

TOWN OF GIBRALTAR
ORDINANCE REGULATING THE HEIGHT OF STRUCTURES AND TREES AND THE
USE OF PROPERTY IN THE VICINITY OF THE EPHRAIM-FISH CREEK AIRPORT
DOOR COUNTY, WISCONSIN
ORDINANCE 1973

The Town Board of the Town of Gibraltar and the Village Board of the Village of Ephraim, Door County, Wisconsin, does ordain as follows:

SECTION I. Definitions. As used in this ordinance, unless the context otherwise requires:

- (a) "Airport" means the Ephraim-Fish Creek Airport located in Section 26, Town 31N, Range 27E, Door County, Wisconsin.
- (b) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
- (c) "Non-conforming use" means any structure, tree or use of land which does not conform to a regulation prescribed in this ordinance or an amendment thereto, as of the effective date of such regulation.
- (d) "Person" means any individual, firm, partnership, corporation, company, association, joint stock trustee receiver, assignee, or other similar representative thereof.
- (e) "Structure" means any object constructed or installed by man.
- (f) "Tree" means any object of natural growth, except scrubs, bushes or plants which do not grow to a height of more than five feet.
- (g) "Runway" means a level portion of an airport having a surface specially developed and maintained for the landing and take-off of aircraft.

SECTION II. Zones. All zones established by this section are as shown on the map dated January 1971 revised March 1971 entitled "Village of Ephraim and Town of Gibraltar, Door County, Wisconsin. Zoning Map," which is attached hereto and adopted as part of this ordinance.

SECTION III. Height Zones. Except as otherwise provided in this ordinance, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location, and no trees shall be allowed to grow, to a height in excess of the height limit indicated on the maps referred to in Section II hereof.

SECTION IV. Use Restrictions.

- (a) Activities. Notwithstanding the provisions of Section III of this ordinance, no use may be made of land in any zone in such a manner as to create electrical interference with radio communication between the airport and aircraft, or make it difficult for pilots to distinguish between airport lights and others, or result in glare in the eyes of pilots using the airport, or impair visibility, in the vicinity of the airport or otherwise endanger the landing, taking off or maneuvering of aircraft.
- (b) Exceptions. The restrictions contained in Section III shall not apply to legal fences or to farm crops which are cut at least once each year.

SECTION V. Non-Comforming Uses.

- (a) Not Retroactive. The regulations prescribed in Section II and III of this ordinance shall not be construed to require the removal, lowering or other change or alteration of any non-conforming use, or otherwise interfere with the continuance of any non-conforming use, except as otherwise provided by Section VII.

- (b) Changes. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this ordinance, and if such is diligently prosecuted.
- (c) Removal. This section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.

SECTION VI. Administration. It shall be the duty of Airport Commission to administer and enforce the regulations shall be made to Wayne Paschke (President Airport Commission) upon a form furnished by him. Applications which are by this ordinance to be decided by the Airport Commission shall be granted or denied within 30 days of the date of filing of the application, unless FAA approval is requested. Applications for action by the Board of Appeals shall be forthwith transmitted by the Airport committee, President of the board for hearing and decision. There shall be no charge for applications or permits.

SECTION VII. Permits.

- (a) Future Uses. No structure shall hereafter be constructed erected or installed, or be permitted to remain in any zone created by Section II of this ordinance until the owner or his agent shall have applied in writing for a permit therefore and obtained such permit from the Airport Commission, except structures more than 1/2 mile from the nearest airport boundary and less than 50' maximum height above ground level at the building site. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. The Airport commission shall have the right to trim, prune, or remove at their (owners) expense any tree which was planted after adoption of this ordinance and found to be in violation of the height restriction for the zone in which it is located. Application for such permit shall indicate the use for which the permit is desired, and shall describe and locate the use with sufficient particularity to permit the Airport Commission to determine whether such use would conform to the regulations herein prescribed. If such determination is in affirmative, the Airport commission shall issue the permit applied for.
- (b) Existing Uses. Before any non-conforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed by paragraph (a) authorizing such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this ordinance, or than it was when the application for permit was made.

SECTION VIII. Hazard Marking and Lighting. Any permit or variance granted under Section VII or IX, may, if such action is deemed advisable by the Airport Commission to effectuate the purpose of this ordinance and if such is reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question to install, operate, and maintain thereon such markets, and lights as may be necessary to indicate to the flyers the presence of an airport hazard.

SECTION IX. There is hereby created a Board of Appeals, consisting of three members appointed by the Chairman of Gibraltar – President of Ephraim subject to confirmation by the Town Board of Gibraltar-Village Board of Ephraim for terms of three years, excepting that of those first appointed. One shall serve for one year, one for two years, and one for three years. The members of said Board of Appeals shall receive the sum of \$12.00 for each meeting attended by them.

SECTION X. Appeals and Review.

- (a) Variances. Upon appeal in special cases the Board of Appeals may, after investigation and public hearing, grant such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and such relief will do substantial justice and be in accord with the spirit of this ordinance, and does not create a hazard to the safe, normal operation of aircraft.
- (b) Aggrieved Person. Any person aggrieved or affected by any decision or action of the Airport commission made in his administration of this ordinance may appeal such decision or action to the Board of Appeals.
- (c) Procedure. Any appeal taken pursuant to this section shall be in conformity with the procedure established by Section 62.23(7)(e) of the Statutes.

SECTION XI. Penalties. Any person violating any of the provisions of this ordinance shall, upon conviction, forfeit not less than \$100.00 dollars nor more than \$500.00 dollars for such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed thirty days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

SECTION XII. Severability. If any of the provisions of this ordinance or the application thereof to any persons 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 provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION XIII. Effect. This ordinance shall take effect and be in force upon passage and publication.

Harvey Malzahn, Jr.
Town Chairman

Arthur Peterson, Jr.
Town Clerk

Lloyd Olson
Village President

Ted Hoeppner
Village Clerk