

HOWARD MUNICIPAL AIRPORT LAND USE AND HEIGHT ZONING ORDINANCE
ORDINANCE # 665

Section 1-Introduction and Short Title

This Ordinance shall regulate and restrict the height of structures, objects, and growth of natural vegetation, as well as land uses; otherwise regulating the use of property, within the vicinity of the Howard Municipal Airport. Creation of appropriate zones and establishing the boundaries thereof, as well as providing for changes in the restrictions and boundaries of such zones is vested in this Ordinance. The current approved version of the Airport Layout Plan and South Dakota Airport Approach Plan maps are incorporated into and made part of this Ordinance. The Ordinance also provides for the enforcement of the Ordinance, the establishment of a Board of Adjustment; and imposition of penalties related to the implementation of the Ordinance.

This Ordinance shall be known and may be cited as the HOWARD AIRPORT ZONING ORDINANCE, and it is referred to as "the Ordinance" within the following sections.

Section 2-Authority

South Dakota Codified Law Chapter 50-10 *Airport Zoning* empowers the South Dakota Aeronautics Commission to formulate, adopt and revise airport approach zones in conformance with the FAA standards necessary for safe flying operations. The Code also provides that each municipality having an airport within or without its territorial limits shall adopt, administer and enforce airport zoning regulations applicable to the airport.

Section 3-Statement of Purpose and Findings

The Howard Municipal Airport is acknowledged as an essential public facility to the State of South Dakota and the local community.

The creation or establishment of an airport hazard is a public nuisance and poses a potential concern to the surrounding communities served by the Howard Airport.

There shall be no creation or establishment of a hazard that endangers public health, safety, welfare, and impacts an individual's quality of life nor prevents the safe movement of aircraft at the Howard Municipal Airport.

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.

The prevention of airport hazards shall be accomplished, to the extent legally possible, by proper exercise of the police power.

The prevention of new airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards, are considered to be a public purpose for which City of Howard may raise and expend public funds, as an incident to the operation of airports, to acquire or property interest therein.

Section 4-Applicability

This ordinance encompasses a general area around the Howard Municipal Airport including a zoning boundary with specific dimensions associated with the approved Airport Layout Plan and South Dakota Airport Approach Plan.

Section 5-Definitions

The following definitions shall be utilized for terms as appropriate to the Ordinance.

Airport. Any areas of land or water that is used, or intended for use, for the landing and takeoff of aircraft. Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and all airport buildings and facilities located on the areas specified in this definition. The Howard Municipal Airport owned by the City of Howard, South Dakota.

Airport Hazard. Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport that obstructs the airspace required for the flight of aircraft landing or taking off at the airport; or is otherwise hazardous to aircraft landing or taking off at the airport.

Airport Layout Plan and South Dakota Airport Approach Plan (ALP). The plan of an airport showing the layout of existing and proposed airport facilities and the Airport Zones.

Airport Zones. A zone intended to place land use or height restrictions on land impacted by the airport. The five specific zones are as follows.

- **Zone A - Ultimate Airport Property Limits including Runway Protection Zone.** Intended to provide a clear area that is free of above ground obstructions and incompatible structures.
- **Zone B - Approach Surface.** Overlay surface that reflects the approach and departure areas for each runway at an airport.
- **Zone C - Transitional Surface.** Those areas that are parallel to the runway pavement and extend from the edge of the primary surface.
- **Zone D - Horizontal Surface.** Elliptical in shape, depending upon the runway types and configurations at an individual airport.
- **Zone E - Conical Surface.** The outermost zone of the overlay areas. The zone begins at the edge of the horizontal.

Federal Aviation Administration (FAA). A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, air navigation; and promoting the development of a national system of airports.

Height. Height is utilized for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Airport Zoning Maps; height shall be measured as the highest point of a structure, tree, or other object of natural growth, measured from the mean sea level elevation unless otherwise specified.

Obstruction. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, specific to its geographic location relative to the runway/airport.

Runway Protection Zone (RPZ). An area off the runway end designed to enhance the protection of people and property on the ground.

Structure. Any object constructed or installed by humans, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.

Section 6-Land Use Safety Zones

Zone A. Zone A is designed to maintain compatible land use in the vicinity of the Howard Municipal Airport. Zone A is intended to provide a clear area that is free of above-ground obstructions and non-airport structures. Zone A includes the ultimate airport property line and the ultimate Runway Protection Zone shown on the Airport Layout Plan. Specific dimensions for the individual zones are noted in the Airport Layout Plan and South Dakota Airport Approach Plan.

No structure or obstruction shall be erected, altered, allowed to grow or be maintained in violation of Land Use Safety Zones (Zone A) as established by this Ordinance.

Section 7-Air Space Obstruction Zones

Zone B, Zone C, Zone D, Zone E. These zones are designed to provide height restrictions in the vicinity of the Howard Municipal Airport. The zones are intended to protect airspace by providing a height restriction surface where above-ground obstructions and structures do not penetrate above the indicated surface. The zones are shown on the Airport Layout Plan and South Dakota Airport Approach Plan.

No structure or obstruction shall be erected, altered, allowed to grow or be maintained in violation of Air Space Obstruction Zones (Zones B, C, D and E) as established by this Ordinance to a height in excess of the applicable height limitations set forth in the Howard Airport Zoning Ordinance. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers illustrated on the Air Space Obstruction Zones.

A FAA 7460-1 airspace review shall provide a portion of the information necessary to evaluate potential height impacts. However, it shall not be the sole source of review.

SECTION 8-Airport Zoning Maps

Land Use Safety Zone and Air Space Obstruction Zone maps are shown on the Airport Layout Plan and South Dakota Airport Approach Plan consisting of 10 sheets, prepared by Short Elliott Hendrickson Inc., and dated [January 2011]. Maps for Zone A are shown on plan sheet 2 and maps for Zones B, C, D and E are shown on plan sheet 3 of the plan.

The maps are attached to this Ordinance by reference. Such official Airport Layout Plan and South Dakota Airport Approach Plan, may be amended, and all notations, references, elevations, data, zone boundaries, and other information thereon, is hereby adopted as part of this Ordinance.

The Airport Layout Plan and South Dakota Airport Approach Plan are located in the City of Howard offices and are available for public inspection.

SECTION 9-Ordinance Administration

It shall be the duty of the City of Howard City Council referred to herein as the "Airport Zoning Administrator", to administer the regulations prescribed herein. Applications for permits and variances shall be made to the Airport Zoning Administrator. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Airport Zoning Administrator should an applicant request review. Permit applications shall be either granted or denied by the Airport Zoning Administrator according to the regulations prescribed herein.

SECTION 10-Airport Overlay Zoning Permits

It shall be the duty of the applicant to provide the Airport Zoning Administrator with sufficient information to evaluate the proposed action.

The Airport Zoning Administrator shall evaluate the proposal based upon information provided by the applicant. The Airport Zoning Administrator shall approve the permit if after evaluation, the proposed project is found to be adequately compatible. Should the proposed project be found to be incompatible after review, the Airport Zoning Administrator shall deny the permit. Should the permit be denied, the applicant shall have the right to request a variance or an appeal as prescribed in this Ordinance.

SECTION 11-Hazardous Markings and Lighting

Lighting and marking requirements will be determined through an FAA airspace analysis.

The owner of any structure, object, natural vegetation, or terrain is hereby required to install, operate, and maintain such markers, lights, and other aids to navigation necessary to indicate to the aircraft operators in the vicinity of an airport the presence of an airport hazard. Hazardous markers and lights shall be installed, operated, and maintained at the expense of owner of the structure.

SECTION 12-Variances

Any person desiring to erect, alter, or increase the height of any structure, object, or to permit the growth of any natural vegetation, or otherwise use his property in violation with any section of this Ordinance, may apply to the Board of Adjustment for variance from such regulation. No application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Howard Airport Zoning Administrator for an opinion as to the aeronautical effects of the variance.

SECTION 13-Appeals

Any person, property owner, or taxpayer impacted by any decision of this Ordinance, may appeal to the Board of Adjustment by filing a written "Request for Appeal" with the city finance officer setting forth the issues for appellate consideration.

SECTION 14-Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Circuit Court as provided in South Dakota Codified Law.

SECTION 15-Penalties

Any violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a simple misdemeanor, and shall be punishable by a fine of not more than \$500 dollars or imprisonment for not more than thirty (30) days or both; each day a violation continues to exist shall constitute a separate offense.

SECTION 16-Conflicting Regulations

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 height or structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION 17-Severability

If any provision 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 provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 18-Effective Date

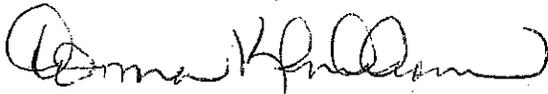
This Ordinance shall be in effect from and after its passage by the governing body and publication and posting as required by law.

Adopted on this 7 day of March, 2011.



Andrew Dold, Mayor

Attest:



Donna Klinkhammer
Finance Officer, City of Howard

First Reading: 2/7/11
Second Reading: 3/7/11
Publication: 3/17/11