ORDINANCE NO. 2002-077

ZONING ORDINANCE TO LIMIT HEIGHT OF OBJECTS AROUND THE SALINE COUNTY AIRPORT

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 SALINE COUNTY AIRPORT, BY CREATING 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 "SALINE COUNTY AIRPORT HEIGHT ZONING MAP," WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING ADMINISTRATIVE RESPONSIBILITY; AND IMPOSING PENALTIES.

This Ordinance is adopted pursuant to the authority conferred by "The Airport Zoning Enabling Act," Act 116, Acts of Arkansas, 1941 (as amended). It is hereby found that an obstruction to navigable airspace has the potential for endangering the lives of property and users of the Saline County Airport, and property or occupants of land in its vicinity; that such obstruction may affect existing and future instrument approach minimums of the Saline County Airport; and that such obstructions may reduce the size of areas available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Saline County Airport and the public investment therein. Accordingly, it is declared:

- that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Saline County Airport;
- that it is necessary in the interest of the public health, safety and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented;
- that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation; and
- that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY THE QUORUM COURT OF SALINE COUNTY, ARKANSAS, AS FOLLOWS:

SECTION I: SHORT TITLE

This ordinance shall be known and may be cited as the "Saline County Airport Height Zoning Ordinance."

SECTION II: DEFINITIONS

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

- 1. AIRPORT: Saline County Airport located southeast of the City of Bryant, Arkansas.
- 2. AIRPORT ELEVATION: 390 feet above mean sea level.

- 3. AIRPORT MANAGER: The person responsible for the day-to-day operations and management of the Saline County Airport appointed by the Saline County Airport Commission.
- 4. APPROACH SURFACE: An imaginary plane longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the appropriate approach zone height limitation slope set forth in Section IV of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- 5. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES: These zones are set forth in Section III of this Ordinance.
- 6. BOARD OF ADJUSTMENT: Shall mean the body politic created under Section IX herein.
- 7. CONICAL SURFACE: An imaginary surface extended outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- 8. HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of navigable airspace.
- 9. 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.
- 10. HORIZONTAL SURFACE: An imaginary horizontal plane 150 feet above the airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone. The actual elevation of the horizontal surface is 540 feet above mean sea level.
- 11. NONCOMFORMING USE: Any pre-existing structure, object of natural growth or use of land, which is inconsistent with the provisions, contained herein at the time of the adoption of this Ordinance or any amendment thereto.
- 12. NONPRECISION INSTRUMENT RUNWAY: A runway having an existing or planned instrument approach procedure utilizing air navigation facilities with only horizontal guidance or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
- OBSTRUCTION: Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.
- 14. PERSON: Any individual, firm, partnership, public or private corporation, company, association, joint stock association or government entity, and includes any trustee, receiver, assignee or other similar representative thereof.
- 15. PRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), Precision Approach Radar (PAR), Microwave Landing System (MLS), or Precision Global Positioning System (GPS). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
- 16. PRIMARY SURFACE: An imaginary surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway (pavement) centerline.
- 17. RUNWAY: An area prepared for landing and takeoff of aircraft along its length.
- STRUCTURE: Any object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.
- 19. SALINE COUNTY AIRPORT COMMISSION: A Commission consisting of seven (7) members appointed by the Saline County Quorum Court to oversee the operations and management of the Saline County Airport.



- 20. TRANSITIONAL SURFACES: These imaginary surfaces extend outward at 90-degree angles to the runway centerline (and the extended runway centerline) at a slope of (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.
- 21. TREE: Any object of natural growth.

SECTION III: AIRPORT ZONES

In order to carry out the provision of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surface, horizontal surface and conical surface as they apply to the Saline County Airport. Such zones are shown on the "Saline County Airport Height Zoning Map," consisting of one sheet, prepared by Garver Engineers dated December 2002 and subsequent updates thereof, which is attached to this Ordinance and made part hereof. An area located in more than one of the following zones is considered to be only in the zone with more restrictive height limitation. The various zones are hereby established and defined as follows.

- 1. Nonprecision Instrument Approach Zone (Runway20) the inner edge of this approach zone coincides with width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at the horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- 2. Precision Instrument Approach Zone (Runway 2) The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- Transitional Zones Area beneath the transitional surfaces.
- 4. Horizontal Zone The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- 5. <u>Conical Zone</u> The area that commences at the periphery of the horizontal zone and extends outward for a horizontal distance of 4,000 feet.

Furthermore, there are hereby created and established zones which include all the land lying beneath the runway protection zones as they apply to the Saline County Airport. The runway protection zones are hereby established and defined as follows:

- 1. Runway Protection Zone (Runway 20) The inner edge of the zone begins 200 feet beyond the end of the runway and it is trapezoidal in shape and centered about the extended runway centerline. The inner width is 1,000 feet, the outer width is 1,510 feet and the length is 1,700 feet, containing 48.978 acres, more or less.
- 2. Runway Protection Zone (Runway 2) The inner edge of the zone begins 200 feet beyond the end of the runway and it is trapezoidal in shape and centered about the extended runway centerline. The inner width is 1,000 feet, the outer width is 1,750 feet and the length is 2,500 feet, containing 78.914 acres, more or less.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limitation herein established for such zone. Such applicable height limitations are hereby established for each of the zones as follows:

- 1. Nonprecision Instrument Approach Surface (Runway 20) Slopes thirty-four (34) feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface, and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- Precision Instrument Approach Surface (Runway 2) Slopes fifty (50) feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface, and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes outward forty (40) feet horizontally for each foot upward to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- Transitional Surface Slope seven (7) feet outward for each foot upward, beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation or 540 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface and horizontal surface. Where a precision instrument runway approach surface projects beyond the conical surface, there are established height limits sloping seven (7) feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet, measured at 90-degree angles to the extended runway centerline.
- Horizontal Surface Established at 150 feet above the airport elevation or at a height of 540 feet above mean sea level.
- 5. <u>Conical Surface</u> Slopes twenty (20) feet outward for each foot upward, beginning at the periphery of the horizontal surface and at 150 feet above the airport elevation, and extending to a height 350 feet above the airport elevation or at a height of 740 feet above mean sea level.
- 6. Excepted Height Limitations Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

An area covered by two or more zones shall be controlled by the more restrictive height limitations.

SECTION V: USE RESTRICTION

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airports, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

SECTION VI: NONCONFORMING USES

Regulations Not Retroactive - Notwithstanding the provisions of Section VI, paragraph 3 hereof, the regulations prescribed in this Ordinance shall not be construed to require removal, lowering, or other change or alteration of any Nonconforming Use, or otherwise interfere with the continuance of a Nonconforming Use. Nothing contained herein 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 or any duly enacted amendment thereto, and is diligently prosecuted.

Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing Nonconforming Use is hereby required to permit the installation, operation and maintenance thereon of such markings and lights, as shall be deemed necessary by the Saline County Airport Commission, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markings and lights shall be installed, operated and maintained at the expense of Saline

County Airport Commission.

Lowering or Removal of Nonconforming Uses - In order to eliminate or mitigate existing hazards to landing and taking-off at the Saline County Airport, to improve and make safer the Saline County Airport, and to permit public use of any obstruction navigable airspace needed for such use, the Saline County Airport Commission may acquire, by purchase, grant or condemnation, such estate or interest in any Nonconforming Use for which a permit has been granted in accordance with Section VII, paragraph 3 hereof, as is necessary to permit lowering or removal of such Nonconforming Use to the extent necessary to conform to the applicable height limitation prescribed in this Ordinance or any duly enacted amendment thereto. In cases of imminent danger to the health, safety and general welfare of the public, the Saline County Airport Commission shall take such immediate steps as necessary to remove said danger, and a hearing shall thereafter be held to determine what compensation, if any, should be made to the owner of the structure or tree causing said danger.

SECTION VII: PERMITS

- 1. Future Uses Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established and no tree shall be planted in any zone hereby created, which exceeds fifty (50) feet in height, unless a permit therefor shall have been applied for and granted by the Saline County Airport Commission. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity for it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section VII, paragraph 6.
 - In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
 - In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height

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above the ground except when such tree or structure would extend above the height limit prescribed for such approach zones.

In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than one hundred (100) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transitional zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance, except as set forth in Section IV, paragraph 6.

- Existing Uses- No permit shall be granted that would allow the establishment or creation of an obstruction, or that would allow a Nonconforming Use to become a greater hazard to air navigation than it was on the effective date of this Ordinance (or any duly enacted amendments thereto) or than it is when the application for a permit is made. Except as indicated, all applications for such a permit for existing uses shall be granted.
- 3. Continuance of Nonconforming Uses—The owner of any Nonconforming Use shall be granted a permit authorizing continuance of such Nonconforming Use, upon application therefor made by him; provided that, if such application is not made within ninety (90) days of the effective date of this Ordinance or any duly enacted amendment thereto the Saline County Airport commission shall be appropriate action compel the owner of the Nonconforming Use, at his own expense to lower or remove such object to the extent necessary to conform to the regulations. Notwithstanding the foregoing provisions, no permit allowing the continuation of any Nonconforming use shall be granted where such use is at the time a permit is applied for, not in conformity with the regulations in effect immediately prior to the enactment of any ordinance amending this Article, including but not limited to changes in the height zoning map incorporated herein which may from time to time be amended to eliminate or mitigate existing hazards to landing and taking off at the Saline County Airport, to ensure compliance with all applicable federal laws, or for any other lawful reason.
- 4. Change and Repair of Nonconforming Uses—Before any Nonconforming Use for which a permit has been issued in accordance with Section VII, paragraph 3 hereof, may be altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured from the Saline County Airport Commission authorizing such change or repair. No such permit shall be granted that would permit the structure or tree in question to be made higher or become a greater hazard to air navigation than it was when the permit for its continuance was granted.
- Nonconforming Uses Abandoned or Destroyed- Whenever the Saline County Airport Commission determines that a Nonconforming Use has been abandoned or more than 50 percent (%) torn down or destroyed, whether voluntarily, by act of God or otherwise, or has become more than 50% deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate form the zoning regulations. In such cases of 50% destruction, deterioration or decay, whether application is made for a permit for repair or not, the Saline County Airport Commission shall, by appropriate action, compel the owner of the Nonconforming Use, at his own expense to lower or remove such object to the extent necessary to conform to the applicable height limit.
- 6. <u>Variances</u>- Any person desiring to erect increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, must apply to the Saline County Airport Commission for a variance

from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship, and the relief will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with this Ordinance. No application for variance may be considered by the Saline County Airport Commission unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application for a variance within fifteen days after receipt, the Saline County Airport Commission may act on its own to grant or deny the application.

Obstruction Marking and Lighting- Any permit or variance granted may, if such action is deemed advisable to effectuate the purposes of this Ordinance and be reasonable under the circumstances, be conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Saline County Airport Commission, this condition may be modified to require the owner to permit the Saline County Airport Commission, at its own expense, to install, operate and maintain the necessary markings

and lights.

Notice of Hearing of Application for Permits and Variances; Introduction of Evidence-In all cases of applications for permits and variances as provided for in Section VII hereof a public notice shall be published in the manner prescribed by law for publication of legal notices, of a public hearing upon the application in question; a public hearing shall be held at which any person having an interest in the proceeding shall have an opportunity to offer evidence for or in opposition to the application in question; and written findings of fact and conclusions of law shall be made by the Saline County Airport Commission, based upon the evidence offered at the public hearing.

SECTION VIII: ENFORCEMENT

It shall be the duty of the Saline County Airport Commission to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Airport Manager upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Airport Manager shall be promptly considered and granted or denied.

SECTION IX: BOARD OF ADJUSTMENT

1. There is hereby created an airport Board of Adjustment consisting of 5 members appointed by nomination by the Saline County Judge and confirmed by the Saline County Quorum Court. Each member shall serve a term of four (4) years and the terms shall be staggered. The terms of the initial members shall be one term of one (1) year, one term of two (2) years, one term of three (3) years, two terms of four (4) years. The terms of the initial members shall be determined by the Saline County Judge in his initial nominations.

2. The Board of Adjustment shall have and exercise the following powers: to hear and decide appeals from any order, requirement, decision or determination made by the Saline County Airport

Commission in the enforcement of this Ordinance.

3. The Board of Adjustment shall adopt rules governing the discharge of its duty in harmony with the provisions of this Ordinance. Meetings 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

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and other official actions, all of which shall immediately be filed in the office of the County Clerk and on due cause shown,

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.

SECTION X: APPEALS

1. Any person aggrieved, or any taxpayer affected, by any decision of the Saline County Airport Commission made in the administration of this Ordinance, may appeal to the Board of Adjustment.

2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Saline County Airport Commission and the Saline County Airport Commission shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed unless the Saline County

Airport Commission 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 the opinion of the Saline County Airport Commission cause imminent peril to life or property. In such case, proceedings shall not be stayed by order of the Board of Adjustment on notice to the Saline County Airport Commission and on due cause shown.

4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in the interest, and decide the same within a reasonable time. Upon the hearing,

any party may appear in person or by agent or attorney.

5. 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 any may make such order, decision, requirement, decision or determination as may be appropriate under the circumstances.

SECTION XI: JUDICIAL REVIEW

Any person aggrieved, aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment may, within thirty days thereof, appeal therefrom to the Circuit Court of Saline County, as provided in Section 6 of the "Airport Enabling Act", Act 116, Acts of Arkansas, 1941. Appeals from the Circuit Court shall be in accordance with statutes governing such appeals in force and effect at the time an appeal is taken.

SECTION XII: PENALTIES

Each violation of this Ordinance, or of any regulation, order or ruling promulgated hereunder, shall constitute a misdemeanor and be punishable by a fine of not more than 500 dollars, or imprisonment for not more than 180 days, or both; and each day a violation continues to exist shall constitute a separate offense. In addition, the Saline County Airport Commission may institute in any court of competent jurisdiction, an appropriate action or proceeding to prevent, restrain, correct or abate any violation of the regulations of this Ordinance, or any order or ruling made in connection with its administration or enforcement, and the court shall adjudge then to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to carry out and effectuate the purpose of this Ordinance and the orders and rulings made pursuant to the authority herein given.

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

SECTION XIV: SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this 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 XV: EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety and general welfare, an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Quorum Court of Saline County and publication and posting as required by law. Adopted by the Quorum Court of Saline County this 17th day of December, 2002.

ATTEST Fredoly Buton By Mr APPROVED

SPONSOR: AIRPORT COMMITTEE, Pat Bisbee, Chairman







