object, constructed or installed by man, including but not limited to: buildings, towers, smoke stacks, cranes, utility poles and overhead transmission lines.
18. **UTILITY RUNWAY** – A runway that is constructed for and intended to be used only by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
19. **VISUAL RUNWAY** – A runway intended solely for the operation of aircraft using visual approach procedures with no instrument approach procedure planned or indicated on an approved civil or military airport layout plan, or by any other planning document submitted to the FAA by competent authority.
20. **ZONING ADMINISTRATOR** – The administrative office or agency responsible for administering and enforcing the requirements of this ordinance within Starke County or within each political subdivision that adopts this ordinance. The zoning administrator in Starke County is the Starke County Zoning Administrator.

B. Airport Zones and Airspace Height Limitations

There are hereby created, and established certain zones which includes all land lying beneath the approach, transitional, horizontal and conical surfaces as they apply to a particular airport. Such zones are shown on the Starke County Airport Zoning Map(s) attached to this ordinance and made a part thereof as Appendix 1. An area located in more than one of the described zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. **PRIMARY ZONE** – An area longitudinally centered on each runway, extending 200 feet beyond each end of that runway with the width specified for the most precise approach existing or planned for either end of the runway. The width of each Primary Zone is as follows: Other Than Utility, Non-precision Instrument Runway(s); 500 feet.

ZONE HEIGHT:

No structure or obstruction will be permitted within a Primary Zone that is not part of the landing and take off facility and is of a greater elevation AMSL height than the nearest point of the runway centerline.

2. **HORIZONTAL ZONE** – An area around each public use airport with an outer boundary the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the Primary Zone of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of the arc specified for each end of the runway will have the arithmetic value, and the value will be the highest composite value determined for either end of that runway. When a smaller arc is encompassed by the tangent connecting two adjacent larger arcs, the smaller arc will be disregarded in the construction of the perimeter of the horizontal zone. The radius of each runway arc is as follows: Precision Instrument and Other Than Utility, Non-precision Runway(s); 10,000 feet.

ZONE HEIGHT:

No structure or obstruction will be permitted in the Horizontal Zone that has a height greater than 150 feet above the airport height.

3. **CONICAL ZONE** – An area extended outward from the periphery of an airport Horizontal Zone for a distance of 4,000 feet.

ZONE HEIGHT:

No structure or obstruction will be permitted in the Conical Zone that has a height greater than 150 feet above the airport height at its inner boundary with permitted height increasing one (1) foot vertically for every twenty (20) feet of horizontal distance measured outward from the inner boundary to a height 350 feet above airport elevation at the outer boundary.

4. **APPROACH ZONE** – An area longitudinally centered on the extended runway centerline and extending outward from the end of the Primary Surface. The

approach zone is designated for each runway based upon the type of approach available or planned for that runway end and;

- A. **Approach Zone Widths:** The inner edge of the Approach Zone is the same width as the Primary Zone. The outer width of the Approach Zone is prescribed for the most precise approach existing or planned for that runway end expanding uniformly outward to a width of: Other Than Utility, Non-precision Instrument Runway(s); 3,500 feet.
 - B. **Approach Zone Lengths:** The Approach Zone extends for a horizontal distance of: Other Than Utility, Non-precision Instrument Runway(s); 10,000 feet.
 - C. **Approach Zone Heights:** No structure or obstruction will be permitted within approach zones having a height greater than the runway end elevation at its inner edge, increasing with horizontal distance from the inner edge as follows: Other Than Utility, Non-precision Instrument Runway(s); one (1) foot vertically for every thirty-four (34) feet horizontally.
5. **TRANSITIONAL ZONE** – An area extending outward from the ends of each Primary Zone and Approach Zone connecting them to the Horizontal Zone and an area outward 5,000 feet horizontally or until intersection with the Conical Zone from the side of that portion of the Approach Zone of a Precision Instrument Runway extending through and beyond the Conical Zone.

ZONE HEIGHT:

No structure or object will be permitted within the Transitional Zone greater in height than the Primary or Approach Zone at their adjoining lines increasing at a rate of one (1) foot vertically for every seven (7) feet horizontally, with the horizontal distance measured at right angles to the runway centerline and extended centerline, until the height matches the height of the Horizontal Zone, or the height of the Conical Zone for a horizontal distance of 5,000 feet from each side of that part of the

Approach Zone for a Precision Instrument Runway extending beyond the Conical Zone.

6. **OTHER AREAS** – In addition to the height limitations imposed in paragraphs 1 through 5 above, no structure or obstruction will be permitted within Starke County that would cause a MDA, MOCA, MVA or a decision height to be raised nor which would impose either the establishment or restrictive minimum climb gradients or non-standard take off minimums for any runway at the Starke County Airport.

C. Airport Land Use Restrictions

NOTWITHSTANDING any other provisions of this Ordinance, no use may be made of the land or water within any Zones established by this Ordinance in such manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

1. All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such manner that it is not misleading or dangerous to aircraft operating from the Starke County Airport or in the vicinity thereof.
2. No operations from any type shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Starke County Airport.
3. No operations from any type shall produce electronic interference with navigational signals or radio communication between aircraft, the airport, or other air traffic control facility.
4. Within any airport Primary Zone or within any runway Approach Zone area where the zone height is fifty (50) feet or less above the end of the runway, no operations of any type shall involve the storage, distribution or manufacture of flammable, explosive, toxic or other hazardous material. This restriction shall apply to those materials in a quantity or of a type which if exposed to an aircraft accident, would further jeopardize the safety or health of the aircraft occupants, of the facility in the

vicinity, by-standers and emergency personnel or would prevent, delay, limit or otherwise curtail appropriate response actions by emergency personnel.

5. Within any airport Primary Zone or within any runway Approach Zone area where the zone height is fifty (50) feet or less above the end of the runway, no operations of any type shall involve the congregation of people for either short or long term purposes. This restriction shall apply to any use involving individuals who by their numbers condition, age or other factor, should they be exposed to an aircraft accident, escalate the resultant effect.
6. Sanitary landfills shall be considered as an incompatible use if located within areas established for the airport through the application of the following criteria:
 - a. Landfills located within 10,000 feet of any runway used or planned at the Starke County Airport.
 - b. Any landfill located so that it places the runways and/or approach departure patterns at the Starke County Airport between bird feeding, water or roosting areas.
 - c. Landfills outside the above perimeters but still within the lateral limits of the airport zones described herein will be reviewed on a case-by-case basis.

D. Obstruction Marking and Lighting

Any variance or permit granted as a specific condition, require the owner to mark and light the structure to indicate to aircraft pilots the presence of an obstruction. Such marking and lighting shall conform to the specific standards established by Chapter 14-60, *Rules of the Department of Transportation* and the Federal Aviation Administration Advisory Circular 70/7460-1 as amended and attached to this report as Appendix 2.

E. Variances

Any person desiring to erect or increase the height of any structure or use his/her property not in accordance with the regulations prescribed by this Ordinance, may apply to the Board of Zoning Appeals for a variance from such regulations. At that time of filing, the applicant shall forward a copy of his/her application for variance by certified mail return receipt

requested the Indiana Department of Transportation – Office of Aviation and the Starke County Airport Authority. The Office of Aviation and the Airport Authority shall have 45 days from receipt of the application to provide comments to the applicant and the Board of Zoning Appeals after which time that right is waived. Additionally, no application for a variance may be considered unless the applicant shows evidence the requirement for Notice of Construction or Alteration under Title 14, Code of Federal Regulations, Part 77 has been complied with. No application for a variance to the requirements of this Ordinance may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Starke County Zoning Administrator. The Board of Zoning Appeals may proceed with consideration of an application only upon receipt of the Office of Aviation and/or Airport Authority comments or the waiver of the right as demonstrated by the applicant's filing a copy of a return receipt showing the 45 days have elapsed.

F. Nonconforming Use

The requirements prescribed by this Ordinance shall not be construed to necessitate the removal, lowering or other alternation of any existing structure or tree not conforming to the requirements as of the effective date of this Ordinance. Nothing herein contained shall require any change in the construction or alteration which has begun prior to the effective date of this Ordinance, and is diligently pursued and completed within two (2) years thereof. The cost of removing or lowering any tree not conforming to the requirements of this Ordinance shall borne by the Starke County Airport Authority. Before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt or allowed to grow higher or replanted, a permit must be secured from the Zoning Administrator or his/her duly appointed designee. No permit shall be granted that would allow the establishment or creation of an obstruction hazardous to aircraft operations or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was as of the effective date of this Ordinance. Whenever the Zoning Administrator determines that a nonconforming use or nonconforming structure or tree has been abandoned or that the cost of repair, reconstruction or restoration exceeds the value of the structure or tree, no permit shall be granted that would allow said structure or tree to be repaired, reconstructed, or restored except by a conforming structure or tree.

G. Administration and Enforcement

It shall be the duty of the Zoning Administrator to administer and enforce the requirements prescribed herein within the territorial limits over which Starke County has jurisdiction through the permitting process. Permits shall be requested by use of IC 8-21-10 *Regulation of Tall Structures* Application attached to this report as Appendix 3. Prior to the issuance or denial of a Tall Structure permit by the Zoning Administrator, the Federal Aviation Administration must have reviewed the proposed construction or alteration and issued a determination of the proposal's effect on navigable airspace where such prior notification under Title 14, Code of Federal Regulations, Part 77 is required. Temporary or conditional permits pending completion of the Federal Aviation Administration's review shall not be issued. In the event that the Zoning Administrator finds any violation of the requirements herein, the Zoning Administrator shall give notice to the person responsible for such violation in writing. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation. A copy of said notice shall be sent to the Board of Zoning Appeals. The Zoning Administrator shall order discontinuance of any work being done or shall take any or all other action necessary to correct violations and obtain compliance with all the provisions of this Ordinance.

H. Board of Zoning Appeals

1. The Starke County Board of Zoning Appeals shall have and will exercises the following power on matters relating to areas within their territorial limit of authority:
 - a. to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance.
 - b. to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Zoning Appeals may be required to pass.
 - c. to hear and decide specific variances.
2. The Board of Zoning Appeals shall adopt rules for its governance in harmony with the provisions of this Ordinance. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his/her absence the acting Chairman,

may administer oaths and compel the attendance of witnesses. All hearings of the Board of Zoning Appeals shall be public. The Board of Zoning Appeals shall keep minutes of its proceedings showing the 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 Starke County Clerk.

3. The concurring vote of a majority of the members of the Board of Zoning Appeals shall be sufficient to reverse any order, requirement, decision, or Determination of the Zoning Administrator, or to decide in favor of the application on any matter upon which it is required to pass under this Ordinance, or to effect variation of this Ordinance.

I. Appeals

1. Any person aggrieved, or any taxpayer, by any decision of the Zoning Administrator made in the administration of this Ordinance, may appeal to the Board of Zoning Appeals.
2. All appeals hereunder must be made within a reasonable time as provided by the rules of the Board of Zoning Appeals, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals, all the papers constituting the record upon which the action appealed was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the Board of Zoning Appeals, after the notice of appeal has been filed, that be reason of the facts stated in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by order of the Board of Zoning Appeals on notice to the Zoning Administrator and after cause is shown.
4. The Board of Zoning Appeals shall fix a reasonable time for hearing appeals, give the public notice and due notice to the interested parties and render a decision within

a reasonable time. During the hearing, any party may appear in person, by agent or by attorney.

5. The Board of Zoning Appeals 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, as may be appropriate under the circumstances.

J. Judicial Review

Any person aggrieved, or any taxpayer affected by any new decision of the Board of Zoning Appeals, may appeal to the Circuit Court as provided in Indiana Code 36-7-4-1003 et. seq.

K. Penalties

Each violation of this Ordinance or of any regulation, order or ruling promulgated herein shall be punishable as set forth in the Starke County Zoning Ordinance.

L. Conflicting Regulations

Where there exists a conflict between any of the requirements or limitations prescribed in this ordinance and any other requirements, regulations or zoning 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 requirement shall govern and prevail. The variance to or waiver of any such more stringent limitation or requirement shall not constitute automatic variance or waiver of the less stringent limitations or requirements of this Ordinance.

M. Severability

If any of the provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or application, and to the end the provisions of this Ordinance are declared to be severable.

PART II COMPATIBLE LAND USES AND REQUIREMENTS

The purpose of this Part is to establish standards for land use at the Starke County Airport, and establishes notification procedures to prospective purchasers of real estate.

A. DEFINITIONS

1. **AVIGATION EASEMENT** – The assignment of a right to the Starke County Airport Authority to a portion of the total benefits of the ownership of real property. The selected rights may be granted or may be purchased.
2. **OCCUPIED ROOMS** – Rooms within enclosed structures which are or may reasonably be expected to be used for human activities which involve speech communication, sleeping, eating, listening to live, recorded or broadcast music or speech, or the regular use of telephones.
3. **PERSONS** – Individual, firm, partnership, corporation, company, association, joint stock association, or political body including the trustee, receiver, assignee, administrator, executor, guardian or other representative.

B. Land Use Restrictions

1. **PERMITTED AND RESTRICTIVE ACTIVITIES**

Land uses in the Noise Sensitive Area of the Starke County Airport shall be permitted as provided by Indiana Code (IC) 8-21-10-3 attached to this Ordinance and made a part hereof in Appendix 4. Those activities and land uses not specifically listed in the IC are permitted or restricted based on their familiarity to noise tolerance and compatibility with normal airport operations.

2. **NONCONFORMING USES**

The regulations prescribed by this Part shall not be construed to require the sound conditioning or other changes or alteration of any existing structure not conforming to this Part as of the effective date of this Ordinance or to otherwise interfere with the continuance of any such existing nonconforming use. Nothing herein contained shall

require any such change in the construction or alteration of a structure which was begun prior to the effective date of this Ordinance and is diligently pursued.

C. Appeals

An appeal from any interpretation or administrative decision of the Zoning Administrator may be taken, and requests for variance or exception may be made to the Board of Zoning Appeals and Appeals as provided in Section I of this Ordinance.

D. Future Uses

No change shall be made in the use of land, and no structure shall be altered or otherwise established in any zone hereby created except in accordance with this Part.

E. Variances

A variances may be granted by the Board of Zoning Appeals where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship, and would prevent the substantial enjoyment of property rights as shared by nearby properties which do conform to this Ordinance. In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions, requirements and safeguards in conformity with this act and the intent hereof including avigation easements if deemed necessary.

F. Violation and Penalties

Each violation of this Ordinance or of any regulation, order or ruling promulgated herein shall be punishable as set forth in the Starke County Zoning Ordinance.

G. Severability

If any section, provision, or part thereof in this Part shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such adjudication shall not affect the validity of this Part as a whole, or any section, provision or Part hereof not adjudged invalid or unconstitutional.

H. Effective Date

This Ordinance shall take effect on adoption by the Starke County Council and does hereby repeal all ordinances or provisions thereof in conflict herewith.

PASSED AND ADOPTED in regular session this the 16th day of May, 2016.

Starke County Plan Commission Public Hearing Held on April 20, 2016

Recommended and Approved By the Starke County Plan Commission April 20, 2016

Presented to the Starke County Council on May 16, 2016

Freddie Baker
Freddie Baker, president

Dave Pearman
Dave Pearman, vice president

Bryan Cavender
Bryan Cavender, member

Jennifer Davis
Jennifer Davis, member

Brad Hazelton
Brad Hazelton, member

Robert Sims
Robert Sims, member

Pamela Stalbaum
Pamela Stalbaum, member

ATTEST: Katherine Chaffins
Katherine Chaffins, auditor

"I AFFIRM, UNDER THE PENALTIES FOR PERJURY,
THAT I HAVE TAKEN REASONABLE CARE TO REDACT
EACH SOCIAL SECURITY NUMBER IN THIS
DOCUMENT, UNLESS REQUIRED BY LAW."

NAME: Pamela J. Starkey

PREPARED BY: Charlie Weaver

Starke County Leader
15 N. Main Street
Knox, IN. 46534

TO: THE STARKE COUNTY LEADER FOR PUBLICATION ON THURSDAY APRIL 7, 2016

NOTICE OF PUBLIC HEARING

The Starke County Planning Commission will hold a public hearing on Wednesday April 20, 2016 at 5:30 p.m. in the county government building located at 53 E. Mound Street, Knox, IN. 46534, to consider the approval of a revised Ordinance of the Starke County /City of Knox Comprehensive Airport Zoning Ordinance.

Information related to the public hearing will be in the Starke County Planning Commission Office for review.

All interested parties will be heard at the time and location for the hearing.

By: Order of the Starke County Planning Commission.

Roger Chaffins, president
Bryan Cavender, vice president
By: Terry R. Stephenson, Administrator/Bldg Comm.