

Section 10.34 **Alomere Health Heliport Overlay District**

Source: Ord. 883-2nd Series
Effective Date: 6/12/2023

Subd. 1. **Title and Introduction.** "**Alomere Health Heliport Zoning Ordinance**" An ordinance regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of the Alomere Health heliport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the Alomere Health heliport zoning map which is incorporated in and made a part of this ordinance; providing for enforcement; and imposing penalties.

Subd. 2. **Purpose and Authority.** The City Council of the City of Alexandria, pursuant to the provisions and authority of Minnesota Statutes Section 462.357, hereby finds and declares that:

A. A heliport hazard endangers the lives and property of users of the Alomere Health Heliport, 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 said Heliport.

B. The creation or establishment of a heliport hazard is a public nuisance and an injury to the region served by the Alomere Health Heliport.

C. 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 heliport hazards.

D. The prevention of these heliport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

E. The prevention of the creation or establishment of heliport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing heliport hazards are public purposes for which political subdivisions may raise and expend public funds.

F. The Alomere Health Heliport is an essential facility that serves an important public transportation role and provides a public good.

Subd. 3. **Short Title.** This Ordinance shall be known as the "Alomere Health Heliport Zoning Ordinance Overlay District." Those sections of land affected by this Ordinance.

Subd. 4. **Definitions.** As used in this Ordinance, unless the context otherwise requires:

A. "APPROACH/DEPARTURE PATH" means the flight track helicopters follow when landing at or departing from a heliport. The approach/departure paths may be straight or curved.

B. "COMMISSIONER" means the Commissioner of the Minnesota Department of Transportation.

C. "CONFORMING USE" means any structure, tree, or object of natural growth, or use of land that complies with all the applicable provisions of this Ordinance or any amendment to this ordinance.

D. "DWELLING" means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

E. "FINAL APPROACH AND TAKEOFF AREA (FATO)" means the area surrounding the Touchdown and Liftoff Area (TLOF) over which the pilot completes the final phase of the approach to a hover or a landing and from which the pilot initiates takeoff. The FATO elevation is the lowest elevation of the edge of the TLOF.

F. "HEIGHT," for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

G. "HELIPORT" means the Alomere Health Heliport located in Alexandria, MN.

H. "HELIPORT ELEVATION" means the established elevation of the lowest point on the usable landing area.

I. "HELIPORT HAZARD" means any structure, tree, or use of land which obstructs the air space required for, or is

otherwise hazardous to, the flight of aircraft in landing or taking off at the heliport; and any use of land which is hazardous to persons or property because of its proximity to the heliport.

J. "LANDING POSITION" means an area, normally located in the center of an elongated TLOF, on which the helicopter lands.

K. "NONCONFORMING USE" means any pre-existing structure, tree, natural growth, or land use which is inconsistent with the provisions of this Ordinance or an amendment hereto.

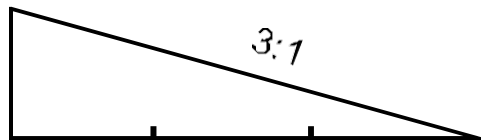
L. "OBSTRUCTION TO AIR NAVIGATION" means any fixed or mobile object, including a parked helicopter, of greater height than any of the heights or surfaces presented in subpart C of part 77.

M. "PERSON" means 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.

N. "PLANNED," as used in this Ordinance, refers only to those proposed future heliport developments that are so indicated on a planning document filed with the zoning authority.

O. "SAFETY AREA" means a defined area on a heliport surrounding the FATO intended to reduce the risk of damage to helicopters accidentally diverging from the FATO and to protect people from injury and property from damage due to the operation of the helicopter.

P. "SLOPE" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



Slope = 8:1 = 8 feet horizontal to 1 foot vertical

Q. "STRUCTURE" means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, earth formations, and overhead transmission lines.

R. "TOUCHDOWN AND LIFTOFF AREA (TLOF)" means a load-bearing, generally paved area, normally centered in the FATO, on which the helicopter lands and/or takes off.

S. "TRAVERSE WAYS," for the purpose of determining height limits as set forth in this Ordinance, shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 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.

T. "TREE" means any object of natural growth.

U. "WATER SURFACES" for the purpose of this ordinance, shall have the same meaning as land for the establishment of protected zones.

Subd. 5. Air Space Obstruction Zoning

A. AIR SPACE ZONES: In order to carry out the purpose of this Ordinance, as set forth above, the following air space zones are hereby established: Primary Zone, Approach Zone, and Transitional Zone, and whose locations and dimensions are as follows:

1. PRIMARY ZONE: All that land which lies directly under an imaginary primary surface that coincides in size and shape with the designated FATO. The elevation of any point on the primary surface is the same as the elevation of the lowest point on the TLOF, which is 1420.003.

2. APPROACH ZONE: All that land which lies directly under an imaginary approach surface. The approach surface may be defined by a single magnetic direction from the center of the heliport or as an arc from the center of the heliport. The inner edge of the approach surface starts at the elevation of the primary surface, at the end of the primary surface and extends a distance equal to half of the FATO width on either side of the defining direction or arc. The approach surface inclines upward at a slope of 8:1 and expands uniformly to a width of 250 feet either side of the defining direction or arc at a distance 4,000 feet from the primary surface. The approach surface may be curved and if curved the curve may not start until 300 feet from the primary surface and the minimum turning radius must be at least

886 feet.

3. TRANSITIONAL ZONE: All that land which lies directly under an imaginary surface extending upward and outward at right angles to the approach zone direction or arc centerline and centerline extended at a slope of 2:1 from the sides of the primary surfaces and from the sides of the approach surfaces for 250 feet from the edge of the primary surface and 250 feet from the defining direction or arc.

B. LATERAL EXTENSION ZONES: All that land which lies directly under an imaginary surface starting from the point where the Approach/Departure Path meets the Primary Surface, extending upward at the same slope as the Approach/Departure Path and expanding uniformly outward to be 100 feet wide at 2,000 feet from the Primary Surface. Lateral Extensions may be used to mitigate obstructions in Transitional Zones.

C. HEIGHT RESTRICTIONS: Except as otherwise provided in this Ordinance, and except as necessary and incidental to heliport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any air space zone created in SECTION IV A so as to project above any of the imaginary air space surfaces described in said SECTION IV A hereof. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

D. BOUNDARY LIMITATIONS: The air space obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the heliport boundary.

Subd. 6. **Land Use Safety Zoning.**

A. SAFETY ZONE BOUNDARIES: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Alomere Health Heliport, there are hereby created and established the following land use safety zones:

1. GROUND IMPACT AREA: All land within an area that extends 280 feet from the center of the heliport in all directions.

2. INNER APPROACH AREA: All land in that portion of the Approach Zones, Transitional Zones and Lateral;

Extension Zones, where they are utilized, between 280 feet from the center of the heliport to 1,000 feet from the center of the heliport.

3. OUTER AREA: All land within 4,100 feet of the center of the Heliport that is not included in the other two areas.

B. USE RESTRICTIONS:

1. GENERAL: Subject at all times to the height restrictions set forth in SECTION IV B, no use shall be made of any land in any of the safety zones defined in SECTION V A which creates or causes interference with the operations of radio or electronic facilities on the heliport or with radio or electronic communications between the heliport and aircraft, make it difficult for pilots to distinguish between heliport lights and other lights, results in glare in the eyes of pilots using the heliport, impairs visibility in the vicinity of the heliport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. GROUND IMPACT AREA: Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V B 1, areas designated as Ground Impact Areas shall be able to be cleared of vehicle and pedestrian traffic. No construction or planting may occur within this zone without elevation of the impact to the heliport surfaces and helicopter operations.

3. INNER APPROACH AREA: Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Inner Approach Areas no construction or planting may occur within this zone without elevation of the impact to the heliport surfaces and helicopter operations.

4. OUTER AREA: Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Inner Approach Areas no construction or planting may occur within this zone without elevation of the impact to heliport surfaces and helicopter operations.

C. BOUNDARY LIMITATIONS: The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the heliport

boundary.

Subd. 7. **Heliport Map.** The several zones herein established are shown on the Alomere Health Heliport Zoning Map consisting of two (2) sheets, prepared by Minnesota Department of Transportation, and dated January 11, 2022, attached hereto and made a part hereof, which map, 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, shall be and the same is hereby adopted as part of this Ordinance.

Subd. 8. **Nonconforming Uses.** 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 nonconforming 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 and completed within two years thereof.

Subd. 9. **Permits.**

A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the zoning administrator, hereinafter, provided for. 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.

1. 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 Outer Area except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.

2. 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 ordinance as set forth in SECTION IV and the land use limitations set forth in SECTION V.

B. 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 a heliport hazard 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. Except as indicated, all applications for such a permit shall be granted.

C. 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, 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. Whether application is made for a permit under this paragraph or not, the zoning administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Ordinance. 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 eight percent per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

Subd. 10. **Variances.** Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment, hereinafter provided for, 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, 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. 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 Ordinance provided any variance so allowed may be subject to any reasonable conditions that the Board may deem necessary to effectuate the purpose of this Ordinance.

Subd. 11. **Hazard Marking and Lighting.**

A. 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 heliport the presence of such heliport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Alomere Health Heliport.

B. PERMITS AND VARIANCES: Any permit or variance deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, and granted by the zoning administrator or Board, shall require the owner of the structure or tree in question, at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of a heliport hazard.

Subd. 12. **Heliport Zoning Administrator.** It shall be the duty of the City of Alexandria Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by the City. Permit applications shall be promptly considered and granted or denied by them in accordance with the regulations prescribed herein. Variance applications shall be forthwith transmitted by the Zoning Administrator for action by the Planning Commission and City Council, as appropriate.

Subd. 13. **Appeals.** Any person aggrieved, or any taxpayer affected by any decision of the zoning administrator made in his

administration of this Ordinance may appeal to the City Council as authorized by City Code Section 2.36.

Subd. 14. **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 Ordinance or who, having been granted a permit or variance under the provisions of this Ordinance, 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. Each day a violation continues to exist shall constitute a separate offense.

Subd. 15. **Conflicts.** 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 regulation shall govern and prevail.

Subd. 16. **Severability.**

A. In any case in which the provision of this Ordinance, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.