

CHAPTER 11 MUNICIPAL AIRPORT ZONING ORDINANCE

SECTION 1100 - GENERAL

1100.01 SHORT TITLE. This Chapter shall be known as “Backus Municipal Airport Zoning Ordinance.” Those sections of land affected by this Chapter are indicated in “Exhibit A” which is attached to this section.

1100.02 DEFINITIONS. As used in this Chapter, unless the context otherwise requires, the following terms shall be defined to mean:

Subd. 1 Airport. “Airport” shall mean the Backus Municipal Airport located in West one-half of Section 29, Township 139 North, Range 30 West, Cass County, Minnesota.

Subd. 2 Airport Elevation. “Airport Elevation” shall mean the established elevation of the highest point on the usable landing area which elevation is established to be 1,356 feet above mean sea level.

Subd. 3 Airport Hazard. “Airport Hazard” shall mean any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

Subd. 4 Dwelling. “Dwelling” shall mean any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Subd. 5 Height. “Height” for the purpose of determining the height limits in all zones set forth in this Chapter and shown on the zoning map, the datum shall mean sea level elevation unless otherwise specified.

Subd. 6 Landing Area. “Landing Area” shall mean the area of the airport used for the landing, taking off or taxiing of aircraft.

Subd. 7 Nonconforming Use. “Nonconforming Use” shall mean any preexisting structure, tree, natural growth, or use of land which is inconsistent with the provisions of this Chapter or an amendment hereto.

Subd. 8 Nonprecision Instrument Runway. “Nonprecision Instrument Runway” shall mean a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

Subd. 9 Person. “Person” shall mean an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

Subd. 10 Planned. “Planned” as used in this Chapter, shall mean only those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Aeronautics, and the City.

Subd. 11 Precisions Instrument Runway. “Precisions Instrument Runway” shall mean a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

Subd. 12 Runway. “Runway” shall mean any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

Subd. 13 Slope. “Slope” shall mean an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude: Slope = 3:1 = three feet horizontal to one foot vertical.

Subd. 14 Structure. “Structure” shall mean an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

Subd. 15 Traverse Ways. “Traverse Ways” for the purpose of determining height limits as set forth in this Chapter shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

Subd. 16 Tree. “Tree” shall mean any woody object of natural growth.

Subd. 17 Utility Runway. “Utility Runway” shall mean a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

Subd. 18 Visual Runway. “Visual Runway” shall mean a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

Subd. 19 Water Surfaces. “Water Surfaces” for the purpose of this Chapter shall have the same meaning as land for the establishment of protected zones.

1100.03 JOINT BOARD ESTABLISHED. The Cass County-City of Backus Joint Airport Zoning Board, created and established by joint action of the Council of the City and the Board of County Commissioners of Cass County pursuant to the provisions and authority of Minnesota Statutes 360.063, is hereby continued.

1100.04 PURPOSE. The Joint Airport Zoning Board hereby finds and declares that:

- (1) An airport hazard endangers the lives and property of users of the Backus Municipal Airport, and property or occupants of land in its vicinity, and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Backus Municipal Airport and the public investment therein.

- (2) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Backus Municipal Airport:
- (3) For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
- (4) The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- (5) The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds.

SECTION 1110 - AIRSPACE OBSTRUCTION ZONING

1110.01 AIRSPACE ZONES. In order to carry out the purpose of this Chapter as set forth above, the following airspace zones are hereby established: primary zone, horizontal zone, conical zone, and transitional zone; and whose locations and dimensions are as follows:

Subd. 1 Primary Zone: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of runway 16/34. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for Runway 16/34.

Subd. 2 Horizontal Zone: All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1,505 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 6,000 feet for Runway 16/34.

Subd. 3 Conical Zone: All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.

Subd. 4 Approach Zone: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end

of the primary surface. The approach surface inclines upward and outward at a slope of 40:1 for Runway 16/34. The approach surface expands uniformly to a width of 3,500 feet for Runway 16/34 at a distance of 10,000 feet, then continues at the same rate of divergence to the periphery of the conical surface.

Subd. 5 Transitional Zone: All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of seven to one from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

1110.02 HEIGHT RESTRICTIONS. Except as otherwise provided in this Chapter, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created in this section so as to project above any of the imaginary airspace surfaces described. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

1110.03 BOUNDARY LIMITATIONS. The municipality may regulate the location, size and use of buildings and the density of population in that portion of an airport hazard area under the approach zones for a distance not exceeding two miles from the airport boundary and by height restriction zoning for a distance not to exceed one and one-half miles from the airport boundary.

SECTION 1120 - LAND USE SAFETY ZONING

1120.01 SAFETY ZONE BOUNDARIES. In order to carry out the purpose of this Chapter, as set forth above, and also in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Backus Municipal Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones.

Subd. 1 Safety Zone A. All land in that portion of the approach zones of a runway, as defined in section 1110.01, which extends outward from the end of primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be 2,133 feet for Runway 16/34.

Subd. 2 Safety Zone B. All land in that portion of the approach zones of a runway, as defined in section 1110.01, which extends outward from Safety Zone A distance equal to one-third of the planned length of the runway 16/34.

Subd. 3 Safety Zone C. All that land which is enclosed within the perimeter of the Horizontal Zone, as defined in section 1110.01, and which is not included in Zone A or Zone B.

1120.02 USE RESTRICTIONS.

Subd. 1 General. Subject at all times to the height restrictions set forth in section 1110.02, no use shall be made of any land in any of the safety zones defined in section 1120.01, which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

Subd. 2 Zone A. Subject at all times to the height restrictions set forth in section 1110.02 and to the general restrictions contained in Subd. 1 above, areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, auto parking and lumber yard supply storage.

Subd. 3 Zone B. Subject at all times to the height restrictions set forth in section 1110.02, and to the general restrictions contained in Subd. 1 above, areas designated as Zone B shall be restricted in use as follows:

- (1) Each use shall be on a site whose area shall not be less than three acres.
- (2) Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.
- (3) Each site shall have no more than one building plot upon which any number of structures may be erected.
- (4) A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area At Least (Area)	But Less Than (Area)	Ratio of Cite Area to Bldg. Plot Area	Bldg. Plot Area (Sq. Ft.)	Max. Cite Population (15 persons/A)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
		10:1		

Site Area At Least (Area)	But Less Than (Area)	Ratio of Cite Area to Bldg. Plot Area	Bldg. Plot Area (Sq. Ft.)	Max. Cite Population (15 persons/A)
6		8:1	32,700	90
	10	8:1		
10		6:1	72,600	150
	20	6:1		
20	and up	4:1	218,000	300

(5) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, camp grounds, and other places of frequent public or semi-public assembly.

Subd. 4 Zone C. Zone C is subject only to height restrictions set forth in section 1110.02, and to the general restrictions contained in Subd. 1 above.

1120.03 BOUNDARY LIMITATIONS. The municipality may regulate the location, size, and use of buildings and the density of population in that portion of an airport hazard area under the approach zones for a distance not to exceed two miles from the airport boundary and in other portions of an airport hazard area not to exceed one mile from the airport boundary.

SECTION 1130 - ADMINISTRATIVE

1130.01 AIRPORT ZONING ADMINISTRATOR. It shall be the duty of the City Clerk-Treasurer to serve as the Airport Zoning Administrator and to administer and enforce the regulations prescribed in this Chapter. Applications for permits and variances shall be made to the City Clerk-Treasurer upon a form furnished by the Clerk. Permit applications shall be promptly considered and granted or denied by the Clerk-Treasurer. Variance applications shall be forthwith transmitted by the City Clerk-Treasurer for action by the Board of Adjustment hereinafter provided for.

1130.02 BOARD OF ADJUSTMENT.

Subd. 1 Establishment. The Board of Adjustment shall consist of five members appointed by the Cass County-City of Backus Joint Airport Zoning Board. Each member shall serve for a term of three years and until his or her successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one year; two for a term of two years, and two for a term of three years. Upon their appointment the members shall select a chairperson to act at the pleasure of the Board. Members shall be removable by the Joint Airport Zoning Board for cause, upon written charges, after a public hearing.

Subd. 2 Powers. The Board of Adjustment shall have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Chapter.
- (2) To hear and decide special exceptions to the terms of this Chapter upon which such Board of Adjustment under such regulations may be required to pass.
- (3) To hear and decide specific variances.

Subd. 3 Procedures.

- (1) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Chapter. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question

or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and shall be a public record.

- (2) The Board of Adjustment shall make written findings of fact 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 Chapter.
- (3) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in this Chapter.

1130.03 AIRPORT ZONING MAP. The several zones established under this Chapter shall beshown on the Backus Municipal Airport Zoning Map, which is hereby incorporated and made a part of this Code, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon.

1130.04 NONCONFORMING USES. The regulations prescribed by this Chapter 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 enactment of this Code, or otherwise interfere with the continuance of any nonconforming use. Nothing in this Chapter 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 enactment of this Code, and is diligently prosecuted and completed within two years thereof.

1130.05 PERMITS.

Subd. 1 Future Uses. Except as otherwise specifically provided, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone created by this Chapter unless a permit therefore shall have been applied for and granted by the zoning administrator. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway

except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height limit prescribed for respective zone. Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this Chapter.

Subd. 2 Existing Uses. Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the enactment of this Code or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all application for such a permit shall be granted.

Subd. 3 Nonconforming Uses Abandoned or Destroyed. Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations of this Chapter. Whether application is made for a permit under this section

or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his or her own expense, to lower, remove, reconstruct, or equip the structure in the manner necessary to conform to the provisions of this Chapter. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of the maximum legal rate of interest from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

1130.06 VARIANCES. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property not in accordance with the regulations prescribed in this Chapter may apply to the Board of Adjustment, for a variance from such regulations. If a person submits an application for a variance by certified mail to the members of the Board and the Board fails to grant or deny the variance within four months after the last member receives the application, the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the failure of the Board to act on the variance, the person

receiving the variance shall notify the Board and the Commissioner of Transportation by certified mail that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes, Section 360.063, Subdivision 6, *et seq.* Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Chapter provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment or Commissioner may deem necessary to effectuate the purpose of this Chapter.

1130.07 HAZARD MARKING AND LIGHTING.

Subd. 1 Nonconforming Uses. The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City.

Subd. 2 Permits and Variances. Any permit or variance granted by the Zoning Administrator or Board of Adjustment as the case may be, may, if such action is deemed advisable to effectuate the purpose of this Chapter and be reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question at his or her own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

1130.08 CONFLICTS. Where there exists a conflict between any of the regulations or limitations prescribed in this Chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

1130.09 APPEALS.

Subd. 1 Right To Appeal. Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in his or her administration of this Chapter, may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Zoning Administrator is an improper application of this Chapter as it concerns such governing body or board.

Subd. 2 Procedure. All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the Zoning Administrator made in his or her administration of this Chapter who desires to appeal such decision shall submit an application for a variance by certified mail to the members of the Board of Adjustment in the matter set forth in Minnesota Statute 360.067. Subdivision 2.

Subd. 3 Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

Subd. 4 Hearing. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Subd. 5 Decision. The Board of Adjustment may, in conformity with the provisions of this Chapter reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.

1130.10 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal may present to the District Court of Cass County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this Chapter before availing himself or herself of the right to petition a court as provided by this Chapter.

SECTION 1140 - PENALTIES

1140.01 PENALTIES. Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied

with the provision of this Chapter; or who, having been granted a permit or variance under the provisions of this Chapter, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both and the cost of prosecution to the extent authorized by state law, the Rules of Court, and the Rules of Criminal Procedure. Each day a violation continues to exist shall constitute a separate offense. The Airport Zoning Administrator may enforce all provisions of this Chapter through such proceedings for injunctive relief and other relief as may be proper under the law of Minn. Stat. 360.073 and other applicable law.

EXHIBIT A
BACKUS MUNICIPAL AIRPORT
ZONING ORDINANCE

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

TYPE OF AIRPORT ZONING

Name and Number of Township	Airspace Obstruction Zoning Section IV of Ordinance Page 3 of Zoning Map	Land Use Safety Zoning Section V of Ordinance Page 1 of Zoning Map
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Powers Township:	Sections:	Sections:
T139N, R30U	16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34	19, 20, 21, 28, 29, 30, 31, 32, 33
Deerfield Township:	Sections:	Sections:
T139N, R31W	13, 24, 25, 36	—
Bull Moose Township:	Sections:	Sections:
T138N, R31U	1	—
Pine River Township:	Sections:	Sections:
T138N, R30W	4, 5, 6	—