

(YOUR AIRPORT NAME)
MODEL AIRSPACE AND COMPATIBLE LAND USE
AIRPORT OVERLAY DISTRICT (AOD) TEMPLATE
*[DRAFT FOR REVIEW, COMMENT, & ADOPTION BY xxxxxxxx COUNTY AND
TOWN OF xxxxxxxxx]*

PREPARED BY:



ON BEHALF OF:
xxxxxxx COUNTY
AND
TOWN OF xxxxxxxxx

(DATE)

Version 3.09

ENACTMENT

This is an ordinance establishing Height and Land Use Limitations for airport safety and within the vicinity of the (Your Airport Name) and providing for the administration, enforcement and amendment thereof;

PREAMBLE

WHEREAS, in the opinion of the XXXXXXX County Council to further promote the health, safety, and general welfare of the residents of XXXXXXX County, it is necessary and advisable to adopt regulations pertaining to the compatibility of land uses within the vicinity of the (Your Airport Name), and;

WHEREAS, the XXXXXXX County *Planning and Building Services Department* and the South Carolina Aeronautics Commission has developed this ordinance with due consideration and has submitted final recommendations to the XXXXXXX County Council, and;

WHEREAS, all applicable requirements of the Code of Laws of South Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF XXXXXXX AS FOLLOWS:

APPLICATION:

The land use controls associated with the airport compatibility overlay districts shall be in addition to and shall only apply where underlying zoning districts and their controls have been established under other Articles of this Ordinance. Where airport compatibility overlay district controls conflict with the controls of underlying zoning districts, the more restricted controls shall apply.

ARTICLE I - AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by South Carolina Code of Laws, Title 55, Sections 55-9-240 and Section 55-9-260.

ARTICLE II – JURISDICTION

SECTION 20

This ordinance shall be applicable to the area designated within XXXXXXX County in the vicinity of the (Your Airport Name) as shown on maps entitled (Your Airport Name) Part 77 Airspace Zones and Land Use Zones Maps as maintained by the XXXXXXX *County Planning and Building Services Department* and herein made a part of this ordinance.

ARTICLE III – TITLE

SECTION 30 This ordinance shall be known as and referred to as the (Your Airport Name) Height and Land Use Protection Special Purpose District of Xxxxxxx County, South Carolina.

ARTICLE IV – INTERPRETATIONS

SECTION 40 Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 41 Word Interpretations

For the purposes of this Ordinance, the following words shall be interpreted as specified below:

- (1) The word “may” is permissive,
- (2) The words “shall” and “will” are mandatory.
- (3) The word “County” shall mean the County of Xxxxxxx, South Carolina.
- (4) The words “County Aeronautics Commission” shall refer to the Xxxxxxx County Aeronautics Commission.
- (5) The words “Planning Department” shall refer to the Xxxxxxx County *Planning and Building Services Department*.
- (6) The words “County Council” shall refer to the Xxxxxxx County Council,
- (7) The word “person” shall include firm, organization, association, company, trust, corporation or other entity.
- (8) The words “used” or “occupied” includes intended, designed and arranged.

SECTION 42 Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Airport means the (Your Airport Name).
- (2) Airport Elevation means the highest point of an airport’s usable landing area measured in feet (tenths) from mean sea level.
- (3) Airport Obstruction means any living or man-made structure or tree which obstructs the aerial approaches of the airport exceeding the

maximum height of structures permitted in the airport operation area or is otherwise hazardous to its use for landing or taking off.

- (4) Airport Operation Area refers to all zones established in this Ordinance.
- (5) Avigation Easement means ownership of the right of imposition upon such property of overflight, excessive noise, vibration, smoke, dust, vapors, and particulates due to the operation of aircraft to and from the airport. Also includes the right to remove Airport Obstructions on said property.
- (6) Conditional Use (Special) Permit: A permit issued by the *Development Standards Department* that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Planning Commission (refer to 'C' Conditional Use in Land Use Matrix Table).
- (7) Enforcement Officer shall mean an individual or individual of the *Xxxxxxxx County Planning and Building Services Department* with authority to enforce this ordinance.
- (8) FAA means Federal Aviation Administration.
- (9) FAR means Federal Aviation Regulation.
- (10) Dimensional Nonconformity means a situation that occurs when the lot line does not conform to the regulations applicable to the zone in which the property is located.
- (11) Height means the vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon expressed as feet above mean sea level (MSL).
- (12) Height limitations means no structure or tree shall be erected, altered, allowed to grow or maintained in any airport surface zone, with a height in excess of the height established for such zone. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation
- (13) Land Use Compatibility means the use of land adjacent to the (*Your Airport Name*) that does not endanger the health, safety, or welfare of the owners' occupants, or users of the land.

- (14) Lot means a portion of a subdivision, plat or parcel with boundaries established as a separate legal entity recorded with the County Register of Deeds.
- (15) Nonconforming Structure means any structure or tree which does not conform to this Ordinance as of the effective date of these regulations.
- (16) Nonconforming Use means any structure or use of land which is inconsistent with the provisions of this Ordinance as of the effective date of these regulations.
- (17) Open Space means an area, land or water, generally lacking in man-made structures and reserved for enjoyment in its unaltered state.
- (18) Permitted Use means the associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to ‘Y’ Conditional Use in Land Use Matrix Table).
- (19) Precision Instrument Runway means a runway end having instrument approach procedure utilizing air navigation facilities with horizontal and vertical guidance, or area type navigation equipment, for which a straight-in precision instrument approach procedure has been approved or planned.
- (20) Prohibited Use means the associated land use groups are at a level of intensity or density, or location, which presents a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to ‘N’ Conditional Use in Land Use Matrix Table).
- (21) Property Owners means those listed as owners of property on the records of the Xxxxxxx County Tax Assessor.
- (22) Runway End means existing physical end of the hard-surfaced asphalt runway, having a defined coordinate and elevation.
- (23) Structure means any object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines. The primary structure on a lot, or a building that houses a principal use.
- (24) Use means the principal activity or function that actually takes place or is intended to take place on a parcel.

- (25) Variance means a grant of permission by the County Board of Zoning Appeals that authorizes a person, owing to conditions peculiar to the property, in which a literal enforcement of the Ordinance would result in unnecessary and undue hardship.
- (26) Zoning Permit means a permit issued by the *Development Standards Department* that authorizes the recipient to make use of property in accordance with the requirements of the Ordinance.

ARTICLE V – HEIGHT RESTRICTIONS & LIMITATIONS

SECTION 50

Height Restriction Zones Established

In order to carry out this ordinance, certain zones are hereby created and established by FAR Part 77, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surface, and conical surface as they apply to the (Your Airport Name). Such zones are shown in plan and profile view on two maps, the “(Your Airport Name) Part 77 Airspace Zones”, consisting of one (1) sheet, prepared by Xxxxxxx County dated (TBD), yyyy. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

Part 77 Airspace Zones:

- (1) *Approach Zones.* The approach zones are the areas beneath the Part 77 approach surfaces, as defined by Part 77, §77.19(d), of Title 14 of the Code of Federal Regulations, or in successor federal regulations.
- (2) *Primary Zone.* The primary zone is that area of the primary surface, as defined by Part 77, §77.19(c), of Title 14 of the Code of Federal Regulations, or in successor federal regulations.
- (2) *Transitional Zones.* The transitional zones are the areas beneath the Part 77 transitional surfaces, as defined by Part 77, §77.19(e), of Title 14 of the Code of Federal Regulations, or in successor federal regulations.
- (3) *Horizontal Zone.* The horizontal zone is the area beneath the Part 77 horizontal surfaces, as defined by Part 77, §77.19(a), of Title 14 of the Code of Federal Regulations, or in successor federal regulations.

- (4) *Conical Zone.* The conical zone is the areas beneath the Part 77 conical surfaces, as defined by Part 77, §77.19(b), of Title 14 of the Code of Federal Regulations, or in successor federal regulations.

SECTION 51

Height Limitations

No structure or tree shall be erected, altered, allowed to grow or maintained in the airport zones to a height in excess of the height limit as determined by the aerial contours appearing on the (Your Airport Name) Part 77 Airspace Zones Map, Threshold Siting Zones Map, or referred to in Section 50 of this Document.

ARTICLE VI – LAND USE RESTRICTIONS & LIMITATIONS

SECTION 60

Land Use Restriction Zones Established

In order to carry out this Ordinance, certain zones are hereby created and established, which include land lying beneath the Airport Land Use Zones as they apply to the (Your Airport Name). Such zones are shown in plan view on the (Your Airport Name) Land Use Zones Map consisting of one (1) sheet, prepared by Xxxxxxxx County, and dated (TBD), yyyy. An area located in more than one (1) of the zones described herein is considered to be only in the zone with the more restrictive limitation. There are hereby created and established the following Airport Land Use Zones:

- (1) *Zone A.* Zone A is the Runway Protection Zone, as defined in the Federal Aviation Administration Advisory Circular 150/5300-13A, Section 310, or in successor FAA advisory circulars.
- (2) *Zone B1.* Zone B1 is that area underneath the Approach Zone to where each approach surface is 150 feet of height above their respective runway end elevations, not including Zone A.
- (3) *Zone B2.* Zone B2 is that portion of the area underneath the Approach Zone, from the outer edge of Zone B1 to the end of the Approach Zone, or 10,000 feet from inner edge of the Approach Zone, whichever it reaches first.
- (4) *Zone C.* Zone C is an area formed by offsetting the primary surface edge outward by 1,050 feet, and extending each of its ends to its respective runway end's Approach Zone, or extended and squared off at the outer edge of Zone B1, whichever that extension reaches first.

(5) *Zone D.* Zone D is those areas underneath the Transitional and Horizontal Zones not part of Zones A, B1, B2, or C.

(6) *Zone E.* Zone E is identical in area, dimensions, and location to the area underneath the Conical Zone.

SECTION 61

Land Use Limitations

Such applicable land use limitations are hereby established for each of the Airport Land Use Zones in order to prevent incompatible land uses which would compromise aeronautical activity at the (Your Airport Name), to protect people and property on the ground in case of an accident, to limit population and building density in the runway approach areas, to create sufficient open space, and to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the (Your Airport Name), and minimize injury to the occupants of aircraft involved in accidents. The following land use limitations within Zones A, B1, B2, C, D, and E shall apply to those portions of the parcel contained within the underlying zones as indicated on the attached (Your Airport Name) Land Use Zones Map.

(Your Airport Name) Land Use Ordinance
Regulated Land Use Guidance for Zones A, B1, B2, C, D, E *

Airport Land Use Zone Designation	Zone A	Zone B1	Zone B2	Zone C	Zone D	Zone E
Agriculture, Farming & Animal Keeping						
Crop Production - Dry and Irrigated Farming	C 1,2	Y	Y	C 1,2	Y	Y
Specialty Crops, Nurseries/Greenhouses, Landscape Materials	N	Y	Y	N	Y	Y
Row-Crop Processing and Packaging, Wineries	N	Y	Y	N	Y	Y
Animal Processing and Packaging	N	C 2,3	Y	N	Y	Y
Truck Farming, Roadside Stands, Farmers Markets	N	C 2,3	C 2,5	N	Y	Y
Pasture and Rangeland Grazing	N	Y	Y	Y	Y	Y
Animal Feed Lots (Commercial Hogs, Dairies)	N	Y	Y	N	Y	Y
Animal Feed Lots (Commercial Poultry)	N	N	N	N	Y	Y
Game Preserves, Fish Farming	N	N	C2	N	Y	Y
Feed Lots, Stockyards, Animal Commodity Sales Yards	N	C2	C2	N	Y	Y
Animal Hospital, Veterinary Clinic, Kennels, Pet Boarding	N	C3	C5	N	Y	Y
Equestrian Facilities, Exotic Animals	N	C3	C5	N	Y	Y
Public Use Facilities, Institutions & Utilities						
Civic-Use Convention Center, Auditorium, Concert Hall	N	N	N	N	C 1,2	Y
Schools, Hospitals, and Correctional Facilities	N	N	N	N	C 1,2	Y
Libraries, Museums, Churches, Day-Care, Social/Civic Clubs	N	N	N	N	C 1,2	Y
Parks, Athletic Fields, Playgrounds, Picnic Areas	N	N	N	N	C 1,2	Y
Cemeteries	N	Y	Y	N	Y	Y
Public Utilities (Excludes Electric Power Plants, Lines)	N	C 1,2	C 1,2	N	C 1,2	C 1,2
Electric Power Plants and Overhead Transmission Lines	N	C 1,2	C 1,2	N	C 1,2	C 1,2
Solid-Hazardous Waste, Landfills (Excludes Transfer Stations)	N	N	N	N	N	N
Recycling	N	C 2,3	C 2,5	C2	C2	C2
Residential						
Single-Family Residential	N	C3,8	C7	C3,8	C7	Y
Multi-Family Residential, Mobile Home Units / Parks	N	N	N	N	C 2,6,7	Y
Group Homes, Convalescent Facilities, Nursing / Family Care	N	N	N	N	C 2,6,7	Y
Apartments, Duplexes, Townhomes, Condominiums	N	N	N	N	C 2,6,7	Y
Temporary Housing	N	N	N	N	C 2,6,7	Y

(Your Airport Name) Land Use Ordinance
Regulated Land Use Guidance for Zones A, B1, B2, C, D, E *

Airport Land Use Zone Designation	Zone A	Zone B1	Zone B2	Zone C	Zone D	Zone E
Commercial Recreational						
Swimming Pools, Water Park, Water Slides	N	N	Y	N	Y	Y
Gyms, Health Spas, Indoor Theaters, Auditoriums	N	N	C5	N	C6	Y
Bowling Alleys, Skating Rinks, Dance and Pool Halls, Arcades	N	N	C5	N	C6	Y
Outdoor Theaters, Amusement Parks, Carnivals, Fairs	N	N	N	N	C6	Y
Golf Courses, Tennis Courts	N	N	Y	N	Y	Y
Commercial Business, Retail & Services						
Aeronautical Businesses	N	N	Y	Y	Y	Y
General Retail Stores/Complexes, Restaurants, Convenient Stores	N	N	Y	N	Y	Y
General Offices, Executive Offices, Research Facilities	N	C3	C5	C4	Y	Y
Vehicle Sales, Building & Lumber Materials, Food-Beverage Sales	N	N	C5	N	Y	Y
Appliance-Equipment Repair Facilities, Vehicle Wash	N	C3	C5	C4	Y	Y
Shopping Malls, Shopping Centers, Home Improvement Centers	N	N	C5	N	C6	Y
Banks, Financial Institutions	N	N	C5	N	C6	Y
Gasoline Service Stations	N	N	Y	N	Y	Y
Modular Self-Storage Facilities, Mini Storage Units	N	C3	C5	C2	Y	Y
Personal Health Clinics, Well-Being & Care Facilities	N	N	C5	N	Y	Y
Motels, Hotels, Bed & Breakfast	N	N	C4	N	C6	Y
RV Parks, Camping Areas	N	N	C4	N	Y	Y
Mass Transit Facility / Depot	N	N	C5	Y	C6	Y
Broadcast Studios	N	N	Y	N	Y	Y
Commercial Industrial, Manufacturing & Warehousing						
Manufacturing Facilities, Industrial Plants, Warehousing	N	N	C5	C4	C6	Y
Warehouse, Wholesale, Distribution	N	C3	C5	C4	C6	Y
Heavy Industrial/Manufacturing	N	N	C5	N	C6	Y
Light Industrial/Manufacturing	N	C3	C5	C4	C6	Y
Petroleum and Chemical Product Dealers-Bulk Storage	N	N	C1,2	N	C6	Y
Mining- Sand, Gravel, Fill Dirt	N	N	C 1,2	N	C 1,2	C 1,2

Table Key (Abbreviations)

(Y) Permitted Use: The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use.

(C) Conditional Use: The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use, contingent upon attainment of conditions presented (See Conditional Uses Below).

1 - Allowed only if use does not interfere with normal Airport operations (as defined by the FAA/South Carolina Aeronautics Commission).

2 - Prohibits uses that constitute a hazard to flight, including but not limited to tall physical objects, glare, dust, or other visual or electric interference to a pilot and aircraft, and uses that may attract hazardous wildlife.

3 - Use intensity restricted to 5 or less persons per acre.

4 - Use intensity restricted to 15 or less persons per acre; or equivalent per household.

5 - Use intensity restricted to 25 or less persons per acre in structures/buildings; and 50 or less persons per acre outdoors.

6 - Use intensity restricted to 100 or less persons per acre.

7 - Residential land uses permitted, with Residential Fair Disclosure required.

8 - No more than 1 dwelling unit per acre.

(N) Prohibited Use: The associated land use groups are at a level of intensity or density, or location, which presents a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use.

* Note: Reference (Your Airport Name) Land Use Zones Map for Location of Zones.

SECTION 62 Other Land Use Requirements

New residential subdivisions located within Airport Land Use Zones A, B1, B2, C, and/or D requires a Residential Fair Disclosure statement in the purchase contract or rental agreement upon the selling of a residential structure. Residential Fair Disclosure should state:

“This subject property and residential structure considered for purchase or rental located at [insert physical address] is located within 10,000 feet of the (Your Airport Name). Information regarding (Your Airport Name) can be received from the Xxxxxxx County *Planning and Building Services Department*, upon request.”

Future applications made to Xxxxxxx County requesting approval of manmade structures, which also require filing a notice with the FAA as per Part 77, §77.9, of Title 14 of the Code of Federal Regulations, or in successor federal

regulations, shall first submit a FAA form 7460-1, “Notice of Proposed Construction or Alteration”, to the FAA for a review of impacts to airspace in the vicinity of the Airport, prior to placing of the request on the Planning Commission meeting agenda. If the FAA determines an adverse impact to the Airport’s airspace may occur, including but not limited to increased instrument procedural minima, FAA decision should serve as governing height limitation for such a man-made structure.

ARTICLE VII – NONCONFORMITIES

SECTION 70

Nonconforming Uses – Regulations Not Retroactive

This regulation shall not be construed to require the alteration of any lot or removal, lowering, or other change 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 a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any property or structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this ordinance.

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installations operation and maintenance thereon of such markers and lights as shall be deemed necessary by the (*Name of local Aeronautics governing body*) to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the (Your Airport Name). Reference FAA Advisory Circular 70-7460-1K, or successor advisory circulars, for further guidance.

SECTION 71

Existing Structures

Except as specifically provided in this section, it is not permissible for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. Physical alteration of structures or the placement of new structures on open land is unlawful if they result in an increase in the total amount of space devoted to a nonconforming use or greater nonconformity with respect to land use limitation.

Abandoned Structures: Whenever the Xxxxxxx County Building Official determines that a nonconforming structure has been abandoned or more than 80 percent torn down (or damaged more than 80 percent of the current County tax value), physically deteriorated, or decayed, no permit shall be granted that would allow such structure to otherwise deviate from the height and land use regulations.

Temporary Structures: Temporary structures constructed or erected incidental to a development, and solely used for the designated purpose, can only remain while needed and for a maximum of one year.

ARTICLE VIII - PERMIT REQUIREMENTS

SECTION 80

Permits Required – Existing Uses

Before any existing use or structure may be replaced or substantially altered within any area of the Airport Height or Land Use Restriction Zones, a permit shall be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use when the application for a permit is made. Except as indicated, all applications for a permit for replacement change or repair of an existing, structure shall be granted.

SECTION 81

Permits Required – Future Uses

No change shall be made in the use of land or increasing or establishing a structure or tree unless a permit therefore shall have been applied for and granted by the County Building Official. Each application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use or structure would conform to the regulations prescribed in this article.

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 94.

The Xxxxxxx County Building Official shall not issue a building permit for the construction of any new structure within the Airport Height Restriction or Land Use Zones established in SECTIONS 50 and 60, and as depicted on the (Your Airport Name) Land Use, Part 77 Airspace, or Threshold Siting Zones Map unless approved by the Xxxxxxx County Planning and Building Services Director and the Planning and Zoning Coordinator.

No permit of any type shall be issued for any development, building permit or activity subject to parcel areas underlying Airport Land Use Zone A and Zone B1 herein defined, until the (Your Airport Name) has an opportunity to be awarded an aviation easement by the property owner(s) in a form prescribed by the Airport Manager, and as recorded in a form acceptable to Xxxxxxx County.

SECTION 82

Permit Applications

A permit application, as required per SECTION 80, shall accompany a preliminary plat to contain the information as indicated in Appendix B, Article 4, of the XXXXXXX County Code of Ordinances. A non-refundable application fee as per the current XXXXXXX County *Planning and Buildings Services Department* fee schedule shall be submitted with the permit application.

SECTION 83

Review by County Aeronautics Commission

No permit regulated by this ordinance shall be issued by the Building Official unless approved by the County Aeronautics Commission, or its designee.

SECTION 84

Violations

Permits shall be valid until revoked. The Building Official may periodically inspect the structure(s) and land use to determine continued compliance with this ordinance. If the land use or obstruction is in violation, the Building Official shall advise the owner in writing of the violations and of action necessary to bring the obstruction or land use into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by Section 1-7 of the XXXXXXX County Code of Ordinances.

SECTION 85

Revocation of Permit

Valid permits may be revoked by the Building Official for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application.
- (2) Failure to construct structure in accordance with application and permit.
- (3) Any other violation of this ordinance.

In the event the permit is revoked, the Building Official shall advise the owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. When the Building Official determines that the structure or land use has been brought back into compliance with this ordinance, the Building Official shall reinstate the permit.

ARTICLE IX - LEGAL PROVISIONS

SECTION 90

Enforcement

The ordinance may be enforced by any one or more of the remedies authorized by the South Carolina Code of Laws, Title 55, Sections 55-9-250, 55-9-260, 55-9-280, 55-9-300, 55-9-320, and 55-9-330.

SECTION 91

Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Building Official stating the cause and basis for the complaint. The Building Official shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 92

Severability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION 93

Amendment

Petitions for amendment may be filed with the *Xxxxxxx County Planning and Building Services Department* by any citizen of the County, any county department or agency, the *Xxxxxxx County Planning Commission* or Council.

SECTION 93.1

County Council Review

The provisions and requirements of this ordinance may be amended by the County Council according to the procedure set forth:

(1) County Aeronautics Commission Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed and recommended for approval by the County Aeronautics Commission.

(2) County Planning Commission Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Commission. The Planning Commission shall have 45 days in which to review the proposed amendment and to make recommendation to the County Council. If the Planning Commission, or designee, fails to report to the Council within 45 days, it shall be deemed to have approved the proposed amendment.

(3) County Council Review - No amendment shall become effective until after being adopted by the County Council.

SECTION 94

Variance and Exception

Upon advisement of the Enforcement Office, the Board of Zoning Appeals may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of

the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance, the Board of Zoning Appeals must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or buildings.
- (2) The literal interpretations of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other- lands or buildings.
- (5) Any request for a variance to the Height Restrictions & Limitations portions of this Ordinance shall be accompanied by a finding from the Federal Aviation Administration as to the impact the variance may have on the safe, efficient use of the airport and its airspace.

Issuance of a variance shall not set precedence and each case shall be reviewed independently of others.

SECTION 95

Appeal

The Board of Zoning Appeals shall hear and decide appeals and review any orders, requirements, decisions or determinations made by the enforcement officer responsible for administration or enforcement of this ordinance. The Board of Land Use and Zoning Appeals decision is subject to review by the circuit court in and for XXXXXXXX County, as per the South Carolina Code of Laws, Title 6, Section 6-29-820.

SECTION 96

Effective Date

This ordinance shall become effective and be in full force from and after the _____ day of _____, yyyy. Adopted by the XXXXXXXX County Council on _____ day of _____, yyyy.

(SIGN)

Chairman, _____ County Council

ATTEST: _____
Clerk

DRAFT