Canby, Minnesota

Airport Zoning Ordinance

Canby Municipal Airport

Table of Contents

Page

Introduction....1

Section I: Purpose And Authority....2

Section II: Short Title....2

Section III: Definitions....2

Section IV: Airspace Obstruction Zoning....5
- A. Airspace Zones....5
  - 1. Primary Zone:....5
  - 2. Horizontal Zone:....6
  - 3. Conical Zone:....6
  - 4. Approach Zone:....6
  - 5. Precision Instrument Approach Zone:....6
  - 6. Transitional Zone:....6
- B. Height Restrictions:....6
- C. Boundary Limitations:....7

Section V: Land Use Safety Zoning....7
- A. Safety Zone Boundaries:....7
  - 1. Safety Zone A:....7
  - 3. Safety Zone C:....7
  - 4. Exceptions - Established Residential Neighborhoods:....8
  - 5. Exceptions - Isolated Low Density Residential Building Lots and Low Density Residential Structures:....8
- B. Use Restrictions....8
  - 1. General:....8
  - 2. Zone A:....8
  - 3. Zone B:....9
  - 4. Zone C:....9
  - 5. Exemptions - Established Residential Neighborhoods:....10
- C. Boundary Limitations:....11

Section VI: Airport Zoning Map....11

Section VII: Nonconforming Uses....12

Section VIII: Permits....12
- A. Future Uses:....12

B. Existing Uses: 12
C. Nonconforming Uses Abandoned or Destroyed: 13

Section IX: Variances 13

Section X: Hazard Marking and Lighting 14
A. Nonconforming Uses: 14
B. Permits and Variances: 14

Section XI: Airport Zoning Administrator 14

Section XII: Board of Adjustment 14
A. Establishment: 14
B. Powers: 14
C. Procedures 15

Section XIII: Appeals 15

Section XIV: Judicial Review 16

Section XV: Penalties 16

Section XVI: Conflicts 17

Section XVII: Severability 17

Section XVIII: Effective Date 17

Exhibits

Exhibit A ..... Ex A 1

Canby Municipal Airport

Zoning Ordinance

Created By The

Canby Municipal Airport Joint Airport Zoning Board

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 CANBY MUNICIPAL AIRPORT 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 Canby Municipal Airport ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE CANBY MUNICIPAL AIRPORT JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES 360.061 - 360.074, AS FOLLOWS:

Section I: Purpose And Authority

The Canby Municipal Airport Joint Airport Zoning Board, created and established by joint action of the Common Council of the City of Canby, the Board of County Commissioners of Yellow Medicine County and the Town Board of Hammer Township pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

A. An airport hazard endangers the lives and property of users of the Canby Municipal Airport, 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 the Canby Municipal Airport and the public investment therein.

B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Canby Municipal Airport.

C. For the protection of the public health, safety, order, convenience, prosperity 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.

Section II: Short Title

This Ordinance shall be known as "Canby Municipal Airport Zoning Ordinance". Those sections of land affected by this Ordinance are indicated in "Exhibit A" which is attached to this Ordinance.

Section III: Definitions

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

"AIRPORT" means the Canby Municipal Airport located in Section 34, Township 114 North, Range 45 West of the 5th P.M..

"AIRPORT ELEVATION" means the established elevation of the highest point on the usable landing area which elevation is established to be 1193.20 feet above mean sea level.

"AIRPORT HAZARD" means any structure or tree or use of land which obstructs the airspace 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.

"COMMISSIONER" means the Commissioner of the Minnesota Department of Transportation.

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

"ESTABLISHED RESIDENTIAL NEIGHBORHOOD IN A BUILT-UP URBAN AREA" (ERN-BUUA) means an area, which, if it existed on or before January 1, 1978 (for low density structures and lots) and an area which, if it existed on or before July 2, 1979 (all other land uses), shall be considered a conforming use that shall not be prohibited except as provided below in V B 5 EXEMPTIONS - ESTABLISHED RESIDENTIAL NEIGHBORHOODS. The following criteria shall be applied and considered in determining what constitutes an ERN-BUUA:

1. Location of the airport;

2. Nature of the terrain within Safety Zones A and B;

3. Existing land uses and character of the neighborhood around the airport;

4. Population of the community;

5. That the average population density in all areas within one mile of any point on a runway be equal to or greater than one dwelling unit per acre;

6. Population density near the airport compared with population density in other areas of the community;

7. The age and the economic, political and social stability of the neighborhood and the community as a whole;

8. The proximity of supporting school, commercial, religious, transportation and other facilities and their degree of integration with residential land uses;

9. Presence or absence of public utilities including, but not limited to, public sanitary sewer system, electric service and gas mains;

10. Whether or not the factor listed in subparagraphs (8) and (9) above tend to make the community surrounding the airport a self-sufficient unit;

11. Whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character; and

12. Other material factors deemed relevant by the governmental unit in distinguishing the area in question as established, residential, urban, and built-up.

"HEIGHT" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"LANDING AREA" means the area of the airport used for the landing, taking off or taxiing of aircraft.

"LOW DENSITY RESIDENTIAL STRUCTURE" means a single-family or two-family home.

"LOW DENSITY RESIDENTIAL LOT" means a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

"NONCONFORMING USE" means any preexisting structure, tree, natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment hereto.

"NONPRECISION INSTRUMENT RUNWAY" means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

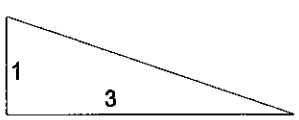
"PERSON" means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

"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, Mn/DOT, Office of Aeronautics, and the City of Canby (municipality owning airport).

"PRECISION INSTRUMENT RUNWAY" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

"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.

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



slope = 3:1 = 3 feet horizontal to 1 foot vertical

"STRUCTURE" means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

"TRAVERSE WAYS" for the purposes of determining height limits as set forth in this Ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other 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.

"TREE" means any object of natural growth.

"UTILITY RUNWAY" means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

"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.

"WATER SURFACES", for the purpose of this Ordinance, shall have the same meaning as land for the establishment of protected zones.

Section IV: Airspace Obstruction Zoning

A. Airspace Zones

In order to carry out the purposes of this Ordinance, as set forth above, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone and whose locations and dimensions are as follows:

1. Primary Zone:

All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:

a. extending 200 feet beyond each end of planned hard surface runway 12-30 .

b. extending 100 feet beyond each end of non-hard surfaced runway 1-19.

The elevation of 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:

c. 500 feet for planned hard surface runway 12-30.

d. 250 feet for non-hard surfaced runway 1-19.

2. **Horizontal Zone:**

   All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1343.20 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

   a. 6000 feet for planned hard surface runway 12-30.

   b. 6000 feet for non-hard surfaced runway 1-19.

3. **Conical Zone:**

   All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.

4. **Approach Zone:**

   All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:

   a. 40:1 for planned hard surface runway 12-30.

   b. 20:1 for non-hard surfaced runway 1-19.

   The approach surface expands uniformly to a width of:

   c. 3,500 feet for planned hard surface runway 12-30 at a distance of 10,000 feet to the periphery of the conical surface.

   d. 2,250 feet for non-hard surface runway 1-19.

5. **Transitional Zone:**

   All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

B. 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 any airspace zone created in Subsection IV A so as to project above any of the imaginary airspace surfaces described in said Subsection IV A hereof. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

C. Boundary Limitations:

The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one and one half miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

Section V: Land Use Safety Zoning

A. Safety Zone Boundaries:

In order to carry out the purpose of this Ordinance, as set forth above and also, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Canby Municipal Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

1. Safety Zone A:

All land in that portion of the approach zones of a runway, as defined in Subsection IV A hereof, which extends outward from the end of the primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be:

a. 3100 feet for runway planned hard surface runway 12-30.

b. 953 feet for non-hard surfaced runway 1-19.

2. Safety Zone B:

All land in that portion of the approach zones of a runway, as defined in Subsection IV A hereof, which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be:

a. 1550 feet for runway planned hard surface runway 12-30.

b. 476 feet for the non-hard surfaced runway 1-19.

3. **Safety Zone C:**

All that land which is enclosed within the perimeter of the horizontal zone, as defined in Subsection IV A hereof, and which is not included in Zone A or Zone B.

4. **Exceptions - Established Residential Neighborhoods:**

The following described lands are designated as Established Residential Neighborhoods in Built-Up Urban Areas, based upon the state of development of the areas on July 2, 1979. Land uses which were in existence in these areas on July 2, 1979 are exempt from the Use Restrictions of Sections V B 2 and 3 below, and are subject to the provisions of V B 5 below.

NONE

5. **Exceptions - Isolated Low Density Residential Building Lots and Low Density Residential Structures:**

The following properties in the aforesaid Established Residential Neighborhoods are hereby designated as either isolated, low-density residential building lots or low-density residential structures. A low-density residential structure shall mean a single-family or two-family home and an isolated low-density residential building lot shall mean a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residence. The low-density uses which were in existence on January 1, 1978 are subject to special provisions set forth in Section V B 5, **Exemptions** below:

NONE

B. Use Restrictions

1. **General:**

Subject at all times to the height restrictions set forth in Subsection IV B, no use shall be made of any land in any of the safety zones defined in Subsection V A which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between airport and aircraft, makes 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.

2. **Zone A:**

Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V B 1 areas designated as Zone A

shall contain no buildings, temporary structures, exposed transmission lines, or other similar aboveground 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, wildlife habitat, light outdoor recreation (nonspectator), cemeteries, and automobile parking.

3. **Zone B:**

Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Zone B shall be restricted in use as follows:

a. Each use shall be on a site whose area shall not be less than three acres.

b. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

c. Each site shall have no more than one building plot upon which any number of structures may be erected.

d. A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at Least (Acres)	But Less Than (Acres)	Ratio of Site Area to Bldg. Plot Area	Building Plot Area (Sq. Ft.)	Max. Site Population (15 persons/A)
3	4	12:1 12:1	10,900	45
4	6	10:1 10:1	17,400	60
6	10	8:1 8:1	32,700	90
10	20	6:1 6:1	72,600	150
20	and up	4:1	218,000	300

e. The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly.

4. **Zone C:**

Zone C is subject only to height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1.

5. **Exemptions - Established Residential Neighborhoods:**

a. Land uses which existed as of July 2, 1979 in the Established Residential Neighborhoods set forth in Section V A 4 above, and as shown on the zoning map, are subject to the height restrictions of Section IV B and the general restrictions of Section V B 1. Land uses which come into existence after July 2, 1979 are treated as though they were not in a designated Established Residential Neighborhood and are subject to the Zone A or Zone B restrictions as the case may be.

b. Land uses in Established Residential Neighborhoods, which violate any of the following restrictions are prohibited as safety hazards and must be acquired, altered, or removed at public expense. Those conditions are as follows:

(1) The following land uses if they exist in Safety Zones A and B and in an ERN-BUUA are considered by the Commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air-traveling public, or both, that they must be prohibited under local airport zoning ordinances;

(a) Any structure which a person or persons customarily use as a principal residence and which is located entirely inside Safety Zone A within 1,000 feet of the end of the primary zone;

(b) Any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zones A and B and which penetrates an imaginary approach surface as defined by Section IV A;

(c) Any land use in Safety Zone A or B which violates any of the following standards;

(i) The land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft;

(ii) The land use must not make it difficult for pilots to distinguish between airport lights and other lights;

(iii) The land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport.

(d) Any isolated residential building lot zoned for single-family or two-family residences on which any structure, if built, would be prohibited by subparagraphs b.(1)(a), (b) or (c) above. An "isolated" residential building lot is one located in the area in which the predominant land use is single-family or two-family residential structures; and

(e) Any other land use which presents, in the opinion of the Commissioner, a material danger to the landing, taking off or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner shall consider the following factors:

(i) Possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other object;

(ii) Possibility that the land use may, in case of an aircraft accident, cause an explosion, fire or the release of harmful or noxious fumes, gases or substances;

(iii) Tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;

(iv) Effect of the land use on availability of clear areas for emergency landings; and

(v) Flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

C. Boundary Limitations:

The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

Section VI: Airport Zoning Map

The several zones herein established are shown on the Canby Municipal Airport Zoning Map consisting of 3 sheets, prepared by SEH, and dated December 10, 2004, attached hereto and made a part hereof, which map, 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.

Section VII: 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.

Section VIII: Permits

A. Future Uses:

Except as specifically provided in paragraph 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 therefore shall have been applied for and granted by the zoning administrator, 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. If such determination is in the affirmative, the permit shall be granted.

1. However, a permit for a tree or structure less than 75 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 4,200 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 this Ordinance as set forth in Section IV and the land use limitations set forth in Section V.

B. Existing Uses:

Before any existing use or structure may be replaced, substantially altered or impaired, 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.

C. Nonconforming Uses Abandoned or Destroyed:

Whenever the zoning administrator 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 zoning administrator 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 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 per cent 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.

Section IX: Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulations. If a person submits an application for a variance by certified mail to the members of the Board and the Board fails to grant or deny the variance within four months after the last member receives the application, the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the Commissioner by certified mail that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Section 360.063, Subdivision 6a. 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 Board or Commissioner may deem necessary to effectuate the purpose of this Ordinance.

Section X: Hazard Marking and Lighting

A. 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 zoning administrator 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 City of Canby (airport owner).

B. Permits and Variances:

Any permit or variance deemed advisable to effectuate the purpose of this Ordinance and be reasonable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, and granted by the zoning administrator or Board, 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.

Section XI: Airport Zoning Administrator

It shall be the duty of the Canby Zoning Administrator (an appropriate local zoning official) to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Canby Zoning Administrator upon a form furnished by him. Permit applications shall be promptly considered and granted or denied by him in accordance with the regulations prescribed herein. Variance applications shall be forthwith transmitted by the Canby Zoning Administrator for action by the Board hereinafter provided for.

Section XII: Board of Adjustment

A. Establishment:

The Canby Municipal Airport Joint Zoning Board shall serve as the Board of Adjustment for the Canby Municipal Airport Zoning Ordinance.

B. Powers:

The Board of Adjustment shall 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 Ordinance.

1. To hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass.

2. To hear and decide specific variances.

C. Procedures

3. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in his absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The 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 Zoning Administrator and shall be a public record.

4. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance.

5. The concurring vote of a majority of the members of the 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 Ordinance, or to effect any variation in this Ordinance.

Section XIII: Appeals

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

B. All appeals hereunder must be commenced within 30 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 Ordinance who desires to appeal such decision shall submit an application for a

variance by certified mail to the members of the Board of Adjustment in the manner set forth in Minnesota Statute 360.068, Subdivision 2.

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 or by agent or by attorney.

E. The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed 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.

Section XIV: Judicial Review

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal may present to the District Court of Yellow Medicine 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 filed in the office of the Board of Adjustment. 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.

Section XV: 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 or 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 Airport Zoning Administrator may enforce all provisions of this Ordinance through such proceedings for injunctive relief and other relief as may be proper under the laws of Minnesota Statute 360.073 and other applicable law.

Section XVI: 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.

Section XVII: Severability

A. In any case in which the provision of this Ordinance, although generally reasonable, is held by a court to interfere with the use of 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.

B. 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.

Section XVIII: Revision to Prior Ordinance

This Ordinance revises and supercedes Canby Municipal Airport Zoning Ordinance adopted 10 October, 1975.

Section XIX: Effective Date

This Ordinance shall take effect on the ____ day of _____, 2005. Copies thereof shall be filed with the Commissioner through the Office of Aeronautics, State of Minnesota, and the County Recorder, Yellow Medicine County, Minnesota.

Passed and adopted after public hearing by the Canby Municipal Airport Joint Airport Zoning Board this ____ day of _____, 2005.

_____
Chairman

_____
Member

_____
Member

_____
Member

_____
Member

_____
Member

_____
Member

Exhibit A

Canby Municipal Airport

Zoning Ordinance

This Ordinance affects all or a portion of the following sections of land:

Name and Number of Township	AIRSPACE OBSTRUCTION ZONING: Section IV of Ordinance; Pages2 of Zoning Map	LAND USE SAFETY ZONING: Section V of Ordinance; Pages 3 of Zoning Map
Hammer Township T 115 N R 45 W	Sections: 20 through 29 32 through 36	Sections: 21, 22, 25, 26 through 28 33 through 36
Norman Township T 114 N R 45 W	Sections: 1 through 5 9 through 12	Sections: 2 through 4