

TORRANCE COUNTY ORDINANCE  
NO. 11

AN ORDINANCE ADOPTING AIRPORT ZONING REGULATIONS AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE MORIARTY MUNICIPAL AIRPORT, ESTANCIA MUNICIPAL AIRPORT AND MOUNTAINAIR MUNICIPAL AIRPORT, CREATING AIRPORT APPROACH ZONES, TRANSITION ZONES, HORIZONTAL ZONE AND CONICAL ZONE, AND ESTABLISHING THE BOUNDARIES THEREOF; REFERRING TO AND ADOPTING THE MORIARTY MUNICIPAL AIRPORT ZONING MAP, THE ESTANCIA MUNICIPAL AIRPORT ZONING MAP AND THE MOUNTAINAIR MUNICIPAL AIRPORT ZONING MAP WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT, ESTABLISHING A BOARD OF APPEALS, IMPOSING PENALTIES, AND DECLARING AN EMERGENCY.

This Ordinance is adopted pursuant to the authority conferred by sections 14-40-14 through 14-40-24 and sections 44-2-11 through 44-2-12, N.M.S.A., 1953 Comp., as amended, and to implement the agreement between the County of Torrance, Village of Moriarty, Town of Estancia and Town of Mountainair, dated the 15 day of November, 1966. It is hereby found that an airport hazard endangers the lives and property of users of Moriarty Municipal Airport, Estancia Municipal Airport and Mountainair Municipal Airport and of occupants of land in their vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Moriarty Municipal Airport, Estancia Municipal Airport and Mountainair Municipal Airport and the public investment therein. Accordingly, it is declared: (1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Moriarty Municipal Airport, Estancia Municipal Airport and Mountainair Municipal Airport; (2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and; (3) that the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. It is further declared that both 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 and acquire land or interest in land.

BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF TORRANCE, STATE OF NEW MEXICO:

SECTION I. SHORT TITLE

This Ordinance shall be known and may be cited as "Torrance County Airport Zoning Ordinance".

SECTION II. DEFINITIONS

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

(1) "Airport" means the Moriarty Municipal Airport, Moriarty, New Mexico, and Estancia Municipal Airport, Estancia, New Mexico and the Mountainair Municipal Airport, Mountainair, New Mexico, and further means any area of land or water designated for the landing and taking-off of aircraft and utilized or to be utilized by the public as a point of arrival or departure by air.

(2) "Airport Elevation" means the established elevation of the highest point on the usable landing area, which is 6,201 feet above mean sea level of the Moriarty Municipal Airport, 6,100 feet above mean sea level of the Estancia Municipal Airport and 6,492 feet above mean sea level of the Mountainair Municipal Airport.

(3) "Airport Hazard" means any overhead power line which interferes with radio communication between a publicly owned airport and aircraft approaching or leaving same, or any structure or tree which obstructs the aerial approaches of such an airport or is otherwise hazardous to its use or landing or taking-off.

(4) "Airport Reference Point" means the point established as the approximate geographic center of the airport landing area and is established at a location described as follows: Moriarty Municipal Airport Latitude 34° 59' 05", Longitude 106° 00' 15"; Estancia Municipal Airport Latitude 34° 45' 40", Longitude 106° 2' 27"; Mountainair Municipal Airport Latitude 34° 32' 00", Longitude 106° 13' 20".

(5) "Board of Appeals" means the Joint Torrance County Airport Zoning Board of Appeals created by Section IX of this

Ordinance and by the agreement between the County of Torrance, Village of Moriarty, Town of Estancia and Town of Mountainair, dated the 15 day of March, 1960, consisting of nine (9) members appointed by the County Commissioners of Torrance County, the Village Council of the Village of Moriarty, New Mexico, the Town Council of the Town of Estancia, New Mexico and the Town Council of the Town of Mountainair, New Mexico, and the Board of Appeals members.

(6) "Height" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Moriarty Airport Zoning Map, Estancia Municipal Airport Zoning Map and Mountainair Municipal Airport Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

(7) "Landing Area" means the area of the airports used for the landing, taking-off or taxiing of aircraft.

(8) "Non-Conforming Use" means any structure, tree or use of land which is lawfully in existence at the time the regulation is prescribed in this Ordinance or an amendment thereto becomes effective and does not then meet the requirements of said regulation.

(9) "Non-Instrument Runway" means a runway other than instrument runway.

(10) "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, administrator, executor, guardian or other representative.

(11) "Runway" means the paved surface of an airport landing strip.

(12) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.

(13) "Tree" means any object of natural growth.

(14) "Installation" means any other object placed on or attached to land or water that is not included within the definition of "structure" or "tree".

(15) "Moriarty Airport Zoning Map, Estancia Municipal Airport Zoning Map and Mountainair Municipal Airport Zoning Map" means the

maps or plans required by Sections 14-40-14 through 14-40-24, N.M.S.A., 1953 Comp., as amended, that are incorporated herein by reference and adopted, approved, and made a part of this Ordinance.

(16) "Zone" means any zone created and established by Section III of this Ordinance.

(17) "County Commissioners" mean the County Commissioners of Torrance County and any of their duly authorized representatives.

SECTION III. ZONES.

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying within the Non-Instrument Approach Zones, Transition Zones, Horizontal Zone and Conical Zone. Such areas and zones are shown on the Moriarty Airport Zoning Map, consisting of one (1) sheet, prepared by Carlos Powell and dated November 30, 1965, Estancia Municipal Airport Zoning Map, consisting of one (1) sheet, prepared by W. A. Thomas and dated December 1, 1965, and Mountainair Municipal Airport Zoning Map, consisting of one (1) sheet, prepared by D. F. Molzen & Associates and dated December 2, 1965, which are attached to this Ordinance and made a part hereof. The various Zones are hereby established and defined as follows:

(1) NON-INSTRUMENT APPROACH ZONES - A non-instrument approach zone is established at each end of all non-instrument runways of the Moriarty Municipal Airport, Estancia Municipal Airport and Mountainair Municipal Airport for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of 250 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 2,250 feet at a distance of 10,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

(2) TRANSITION ZONES - Transition Zones are hereby established adjacent to each non-instrument runway and approach zone as indicated on the Zoning Maps. Transition zones, symmetrically located on either side of runways, have variable widths as shown on the Moriarty Airport Zoning Map, Estancia Municipal Airport Zoning Map and Mountainair Municipal Airport Zoning Map.

Transition zones extend outward from a line 125 feet on either side of the centerline of the non-instrument runway, for the length of such runway plus 100 feet on each end, and are parallel and with such runway centerlines. The transition zones along such runways slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they intersect at the surface of the horizontal zones. These transition zones have variable widths, as shown on the Moriaty Airport Zoning Map, Estancia Municipal Airport Zoning Map and Mountainair Municipal Airport Zoning Map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) feet horizontally to the points where they intersect the surfaces of the horizontal and conical zones.

(3) HORIZONTAL ZONE - A horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of 5,000 feet. The horizontal zone does not include the non-instrument approach zones and the transition zones.

(4) CONICAL ZONE - A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of 3,000 feet. The conical zone does not include the non-instrument approach zones and transition zones.

SECTION IV. HEIGHT LIMITATION

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

(1) NON-INSTRUMENT APPROACH ZONES - One (1) foot in height for each twenty (20) feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the

non-instrument runway and extending to a point 10,200 feet from the end of the runway.

(2) TRANSITION ZONES - One (1) foot in height for each seven (7) feet in horizontal distance beginning at any point 125 feet normal to and at the elevation of the airport reference point of the non-instrument runway extending 100 feet beyond each end thereof extending to a height of 150 feet above the airport elevation which is 6,201 feet above the mean sea level at the Moriarty Municipal Airport; 6,100 feet above the mean sea level at the Estancia Municipal Airport and 6,492 feet above the mean sea level at the Mountainair Municipal Airport. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces.

(3) HORIZONTAL ZONE - One hundred fifty (150) feet above the airport elevation or a height of 6,351 feet above mean sea level at the Moriarty Municipal Airport, 6,250 feet above mean sea level at the Estancia Municipal Airport and 6,642 feet above mean sea level at the Mountainair Municipal Airport, and

(4) CONICAL ZONE - One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of 300 feet above the airport elevation.

Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

Nothing in this Ordinance shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to fifty (50) feet above the surface of the land.

SECTION V. USE RESTRICTIONS

Notwithstanding any provisions of this Ordinance, no use may be made of land within any zone established by this Ordinance in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility

in the vicinity of the airport or otherwise endanger the landing, taking-off, or maneuvering of aircraft. Notwithstanding any other provisions of this Ordinance, no use may be made of, and no installation may be placed on, land within any zone for rifle ranges, public or private, or private aircraft landing fields, which would interfere with the safe use by aircraft of the airports.

SECTION VI. NON-CONFORMING USES

(1) 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 non-conforming 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.

(2) MARKING AND LIGHTING - Notwithstanding the preceding provision of this Section, the owner of any non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereof of such markers and lights as shall be deemed necessary by the County Commissioners of Torrance County 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 Village of Moriarty, New Mexico, for the Moriarty Municipal Airport, the Town of Estancia, New Mexico for the Estancia Municipal Airport and the Town of Mountainair for the Mountainair Municipal Airport, unless the owner or user of such structure or installation is required to install, operate or maintain the same by any other state or federal statute or regulation.

SECTION VII. PERMITS

(A) FUTURE USES - Except as specifically provided in paragraphs 1, 2, and 3 hereunder, no material change shall be made in the use of land and no structure or tree shall be erected.

altered, planted or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit 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.

(1) In the areas lying within the limits of the Horizontal Zone and the Conical Zone, but not within the limits of a non-instrument Approach Zone or Transition Zone, no permit shall be required for any tree or structure less than 35 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.

(2) In the areas lying within the limits of the non-instrument Approach Zones but at a horizontal distance of not less than 1,700 feet from each end of the runways, no permit shall be required for any tree or structure less than 35 feet of vertical height above the established airport elevation, except when such tree or structure would extend above the height limit prescribed for such non-instrument Approach Zone.

(3) In the areas lying within the limits of the Transition Zones beyond the perimeter of the Horizontal Zone, no permit shall be required for any tree or structure less than 35 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 Transition Zones.

Nothing contained in any of the foregoing exceptions 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 limits established by this Ordinance except as set forth in Section IV.

(B) EXISTING USES - No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure or tree to be made or become higher, or 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.

(C) NON-CONFORMING USES, ABANDONED OR DESTROYED - Whenever the County Commissioners of Torrance County determine that a non-conforming structure or tree has been abandoned or more than 80 percent torn down, destroyed, deteriorated or decayed, no permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Except as indicated, all applications for permits for replacement, change or repair of non-conforming uses shall be granted. Any non-conforming use of land (when such is the principle use) shall be removed within three (3) years after the effective date of this Ordinance.

(D) VARIANCES - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or otherwise use his property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Appeals for a variance from such regulations. 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 the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Ordinance.

(E) HAZARD MARKING AND LIGHTING - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question to permit the Village of Moriarty, New Mexico, Town of Estancia, New Mexico and Town of Mountainair, New Mexico at their own expense, affecting their respective airports, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

SECTION VIII. ENFORCEMENT

It shall be the duty of the County Commissioners of Torrance County to administer and enforce the regulations prescribed herein.

Applications for permits and variances shall be made to the County Commissioners of Torrance County upon a form furnished by them. Applications required by this Ordinance to be submitted to the County Commissioners of Torrance County shall be promptly considered and granted or denied by them. Applications for action by the Board of Appeals shall be forthwith transmitted by the County Commissioners of Torrance County.

The County Commissioners of Torrance County may institute in any Court of Competent Jurisdiction, an action to prevent, restrain, correct or abate any violation of this Ordinance, or of airport zoning regulations adopted, or of any order or ruling made in connection with their administration.

The County Commissioners of Torrance County hereby are authorized and empowered whenever in their judgment, any structure or object located adjacent to such airports or landing fields constitutes a hazard to the efficient and safe use of such airports or landing fields, or whenever notified of the existence of any such hazard to require the removal and elimination or relocation of such structure or such object, and to acquire all necessary land or rights of way and easements over the lands incidental to such removal, elimination or relocation of any such structure or object upon payment to the owner of any land that may be effected by such relocation and the damages occasioned by such removal, elimination or relocation.

SECTION IX. BOARD OF APPEALS

(A) The Joint Torrance County Airport Zoning Board of Appeals created and established by agreement dated the 15 day of March, 1966, by and between the County of Torrance, the Village of Moriarty, Town of Estancia and Town of Mountainair, is hereby designated and established under and by this Ordinance as the Board of Appeals required by sections 44-2-11 through 44-2-12 and Sections 14-40-14 through 14-40-24, N.M.S.A., 1953 Comp., as amended, and shall have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the County Commissioners of Torrance County in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon

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which such Board of Appeals may be required to pass under this Ordinance; and (3) to hear and decide specific variances.

(B) The Board of Appeals shall consist of nine (9) members appointed jointly as follows: two members by the County Commissioners of Torrance County; two members by the Village Council of the Village of Moriarty; two members by the Town Council of the Town of Estancia; two members by the Town Council of the Town of Mountainair; one member appointed by the other eight (8) members and each member shall serve a term of three (3) years. The members of the Board of Appeals shall be removable for cause by the joint action of the County Commissioners of Torrance County, the Village Council of the Village of Moriarty, Town Council of the Town of Estancia, Town Council of the Town of Mountainair, upon written charges and after public hearing.

(C) The Board of Appeals shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be public. The Board of Appeals 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 Board of Appeals and shall be a public record.

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

(E) The concurring vote of a majority of the members of the Board of Appeals shall be sufficient to reverse any order, requirement, decision, or determination of the County Commissioners of Torrance County, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance.

on any matter to affect any variation in this Ordinance.

SECTION X. APPEALS

(A) Appeals to the Board of Appeals may be taken by any person aggrieved, or by any other officer, department, board or bureau of the political subdivision affected by any decision of the County Commissioners of Torrance County in their administration of this Ordinance.

(B) An appeal must be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the County Commissioners of Torrance County from which the appeal is taken and with the Board of Appeals, a notice of appeal specifying the grounds thereof. The County Commissioners of Torrance County, from which the appeal is taken, shall forthwith transmit to the Board of Appeals all the papers constituting a record upon which the action appealed from was taken.

(C) An Appeal shall stay all proceedings in furtherance of the action appealed from, unless the County Commissioners of Torrance County from which the appeal is taken certifies to the Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a Court of Record on application on notice to the County Commissioners of Torrance County from which the appeal is taken and on due cause shown.

(D) The Board of Appeals shall fix a reasonable time for the hearing of the appeal, 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 Appeals may in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the county Commissioners of Torrance County.

from which the appeal is taken.

SECTION XI. JUDICIAL REVIEW

Any person aggrieved by any decision of the Board of Appeals, or any tax payer, or any officer, department, board or bureau of which political subdivisions may present to the District Court a verified petition setting forth that the decision was illegal, in whole or in part, specifying the illegality. Such petition shall be presented to the Court within thirty (30) days after the decision is filed in the Office of the Board of Appeals.

SECTION XII. ENFORCEMENT & REMEDIES

Each violation of this Ordinance or of any regulation, order or ruling promulgated hereunder shall be punishable by a fine of not more than ONE HUNDRED DOLLARS (\$100.00) or imprisonment for not more than ninety days or by both and each day a violation continues to exist shall constitute a separate offense.

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, 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 is 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. EMERGENCY CLAUSE

This Ordinance is hereby declared to be an emergency measure on the ground of urgent public need and it is therefore to become effective immediately upon its passage and publication as provided by law.

PASSED, ADOPTED, SIGNED AND APPROVED THIS 16 DAY OF

January, 1966

COUNTY COMMISSIONERS OF TORRANCE COUNTY

BY Thomas M. Adams

W. G. Mason  
Ray Halderman

ATTEST:

Camellia [Signature]  
County Clerk