

The following ordinance was presented by Jimmy Guidry, who moved for its adoption, and was seconded by Perry Gisclair.

## ORDINANCE NO. 73

AN ORDINANCE ESTABLISHING HEIGHT ZONES FOR THE TENTH WARD OF LAFOURCHE PARISH AND PROVIDING FOR THE ELIMINATION, REMOVAL, ALTERATION AND MITIGATION OF HAZARDS TO AIR NAVIGATION

BE IT ORDAINED by the Board of Commissioners of the Greater Lafourche Port Commission:

### SECTION I. SOURCE AUTHORITY

The provisions of this Ordinance are adopted pursuant to the authority conferred by Louisiana Revised Statutes 2:383, or Constitutional Article VI, Section 17 and RS 2:381, et seq.

### SECTION II. PURPOSE

- A. It is hereby found by the Greater Lafourche Port Commission ("GLPC") that an obstruction has the potential for endangering the lives and property of users of the South Lafourche Leonard Miller, Jr. Airport ("SLLMJA"), and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the SLLMJA; and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the SLLMJA and the public investment therein. Accordingly, it is declared:
1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the SLLMJA;
  2. That it is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
  3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- B. It is further declared 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.

## SECTION III. DEFINITIONS

- A. The definitions cited herein have been extracted from 14CFR77.2 and 14CFR77.25 and are modeled on examples made available in USDOT FAA Advisory Circular 150/5190-4A, dated December 14<sup>th</sup>, 1987 :

*Airport* – The SLLMJA, Galliano, Louisiana

*Airport Elevation* – The highest point of the airport's usable landing area for fixed wing aircraft, measured in feet from sea level.

*Approach Surface* – A surface longitudinally centered on the extended runway centerline, extending outward and upward from each end of the primary surface of runway 18/36 and at the same slope as the appropriate Approach Zone height limitation slope set forth in Section IV of this Ordinance. In plan of the perimeter of the approach surface coincides with the perimeter of the approach zone.

*Approach, Transitional, Horizontal, and Conical Zones* – These zones are set forth in Section IV of this Ordinance.

*Aviation Board of Adjustment* – A board consisting of five (5) members to be appointed by the GLPC.

*Conical Surface* – A surface extending 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.

*Hazard to Air Navigation* – An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

*Height* – For the purpose of determining the height limitations 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.

*Horizontal Surface* – A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which in plan coincided with the perimeter of the horizontal zone.

*Larger than Utility Runway* – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

*Nonconforming Use* – Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance, or any amendment thereto.

*Nonprecision Instrument Runway* – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type 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.

*Person* – An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

*Precision Instrument Runway* – A runway having an existing instrument landing approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved layout plan or other planning document.

*Primary Surface* – A surface longitudinally centered on the runway, extending 200 feet beyond each end of the runway. The width of the primary surface is 1,000 feet, as set forth in Section IV of this Ordinance. The elevation of any point on the primary surface is the same elevation of the nearest point on the runway centerline.

*Runway* – A defined area on an airport prepared for landing and takeoff of aircraft along its length.

*Structure* – An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

*Transitional Surfaces* – These surfaces extend outward at 90 degree angles to the runway centerline extended at a slope of seven feet (7') 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 five thousand feet (5,000') measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

*Tree* – Any natural growth.

## **SECTION IV. AIRPORT ZONES ESTABLISHED**

- A.** In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the SLLMJA. Such zones are shown on the map entitled “AIRSPACE ZONES – SOUTH LAFOURCHE LEONARD MILLER, JR. AIRPORT” prepared by Picciola and Associates dated January 12, 2008. 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. The various zones are hereby established and defined as follows:

**1. Approach Zones**

- a.** *Runway Larger than Utility with a Visibility Minimum as Low as  $\frac{3}{4}$  Mile Nonprecision Instrument Approach Zone* – 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 4,000 feet at a horizontal

distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

- b. *Precision Instrument Runway Approach Zone* – 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 at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. *Transitional Zones* – The transitional zones are the areas beneath the transitional surfaces.
3. *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.
4. *Conical Zone* – The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

## **SECTION V. AIRPORT ZONE HEIGHT LIMITATIONS**

- A. The height limitations cited herein have been extracted from 14CFR77.23 and 14CFR77.25 and are modeled on examples made available in USDOT FAA Advisory Circular 150/5190-4A, dated December 14<sup>th</sup>, 1987
- B. 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 limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in questions as follows:
  1. *Approach Zones*
    - a. *Runway Larger than Utility with a Visibility Minimum as Low as ¾ Mile Nonprecision Instrument Runway* – Slopes thirty-four feet (34') 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.
    - b. *Precision Instrument Runway Approach Zone* – Slopes fifty feet (50') 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 upward forty feet (40') horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
  2. *Transitional Zones* – Slopes seven feet (7') outward of 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 which is 1 foot above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet (7') 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. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet (7') 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 angles to the extended runway centerline.

3. *Horizontal Zone* – Established at 150 feet above the airport elevation or at a height of 151 feet above mean sea level.
4. *Conical Zone* – Slopes twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
5. *Excepted Height Limits* – Nothing in this Ordinance shall be construed as prohibiting construction or maintenance of any structure, or growth of any tree to a height up to 50 feet (50') above the surface of the land.

## **SECTION VI. USE RESTRICTIONS**

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 communication between the airport and aircraft, making it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, 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 VII. NONCONFORMING USES**

1. *Regulation Non Retroactive.* The regulations prescribed by the GLPC shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as to the effective date of this Ordinance, or otherwise interfere with the continuance of non conforming 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, and is diligently prosecuted.
2. *Marking and Lighting.* Notwithstanding the preceding provision of this Section, the owner of any existing 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 GLPC to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such marks and lights shall be installed, operated, and maintained at the expense of the Greater Lafourche Port Commission.

## **SECTION VIII. PERMITS**

- A. *Future Uses* – Except as specifically provided in 1,2, and 3 hereof, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no trees shall be planted in any zone hereby created unless a permit thereof 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. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Sub-Paragraph E of this section.

1. 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 feet (75') 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 areas lying within the limits of the approach zones and transitional zones, but at a horizontal distance of not less than 4,500 feet from each end of the runway and 1,200 feet from the runway centerline, no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  3. In the area lying within the jurisdiction of the GLPC, but outside the horizontal zone, no permit shall be required for any tree or structure less than 200 feet (200') 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.
- B. 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 height limits established by this Ordinance except as set forth in Section V, Sub Section B, Part 5.
- C. *Existing Uses* – No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to 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.
- D. *Nonconforming Uses Abandoned or Destroyed* – Whenever the GLPC determines that a nonconforming tree or structure has been abandoned or more than 80 percent 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.
- E. *Variances* – Any person desiring to erect or 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, may apply to the Aviation Board of Adjustment for a variance from such regulations. The application for a 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 navigation airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, 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 the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Aviation Board of Adjustment unless a copy of the application has been furnished to the GLPC for advice as to the aeronautical effects of the variance. If the GLPC does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

- F. *Obstruction 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 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 Aviation Board of Adjustment, this condition may be modified to require the owner to permit the GLPC at its own expense, to install, operate, and maintain markings and lightings.

## **SECTION IX. ENFORCEMENT**

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

## **SECTION X. AVIATION BOARD OF ADJUSTMENT**

- A. There are hereby created a Board of Adjustment to have and exercise the following powers:
1. To hear and decide final action on all appeals from any order, requirement, decision, or determination made by the GLPC in the enforcement of this Ordinance;
  2. To hear and decide special exceptions to the terms of this Ordinance upon which such Aviation Board of Adjustment under such regulations may be required to pass;
  3. To hear and decide specific variances.
- B. The Aviation Board of Adjustment shall consist of five (5) members, each to be appointed by the Commission for a term of three (3) years and to be removable by the GLPC upon written charges and after public hearing.
- C. The Aviation Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Ordinance. Meetings of the Aviation Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Aviation Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witness. All hearings of the Aviation Board of Adjustment shall be public. The Aviation 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 with the GLPC and on due cause shown.
- D. The Aviation Board of Adjustment shall make written findings of acts 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.
- E. The concurring vote of a majority of the members of the Aviation Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or of the applicant on any matter which it is required to pass under this ordinance, or to effect variation to this Ordinance.

## **SECTION XI. APPEALS**

- A. Any person aggrieved or any person affected, by any decision of the GLPC and the Aviation Board of Adjustment made in the administration of this Ordinance, may appeal and request appearance before the Aviation Board of Adjustment.
- B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Aviation Board of Adjustment, by filing with the GLPC a notice of appeal specifying the grounds thereof. The GLPC shall forthwith transmit to the Aviation Board of Adjustment all the papers constituting the record upon which the action appealed was taken.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the GLPC certifies to the Aviation Board of Adjustment, after the notice of appeal has been filed, that by reason of the facts stated in the certificate a stay would in the opinion of the GLPC cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Aviation Board of Adjustment on notice to the GLPC and on due cause shown.
- D. The Aviation 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.
- E. The Aviation Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in Ordinance, 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.

## **SECTION XII. JUDICIAL REVIEW**

Any person aggrieved, or any taxpayer affected, by any decision of the Aviation Board of Adjustment may appeal to the 17<sup>th</sup> Judicial District Court as provided for by law.

## **SECTION XIII. PENALTIES**

Each violation of this Ordinance or any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100.00) or imprisonment for not more than thirty (30) days or both; and each day a violation continues to exist shall constitute a separate offense.

## **SECTION XIV. 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 XV. 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.

This Ordinance No. 73, having been submitted in writing, having been adopted at a public meeting of said Commission, was then submitted to an official vote as a whole; the vote thereon being as follows:

YEAS:	8
NAYS:	0
ABSENT:	1

And the ordinance was declared adopted on this 10<sup>th</sup> day of March, 2010.

  
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Larry Griffin, President

  
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Wilbert Collins, Secretary



