BEMIDJI REGIONAL AIRPORT

ZONING ORDINANCE

CREATED BY THE BEMIDJI REGIONAL AIRPORT

JOINT ZONING BOARD

Formed by and Comprised of:

CITY OF BEMIDJI
CITY OF WILTON
NORTHERN TOWNSHIP
GRANT VALLEY TOWNSHIP
BEMIDJI TOWNSHIP
ECKLES TOWNSHIP
BELTRAMI COUNTY

EFFECTIVE DATE: ______________________________

THIS ORDINANCE AMENDS AND ENTIRELY REPLACES
BEMIDJI REGIONAL AIRPORT ZONING ORDINANCE dated XXXXX,
recorded in the Office of the Beltrami County, Minnesota, County Recorder as Document

No.________
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BEMIDJI REGIONAL AIRPORT
ZONING ORDINANCE

CREATED BY THE
CITY OF BEMIDJI – CITY OF WILTON – NORTHERN TOWNSHIP
GRANT VALLEY TOWNSHIP – BEMIDJI TOWNSHIP
ECKLES TOWNSHIP – BELTRAMI COUNTY
JOINT AIRPORT ZONING BOARD

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 BEMIDJI REGIONAL AIRPORT BY
CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES
THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES
OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE BEMIDJI
REGIONAL AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE
A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING
A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE BEMIDJI REGIONAL AIRPORT JOINT AIRPORT
ZONING BOARD COMPRISED OF THE CITY OF BEMIDJI – CITY OF WILTON –
NORTHERN TOWNSHIP – GRANT VALLEY TOWNSHIP – BEMIDJI TOWNSHIP –
ECKLES TOWNSHIP – BELTRAMI COUNTY PURSUANT TO THE AUTHORITY
CONFERRED BY THE MINNESOTA STATUTES 360.061 – 360.074, AS FOLLOWS:

SECTION 1: PURPOSE AND AUTHORITY

The Bemidji Regional Airport Joint Airport Zoning Board, created and established by joint
action of the City Councils of Bemidji, Wilton, and the Board of County Commissioners of
Beltrami County, and the Town Board of Northern, Grant Valley, Bemidji, and Eckles pursuant
to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

A. The Bemidji Regional Airport is an essential public facility.
B. An Airport Hazard endangers the lives and property of users of the Bemidji Regional
Airport, and property or occupants of land in its vicinity, and also if 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 Bemidji Regional Airport
and the public investment therein.
C. The creation or establishment of an Airport Hazard is a public nuisance and an injury to
the region served by the Bemidji Regional Airport.
D. 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.
E. The prevention of these Airport Hazards and Aircraft Accidents should be
accomplished, to the extent legally possible, by the exercise of the police power without
compensation.
SECTION 2: SHORT TITLE

This Ordinance shall be known as “Bemidji Regional Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in “Exhibit A” which is attached to this Ordinance.

SECTION 3: DEFINITIONS

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings herein given unless otherwise specifically defined by Minnesota Statutes §360.013 as may be amended from time to time.

Agriculture – The use of land for agricultural purposes including: farming; dairying; pasturage; horticulture; silviculture; animal and poultry husbandry and the necessary accessory uses for treating and storing the produce, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural activity.

Aircraft – Any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes.

Aircraft Accident – An occurrence incident to flight in which, because of the operation of an aircraft, a person (occupant or non-occupant) receives fatal or serious injury or an aircraft receives substantial damage. Except as provided below, substantial damage means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowlings, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Airport – The Bemidji Regional Airport lands, that is used, or intended for use, for the landing and take–off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

Airport Boundary – Those lands including the property owned jointly by the City of Bemidji and Beltrami County pursuant to the Joint Powers Agreement, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated in the Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Bemidji Airport Authority.

Airport Elevation – The established elevation of the highest point on the usable landing area which elevation is established to be 1,391 feet above mean sea level.

Airport Hazard – Any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or take off.
Airport Safety Zone – An area subject to land use zoning controls adopted under Minnesota Statutes sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population. (Minn. Stat. 394.22, Subd. 1(a))

Airspace Zones – The Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, whose locations and dimensions are indicated on the Airport Zoning Map.

Airspace Surface or Imaginary Surface – The imaginary areas in space and on the ground that are established by this Ordinance and/or the FAA in relation to the Bemidji Regional Airport and its runways as the basis for regulating obstructions to air travel.

Approach Zone – All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface; as illustrated in Airport Zoning Map.

Bemidji Regional Airport Joint Zoning Board (“JAZB”) – The joint airport zoning board established pursuant to the authority conferred by Minnesota Statutes Sections 360.061-360.074 comprised of appointed representatives of the Beltrami County, City of Bemidji, City of Wilton, Northern Township, Grant Valley Township, Bemidji Township, and Eckles Township.

Building – Any structure, either temporary or permanent, having a roof or other covering, built for the support, shelter, or enclosure of persons, animals, or property of any kind, including tents or awnings, situated on private property and may be used for purposes of a structure.

Commissioner – The commissioner of transportation of the State of Minnesota.

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 as measured radially outward from the periphery of the horizontal surface; whose location and dimensions are indicated on the Airport Zoning Map.

Daycare Facilities – A private owner-occupied residence or a commercial care center operating for periods of less than twenty-four (24) hours a day and licensed by the State of Minnesota, which regularly provides care, training, supervision, or developmental guidance for children and/or adults.

Department – The Minnesota Department of Transportation.

Entities – Mean the Cities of Bemidji and Wilton, and the Townships of Northern, Grant Valley, Bemidji, and Eckles, and the County of Beltrami, Minnesota.

Federal Aviation Administration (FAA) – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promoting the development of a national system of airports.

Federal Aviation Regulations (FAR) – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.
Hazard to Air Navigation – Any object that has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

Height of Building – The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

Height of Tower or Structure – The vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

Horizontal Surface – All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation; whose location and dimensions are indicated on the Airport Zoning Map.

Industrial Use – The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.

Land – Ground, soil, or earth, including structures on, above, or below the surface.

Landing Area – Means the area of the airport used for the landing, taking off or taxiing of aircraft.

Local Airport Zoning Administrator – The City of Bemidji Planning and Zoning Director or his/her designee.

Material Change in Use – Means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion – Means an increase in the floor or building coverage area or volume of an existing building.

Navigable Air space – Air space at and above the minimum flight altitudes prescribed in the FAR’s including airspace needed for safe takeoff and landing (see FAR Part 77 and 91).

Non-Conforming Lot – A lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Precision Instrument Runway – 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.

Ordinance – This Bemidji Regional Airport Zoning Ordinance, including all exhibits, appendices, and maps attached hereto.
Obstruction – Any structure, tree, plant or other object of natural growth that penetrates one or more of the applicable Navigable Airspaces, imaginary surfaces, or imaginary zones defined and illustrated in this Ordinance.

Permit – Documentation of duly authorized approval provided in the form of a land use permit, conditional use permit, or variance, allowing a property owner to undertake an activity regulated under the provisions of this Ordinance.

Person – Any individual, corporation, association, firm, partnership, or similarly identified interest.

Precision Instrument Approach Zone – All that land which lies directly under an existing or planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Precision Instrument Runway. The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface.

Precision Instrument Runway – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which such a precision instrument approach system is planned.

Primary Zone – All the land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway – Any existing or planned paved surface or turf-covered area of the airport that is specifically designated and used or planned to be used for aircraft landing and takeoff.

Site – A parcel or several adjoining parcels of land under common ownership.

Slope – An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (e.g., slope = 3:1 = 3 feet horizontal to 1 feet vertical).

Structure – any object constructed or installed, or any piece of work artificially built up, or composed of parts joined together in some definable manner.

Transitional Zone – All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of approximately 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline; whose location and dimensions are indicated on the Airport Zoning Map.
Traverse Ways – Roads, railroads, trails, waterways, or any other avenue of surface transportation.

Visual Runway – A runway intended solely for the operation of aircraft using visual approach procedures, with no existing or planned instrument approach procedures.

Zoning – The partitioning of land parcels in a community by ordinance into sections and the establishment of regulations in the ordinance to govern the land use and the location, height, use and land coverage of buildings within each section.

SECTION 4: AIRSPACE OBSTRUCTION ZONING

A. BOUNDARY LIMITATION: The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half (1½) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.

B. AIRSPACE ZONES: Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of this Ordinance, the following Imaginary Airspace Zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.

C. HEIGHT RESTRICTIONS: Except as otherwise provided in the Ordinance, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in this Section 4(B). Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION 5: LAND USE SAFETY ZONING

SAFETY ZONE BOUNDARIES INTENT AND SCOPE: 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 Bemidji Regional Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

A. SAFETY ZONE 1: All land in designated as Safety Zone 1 on the Airport Zoning Map, legally described in Exhibit B.

B. SAFETY ZONE 2: All land designated as Safety Zone 2 on the Airport Zoning Map, legally described in Exhibit B.

C. SAFETY ZONE 3: All that land designated as Safety Zone 3 on the Airport
Zoning Map, and as legally described in Exhibit B.

D. **SAFETY ZONE H**: All that land designated as Safety Zone H on the Airport Zoning Map, and as legally described in Exhibit B.

E. **USE RESTRICTIONS**

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Bemidji Regional 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, the following use restrictions are applied to the land use Safety Zones:

1. **ALL SAFETY ZONES**: No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the 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.

2. **SAFETY ZONE 1**: Areas designated as Safety Zone 1 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 include, but are not limited to, Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.

3. **SAFETY ZONE 2**:

   3.1 **Specific Prohibited Uses**. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

   3.1.1 Institutions of religious assembly, hospitals and clinics, nursing homes, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of similar use. This does not include bars, coffeeshops, restaurants, and other places of similar use;

   3.1.2 Daycare Facilities of more than 14 children or vulnerable adults being cared for;

   3.2 **Density Limitation**. Other uses not specifically prohibited by Section 3.1 must be on a site whose area is at least one and three hundredths (1.03) acres.
4. **SAFETY ZONE 3:** Areas designated as Safety Zone 3 are only subject to the restrictions set forth in this Section 5(E)(1).

5. **SAFETY ZONE H:**
   5.1 Specific Prohibited Uses. The following classifications of structures are required to comply with the following conditions:
   5.1.1 Towers, antennas, structures, or similar obstacles shall comply with the following:
   a. It shall not interfere with public safety telecommunications or air traffic;
   b. The height shall not exceed seventy-five (75) feet;
   c. All lighting and marking requirements as required by state, federal, or local regulations and/or laws.
   5.2 Zones 1, 2, and 3 still apply in Zone H where appropriate, and the most restrictive zone shall be followed.

**SECTION 6: AIRPORT ZONING MAP**

The Zones established in this Ordinance are shown on the Airport Zoning Map attached hereto as Exhibit C and made a part hereof. The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this Ordinance is hereby adopted in its entirety as part of this Ordinance.

**SECTION 7: EXISTING USES AND STRUCTURES AS OF ENACTMENT**

A. **THIS ORDINANCE AND ANY LOCAL AIRPORT ZONING ORDINANCE NOT RETROACTIVE:** The regulations prescribed by this Ordinance and any Local Airport Zoning Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any allowed use, lots, structure, or tree pursuant to the BEMIDJI REGIONAL AIRPORT ZONING ORDINANCE dated __________, recorded in the Office of the Beltrami, Minnesota, County Recorder as Document No. __________ as amended by Ordinance No. _____ dated ________________, 20__ and recorded on _________________, 20__ as Document No. ________________ or otherwise interfere with the continuance of any such use or structure, or tree after the Effective Date (Section 21 – EFFECTIVE DATE) of this Ordinance or the Effective Date of any Local Airport Zoning Ordinance. If, after the effective date of this Ordinance, a use, lots, structure or tree which does not conform to this ordinance is substantially altered, said use, lots, structure or tree shall come into conformity with this Ordinance.

B. **ACQUISITION IN SAFETY ZONES:** The Bemidji Regional Airport is an essential public facility. Land in Safety Zones 1 or 2 may be acquired by the City of Bemidji and
Beltrami County, pursuant to the Joint Powers Agreement for the benefit of the Bemidji Airport at their own expense for the purposes of preventing and/or reducing Airport Hazards and Aircraft Accidents.

SECTION 8: PERMITS; AND ORDERS TO REMOVE USE, STRUCTURE, OR TREE

A. PERMIT STANDARDS. Permit applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator pursuant to this Ordinance. Each Permit application shall indicate the purpose for which the Permit is desired, with sufficient information with respect to the proposed project to allow a determination as to whether it conforms to the applicable Local Airport Zoning Ordinance. If such determination is in the affirmative, the Permit shall be granted.

B. PERMIT REQUIRED. The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been submitted to and granted by the Local Airport Zoning Administrator for that jurisdiction:
   1. Material expansion of an Existing Structure or Use. Permit required.
   2. New structures or uses. Permit required.
   3. Abandoned Non-Conforming Structure. Permit required for structure to be reused, rebuilt or replaced.
   4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
   5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.

D. ORDER TO REMOVE USE, STRUCTURE, OR TREE. Whether application is made for a Permit under this subdivision or not, the Local Airport Zoning Administrator may use any penalties or remedies available under local, state or federal law. This includes, but is not limited to, Minn. Stat. §360.073, which makes violation of this ordinance a misdemeanor offense, and also allows for civil actions to prevent, restrain, correct, or abate any violations of this ordinance.

SECTION 9: VARIANCES

A. APPLICATION. Any person desiring to erect or increase the height of any Structure, permit the growth of any tree, or use property in a way prohibited by this Ordinance may apply to the Local Airport Zoning Administrator and the Board of Adjustment (BOA) for a Variance from such regulations. Variance applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator. Variance applications shall be delivered to the Local Airport Zoning Administrator, who shall then deliver the Variance application to the BOA. Variance applications may only be made after attending a meeting with the Local Airport Zoning Administrator and local planning and zoning authority, when applicable.

B. FAILURE OF BOARD TO ACT ON VARIANCE. If a person submits an application for a Variance by certified mail to the members of the BOA, and the BOA fails to grant
or deny the Variance within four (4) months after the application, the Variance shall be deemed to be granted by the BOA. When the Variance is granted by reason of the failure of the BOA to act on the Variance, the person receiving the Variance shall notify the BOA and the Minnesota Department of Transportation Commissioner, by certified mail, that the Variance has been granted. The applicant shall include a copy of the original Permit and Variance applications with the notice. The Variance shall be effective sixty (60) days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minn. Stat. §360.063, Subdivision 6(a).

C. **VARIANCE STANDARDS.** Variances shall only be granted where it is duly found by the BOA that a literal application or enforcement of the regulations would result in practical difficulty, or undue hardship, and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this ordinance; provided any Variance may be allowed subject to any reasonable conditions that the BOA or Commissioner may deem necessary to effectuate the purpose of this ordinance.

D. **FEES**

JAZB shall, at their annual meeting, set all fees in relation to this Ordinance. Said fees shall remain in effect until either amended at any time by a majority vote of the JAZB or at the next annual meeting. Fees schedule shall be available to the public.

**SECTION 10: HAZARD MARKING AND LIGHTING**

The Local Airport Zoning Administrator and/or the BOA may condition any Permit, and the BOA may condition a Variance granted so as to require the owner of the structure or tree or use in question at his/her/its 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 Hazards.

**SECTION 11: LOCAL AIRPORT ZONING ADMINISTRATOR**

A. **DESIGNATED AIRPORT ZONING ADMINISTRATOR.** The Airport Zoning Administrator shall be the City of Bemidji Planning and Zoning Director or his/her designee. Airport Zoning Administrator shall continue to be an employee of the City of Bemidji.

B. **ADMINISTRATION AND ENFORCEMENT.** It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Ordinance. Applications for Airport Zoning Permits shall be made to a Zoning Administrator as provided herein. Airport Zoning Permit applications shall be considered and acted upon by the Zoning Administrator in accordance with the provisions of this Ordinance and within the timelines established by Minn. Stat. §15.99, as it may be amended from time to time. The Zoning Administrator shall remind each applicant that it is the responsibility of the applicant to record any conditions of an Airport Zoning Permit, if required by law.

Regulations prescribed by this Ordinance for which a Permit is not required to be obtained shall be enforced and administered as determined by the Local Airport Zoning Administrator. Permit applications shall be promptly considered and granted or denied.
pursuant to this Ordinance. Variance applications shall be made to both the Local Airport Zoning Administrator and the BOA.

SECTION 12: BOARD OF ADJUSTMENT FOR THE BEMIDJI REGIONAL AIRPORT JOINT ZONING BOARD

A. Establishment: This is hereby established a Board of Adjustment (BOA) that shall consist of five members, one member each appointed by and from the elected bodies of:

1. City of Bemidji
2. Northern Township
3. Eckles Township
4. Grant Valley Township
5. Bemidji Township

Each member shall serve for a term of three years and until his/her successor is duly appointed and qualified. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. BOA members may be removed by the Entity which appointed such member for cause, upon written charges and after a public hearing. JAZB members may also serve on the BOA.

B. Powers: The BOA shall have and exercise the following powers:

(1) to hear and decide appeals from any order, requirement, decision, or determination made by the Local Airport Zoning Administrator in the enforcement of this Ordinance;

(2) to hear and decide any special exceptions to the terms of this Ordinance upon which the BOA may be required to pass under this Ordinance; and

(3) to hear and decide Variances.

C. Board of Adjustment Administrator: The Board of Adjustment Administrator shall be the Bemidji Regional Airport Authority Executive Director or his/her designee. The Board of Adjustment Administrator shall be responsible for all administrative duties for the Board of Adjustment, and other duties as assigned.

D. Majority Vote: The concurring vote of a majority of the members of the BOA shall be sufficient for any action or any order, requirement, decision, or to make a decision on any matter upon which it is required to pass under this Ordinance or to make a decision on a Variance.

E. Rules and Procedures: The BOA shall adopt bylaws in accordance with the provisions of this Ordinance.

SECTION 13: APPEALS

A. Who May Appeal:
Any person aggrieved, or taxpayer affected by any decision of the Local Airport Zoning Administrator in connection with the administration of this Ordinance, along with any
municipality, township, county, or joint airport planning board which is of the opinion that a decision by the Local Airport Zoning Administrator is an improper application of this ordinance of concern to such governing body or board, may appeal that decision to the BOA.

B. Procedure:
All appeals hereunder must be commenced in writing within a reasonable time of the issuance in writing of the decision by the Local Airport Zoning Administrator, by filing with the Local Airport Zoning Administrator and the BOA a notice of appeal specifying the grounds thereof and the applicable appeal filing, and hearing fee set by the BOA. The Local Airport Zoning Administrator shall forthwith transmit to the BOA all data constituting the record upon which the action appealed from was taken.

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

D. Hearing:
The BOA shall fix a time for hearing appeals within a reasonable period of time, and then give public notice to the Entities and the Bemidji Airport Authority, and written notice by mail to the appellant. At the hearing, any party may appear in person or by agent or by attorney.

E. Decisions:
The BOA may, in conformity with the provisions of this ordinance, 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, in writing with detailed findings, as may be appropriate under the circumstances, and to that end shall have all the powers of the Local Airport Zoning Administrator. Decisions shall be made, in writing, within a reasonable time after the hearing has closed.

SECTION 14: JUDICIAL REVIEW

All decisions of the BOA are final. Any party aggrieved by a decision of the BOA may appeal as authorized by Minnesota law, provided that such appeal is made within thirty (30) days of the date of the written decision of the BOA.

SECTION 15: PENALTIES
A. **CRIMINAL.** 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 and shall be punished by a fine of not more than $1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense.

B. **CIVIL.** In addition, a Local Airport Zoning Administrator may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the Local Airport Zoning Ordinance, or of any order or ruling made in connection with their administration or enforcement of this Ordinance, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case.

SECTION 16: **EXEMPTIONS - AERONAUTICAL PURPOSES**

A. **LAND USED FOR AERONAUTICAL PURPOSES:** The restrictions of this Ordinance shall not control the use of land or the height of structures on land owned jointly by the City of Bemidji and Beltrami County, the State of Minnesota, or the United States of America and used by the Bemidji Regional Airport Authority exclusively for aeronautical purposes.

SECTION 17: **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.

SECTION 18: **SEVERABILITY**

In any case in which the provisions of this Ordinance, although generally reasonable, are 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.

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.
SECTION 19: ADMINISTRATION

A. Meetings and hearings of the JAZB and BOA shall be held at the Bemidji Regional Airport.
B. JAZB and BOA shall be supported by the staff of the Bemidji Airport Authority, or its designee.

SECTION 20: LOCAL AIRPORT ZONING ORDINANCE

A. Each of the Entities shall consider the adoption of amendments to its comprehensive plan and thereafter amendments to the zoning for its jurisdiction that incorporate the applicable provisions of this Ordinance.
B. Failure of a government entity to adopt this Ordinance within a reasonable period of time, or adopts regulations which do not conform with the standards approved by the Commissioner of Transportation, the Commissioner of Transportation may amend, supplement, or repeal the regulations for the entity until the entity adopts this ordinance. An action taken by the Commissioner of Transportation under this section is subject to review by the Courts pursuant to Minn. Stat. §360.072 as may be amended from time to time.
C. Any amendments to this Ordinance shall become effective only after said amendment to this Ordinance has been approved by the Minnesota Commissioner of Transportation in writing.

SECTION 21: EFFECTIVE DATE

This Ordinance shall take effect upon recordation in the Beltrami County Recorder’s Office, which shall occur after approval of the Ordinance by the Commissioner. Copies thereof shall be filed with the State of Minnesota Commissioner of Transportation, Division of Aeronautics, and the Entities.

Passed and adopted by the Bemidji Regional Joint Airport Zoning Board (“JAZB”) on ______________ after public hearing by the JAZB, and after approval by the Commissioner.

________________________
Chairperson

ATTEST:

________________________
Its _________________
EXHIBIT A – AFFECTED LAND SECTIONS

This Ordinance affects all of a portion of the following sections of land:
EXHIBIT B – SAFETY ZONE LEGAL DESCRIPTIONS
EXHIBIT C – AIRPORT ZONING MAPS