Cross Reference – Administration, ch. 2; fire prevention and protection, ch. 11; licenses, ch. 17; motor vehicles and traffic, ch. 18; railroads, ch. 17; taxicabs, ch. 30.

State Law reference – Aeronautics, G.S. ch. 63; municipal airports, G.S. 63-1 – 63.9.

Chapter 3 AIRCRAFT AND AIRPORTS[1]

[1]State law reference(s)—Aeronautics, G.S. ch. 63; regional airports, G.S. 63-1—63-9.

ARTICLE I. IN GENERAL

Secs. 3-1—3-25. Reserved.

ARTICLE II. HICKORY REGIONAL AIRPORT

DIVISION 1. GENERALLY

Sec. 3-25. General regulations.

Persons engaged in ground or air operations or otherwise on the premises of the Hickory Regional Airport for any reason shall obey all applicable state, federal, and local statutes, ordinances, and regulations, including Federal Aviation Administration regulations.

Sec. 3-26. Airport director's authority.

The management and control of the Hickory Regional Airport shall be vested in an airport director, who shall be appointed by the city manager. The airport director shall have such authority and perform such duties as may be assigned to them by the city manager.

(Code 1981, § 3-6; Code 1992, § 3-26)

Sec. 3-27. Airport director ; rules and regulations affecting airport activities.

The airport director, with the approval of the city manager, shall promulgate such rules and regulations affecting the activities of the airport as may be necessary and proper to carry out the purposes of this article. Such regulations shall provide the airport director with the power to refuse the use of the facilities of the airport to any person violating such regulations or failing to pay charges incurred or for failure to comply with any applicable regulations of the Federal Aviation Administration or other such governmental agency.

(Code 1981, § 3-7; Code 1992, § 3-27)

Sec. 3-28. Property, obligations, revenue and appropriations.

No obligation shall be assumed, or property leased or disposed of, in connection with the Hickory Regional Airport, nor shall any revenue of the airport be appropriated or used, except as provided by the city council and except for leases approved by the airport director as provided in Section 3-30.

(Code 1981, § 3-8; Code 1992, § 3-28)

Sec. 3-29. Trespass upon airport property.

(a) It shall be unlawful for any person to walk, operate any vehicle or otherwise go upon or trespass upon any portion of the Hickory Regional Airport without the express permission of the airport director or, in his absence, of the city manager, except:

(1) The operation of aircraft upon and across runways, taxiways and aprons provided for that purpose, and as authorized by the airport director and the air traffic control tower..

(2) The operation of motor vehicles upon streets, driveways and parking areas designated for that purpose.

(3) Pedestrian traffic on sidewalks and in areas reserved for and designated and kept for the use of the public at the terminal building and the general aviation terminal.

(4) Service and business vehicles authorized to operate in areas not open to the general public.

(5) Emergency vehicles responding to a bona fide or potential emergency, such as fire, collision or crash.

(6) Other use or travel authorized by the rules and regulations of the airport director.

(b) The airport director, with the approval of the city manager, is authorized and directed to post signs or other markings to indicate those areas which are open or closed to the general public and is hereby given the authority to prohibit access to any area of the airport except as provided above.

(c) A violation of this section shall be a misdemeanor as provided by G.S. 14-4(a), unless it is an infraction as provided by G.S. 14-4(b).

(Code 1981, § 3-9; Code 1992, § 3-29; Ord. No. 21-40, § 1(A.1), 12-7-2021)

Sec. 3-30. Ground rules for aircraft.

(a) All aircraft located and/or stored on airport property shall be airworthy.

(b) No person shall park or otherwise leave any non-airworthy aircraft unattended anywhere on airport property except in designated repair and/or hangar facilities for a period not to exceed 90 days while undergoing maintenance, repair and/or refurbishment.

(c) No person shall park or otherwise leave unattended any aircraft anywhere on airport property without the permission of the airport director.

(d) No person shall carry on or conduct any aircraft activity upon or from the airport or locate and/or store aircraft on airport property without first securing approval from the airport director and executing such lease, contract or other written agreement as may be required by the airport director. The airport director may require aircraft owners or operators to pay fees to the city as a condition of carrying on or conducting aircraft activity upon or from the airport and/or for locating or storing aircraft on airport property. In the event an aircraft owner or operator fails to pay fees within the time required by the airport director, the airport director may tow, store and/or dispose of that owner or operator's aircraft in accordance with section 3-30(e).

(e) In addition to other penalties generally imposed for violations of this Code, any aircraft conducting activity upon or from the airport and any aircraft located and/or stored on airport property in violation of subsections (a) through (d) of this section may be towed, stored and/or disposed of by the city in accordance with the procedures set out in G.S. 160A-303 or as otherwise provided under North Carolina law. Before the owner may take possession of any aircraft towed and/or stored by the city he or she must pay the city the entire reasonable costs incidental to removing and storing the aircraft and locating the owner.

(Ord. No. 24-13, § 2, 4-16-2024)

Sec. 3-31. Enforcement

The airport director shall have the power and duty to:

(1) Enforce this article;

(2) Collect fees, require deposits and design and require the use of such forms necessitated by this article; and

(3) Establish such procedural rules as they shall, from time to time, deem necessary or conducive to the property and administration of this article.

(Ord. No. 24-13, § 3, 4-16-2024)

Sec. 3-32. Penalties for violations.

In addition to any other remedy available in the Code, violation of this section is a class 3 misdemeanor punishable by a maximum fine of $500.00.

(Ord. No. 24-13, § 4, 4-16-2024)

Secs. 3-33—3-40. Reserved.

DIVISION 2. GENERAL FIXED BASE OPERATORS

Sec. 3-41. Fixed base operations and/or aeronautical services at the airport.

(a) No person shall operate a fixed base operation at the airport or offer or provide aeronautical services to aeronautical operators at the airport, including the sale or delivery of aviation fuel, except the airport director, except such operations and activities that shall have been approved by the city and described in a lease, concession agreement or commercial use permit approved by the city.

(b) Any person wishing to provide specialized commercial aeronautical services at the airport shall make a proposal to the airport director describing such services and an estimation of the demand therefore and including such information in support of its proposal as the airport director shall require. The airport director shall, at their discretion, decide whether to recommend such proposal to city council for approval.

Sec. 3-42. Mobile Service Providers (MSPs)

No person or entities that provide commercial aeronautical services, but do not operate as a fixed base operation, shall perform services at the Hickory Regional Airport without having first obtained and received a Mobile Service Provider (MSP) permit from the city, which, subject to safety and other operational limitations, may be issued by the aviation director. Examples of MSPs include, but are not limited to, mobile mechanics and aircraft detailers. Each MSP will be required to furnish a certificate of insurance as part of the permitting process. The fee for temporary and annual MSP permits shall be established in the fee schedule set from time to time by city council.

Secs. 3-43—3-70. Reserved.

ARTICLE III. AIRPORT ZONING[2]

Sec. 3-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport means the Hickory Regional Airport.

Airport hazard means any overhead power line, not constructed, operated and maintained according to standard engineering practices in general use, which interferes with radio communication between a publicly-owned airport and aircraft approaching or leaving the same, or any structure or tree which obstructs the aerial approaches of such an airport or is otherwise hazardous to its use for the landing or taking off of aircraft.

Landing area means that area of the airport which is so designated on the Hickory Regional Airport Zoning Plan, dated August 22, 1962.

Nonconforming use means any structure, tree or use of land which does not conform to a regular use prescribed in this article or an amendment thereto, as of the effective date of such regulations.

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.

Tree means any botanical object with the potential to grow to a height of 20 feet or more.

(Code 1981, § 3-21; Code 1992, § 3-71)

Sec. 3-72. Zones.

In order to carry out the purposes of this article, all of the lands surrounding the airport which are within the distances from the landing area of the airport affected by the below referenced zones is hereby divided into approach zones, transition zones, horizontal surface zones and conical surface zones, the boundaries of which are as shown on the Hickory Regional Airport Zoning Plan, dated August 22, 1962, which is on file in the office of the city clerk. Such plan is recorded in the office of the county register of deeds and is hereby made a part of this article.

(Code 1981, §§ 3-21, 3-22; Code 1992, § 3-72)

Sec. 3-73. Height limitations.

No structure or tree shall be erected, altered, allowed to grow or maintained in any of the approach, transition, horizontal surface or conical surface zones to a height in excess of the height limit, as determined by the aerial contours appearing on the zoning plan referred to in section 3-72, provided that this section shall not be construed as limiting the height of any tree or structure to less than 50 feet, if such structure or tree is located more than 500 feet from the end of the nearest runway.

(Code 1981, § 3-23; Code 1992, § 3-73)

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[2]State law reference(s)—Model Airport Zoning Act, G.S. 63-30—63-37; adoption of municipal airport zoning regulations, G.S. 63-31.

Sec. 3-74. Use restrictions.

No use may be made of land within any approach zone, transition zone, horizontal surface zone or conical surface zone that will create electrical interference with radio communication between the airport and aircraft; make it difficult for flyers to distinguish between airport and other lights; result in glare in the eyes of flyers using the airport; impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of aircraft.

(Code 1981, § 3-24; Code 1992, § 3-74)

Sec. 3-75. Nonconforming uses.

Subject to the provisions of section 3-77(a), the regulations prescribed in sections 3-73 and 3-74 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 of October 20, 1953, or otherwise interfere with the continuance of any such nonconforming use. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure is hereby required to install, operate and maintain thereon such markers and lights as shall be deemed necessary by the airport director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the owner. Whenever the planning director determines that a nonconforming 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 to exceed the applicable height limit or otherwise deviate from the height restriction zoning regulations.

(Code 1981, § 3-25; Code 1992, § 3-75)

Sec. 3-76. Variances.

Any person desiring to erect or increase the height of any structure, not in accordance with the regulations prescribed in this chapter, may apply to the board of adjustment for a variance from such regulations. The application for 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 navigable 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, if 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 chapter. No application for a variance may be considered by the board of adjustment unless a copy of the application has been furnished to the airport director for advice as to the aeronautical effects of the variance. If the airport director does not respond to the application within 45 days after receipt, the board of adjustment may act on its own to grant or deny said application.

(Code 1981, § 3-26; Code 1992, § 3-76)

Sec. 3-77. Permits.

(a) *Future uses.*

(1) No person shall erect or alter any structure, nor shall any person plant any tree, within 500 feet from the end of each runway and within the aerial approach zones as indicated on the zoning map on file in the office of the city clerk, without first applying for and receiving a permit in accordance with the provisions of this article. 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 structure would conform to the regulations herein prescribed. All permit applications for obstructions in any of the zones related to the airport shall be reviewed and evaluated by the Federal Aviation Administration using FAA form 7460 (Notice of Construction). The FAA report shall be a part of the application submitted to the department of planning and inspections for consideration for approval.

(2) No person shall erect or alter any structure, nor shall any person plant any tree, within 500 feet from the end of each runway and within the area described by any of the aerial contours or zones herein referred to, which is or will be greater than 50 feet in height.

(b) *Existing uses.* Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or be replanted, which will be greater than 50 feet in height, as provided in section 3-73, within any approach zone, transition zone, horizontal surface zone or conical surface zone, a permit must be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher than the height limit as determined by the aerial contours appearing on the zoning plan referred to in section 3-72.

(Code 1981, § 3-27; Code 1992, § 3-77)

Sec. 3-78. Hazard marking and lighting.

Any permit or variance granted under section 3-76 or 3-77 may, if such action is deemed advisable to effectuate the purposes of this article, be so conditioned as to 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 shall be deemed necessary by the airport director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction.

(Code 1981, § 3-28; Code 1992, § 3-78)

Sec. 3-79. Administration and enforcement of article, generally.

(a) The planning director is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations prescribed in this article. The duties of the planning director shall include that of hearing and deciding all applications for permits under section 3-77, but the planning director shall not have or exercise any of the powers or duties herein delegated to the board of adjustment.

(b) Violations of the provisions of this article or failure to comply with any of its requirements shall constitute a class 3 misdemeanor, punishable by a fine of up to $500.00 as provided in G.S. 14-4.

(c) Any act constituting a violation of the provisions of this article or a failure to comply with any of its requirements shall also subject the offender to a civil penalty of $100.00 for each day the violation continues. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the city in a civil action in the nature of debt.

(d) This chapter may also be enforced by any appropriate equitable action.

(e) Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(f) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this article.

(Code 1981, § 3-29; Code 1992, § 3-79)

Sec. 3-81. Appeals, generally.

(a) Any person aggrieved, or any officer, department, board, commission or bureau of the city affected by any decision of the planning director made in the administration of this article may appeal to the board of adjustment.

(b) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the planning director and with the board a notice of appeal, specifying the grounds

thereof. The planning director shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the planning director certifies to the board, 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 opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order of the board or by a court of record on application, on notice to the planning director and on due cause shown.

(d) The board shall fix a reasonable time for the hearing of the appeal, 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 board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the administrative agency from which the appeal is taken.

(f) Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

(g) The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(Code 1981, § 3-31; Code 1992, § 3-81)

Sec. 3-82. Judicial review.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

(Code 1981, § 3-32; Code 1992, § 3-82)