

**ORDINANCES**  
**MILES CITY, MONTANA**

**ORDINANCE NO. 1142**

**AN ORDINANCE DESIGNATING AN AIRPORT INFLUENCE AREA FOR FRANK WILEY FIELD AND ADOPTING AND PROVIDING FOR THE ADMINISTRATION OF RULES GOVERNING SUCH AIRPORT INFLUENCE AREA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:**

**SECTION I: SHORT TITLE**

This Ordinance shall be known and may be cited as Frank Wiley Field (Miles City's Airport) Influence Area Ordinance.

**SECTION II: DEFINITIONS**

As used in this Ordinance, unless the context otherwise requires:

1. AIRPORT - means Frank Wiley Field (Miles City's Airport).
2. BOARD OF AIRPORT HAZARD ADJUSTMENT - A board consisting of the five (5) members of the Miles City Zoning Board of Adjustment as provided in Section 67-4-312 and Sections 76-2-321 through 76-2-328 Montana Codes Annotated.
3. INCOMPATIBLE USE - Any use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
4. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**SECTION III: AIRPORT INFLUENCE AREA**

1. There is hereby created an Airport Influence Area (hereinafter Airport Influence Area) around the Airport described as follows:

An area longitudinally centered on the primary instrument approach runway which extends 10,000 feet from the threshold (ends) of the runway and is one (1) nautical mile in width on each side of the runway and its extended centerline. Land being located south and east of the Yellowstone River is excepted from the Airport Influence Area. A map of the Airport Influence Area shall be filed, upon passage of this Ordinance, in the office of the Clerk and Recorder of Custer County, Montana and the office of the City Clerk of the City of Miles City, Montana.

**SECTION IV. AIRPORT INFLUENCE AREA ZONES**

In order to carry out the provisions of this Ordinance, there is hereby created and established within the Airport Influence Area, an Airport Impact Zone and a Limited Development Area Zone which includes all of the land lying within the

# ORDINANCES

## MILES CITY, MONTANA

boundaries and zones so designated on the Airport Influence Area map on file with the Clerk and Recorder of Custer County, Montana and the City Clerk of the City of Miles City, Montana. The various land uses are hereby established and defined as follows:

1. Urban Area - An area consisting of typical dense residential and commercial development such as retail, banking, hotel/motel, restaurant, and similar uses.
2. Suburban Residential Area - An area consisting of suburban residential development typically sited on acreages in excess of 1 acre but not in excess of 10 acres.
3. Industrial Area - An area consisting of heavy to light manufacturing activities, warehousing, distributing, machinery and vehicle dealerships, and similar uses.
4. Agricultural Area - Areas devoted to primarily agricultural uses, scattered residential development with density not greater than 1 residence/20 acres. Also, forested lands, wildlife and waterfowl reserves, and similar uses.
5. Terrain Obstructions - Areas where natural terrain height penetrates the FAA FAR Part 77 Surfaces for the airport.
6. Airport Impact Zone - An area consisting of the runway protection zones and the primary surface. No development should occur in this area other than airport specific development whose needs are airport related. This area, according to Federal guidelines, should be under the airport's control to prevent incompatible land use development.
7. Limited Development Area Zone - An area defined and shown on the Land Use Compatibility drawing. Land use in this limited area should be restricted to uses that are not noise sensitive; those that do not promote public assembly; those that do not have distracting lights, glare, smoke, provide electronic interference; those that are not bird attractors or otherwise deemed to be hazardous to aviation use.

### SECTION V: AIRPORT INFLUENCE AREA LIMITATIONS

In an Airport Impact Zone and Limited Development Area Zone, the following regulations shall apply:

1. Uses Permitted Outright. In an Airport Impact Zone, the following uses and their accessory uses are permitted outright:
  - a. Facilities and operations at the Airport.
  - b. Farm use, excluding livestock feed or sales yard and excepting those uses set forth in subsection 2 of this section.
2. Conditional Uses. In Limited Development Area Zones, the following uses and their accessory uses may be permitted when authorized in accordance with the requirements of this ordinance:
  - a. Farm accessory buildings and uses.

**ORDINANCES**  
**MILES CITY, MONTANA**

---

- b. Mining, quarrying, or other extraction activity, including the processing or refining of ore or other raw materials.
  - c. Utility facility necessary for public service.
  - d. Golf course.
  - e. Park, playground, other public recreation site or facility, or community service facility owned and operated by a governmental agency or non-profit community organization.
  - f. Veterinary clinic, animal pound or kennel.
  - g. Private or public grounds and buildings for games, sports, riding arenas, race tracks and similar activities.
  - h. Water supply and treatment facility.
  - i. Manufacturing and warehousing.
  - j. Travelers' accommodation facilities.
  - k. Retail and wholesale trade facilities.
  - l. Residential use and development therefore.
3. Use Limitations. In a Limited Development Area Zone, the following limitations and standards shall apply to all uses permitted, unless a variance has been approved in accordance with section VIII, 4:
- a. In approach surface zones from the runway end up to Four Thousand Five Hundred (4,500) feet from the end of the Runway, no meeting place for public or private purposes which is designed to accommodate more than 25 persons at any one time shall be permitted. Residential use is limited to one living unit per ten (10) acres in this portion of the approach zone.
  - b. Mining or quarry operation will not be permitted if such use will allow or cause ponding which is likely to attract birds.
  - c. No use permitted by subsection (2)(c) of this section shall permit any power lines to be located in Runway Protection Zones and any power line located within an approach zone shall be in conformance with designated approach slope ratios as defined in Montana Codes Annotated, Title 67, Chapters 4, 5, and 6, FAA FAR Part 77 and other local ordinances that regulate the height of objects.
  - d. No use permitted by this section shall be allowed if such use is likely to attract an unusual quantity of birds, particularly birds which are normally considered high flight.
4. Design and Use Criteria. In the consideration of an application for a proposed use in an Airport Impact Zone or a Limited Development Area

# ORDINANCES

## MILES CITY, MONTANA

Zone, the City of Miles City City Council shall take into account the impact of the proposed use on nearby residential and commercial uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services, and on the appearance of the proposal. The proposed use shall be permitted only if the Council shall find all of the following criteria met:

- a. Proposal is in compliance with the Airport Master Plan;
- b. Proposal is in compliance with the intent and provisions of this ordinance and more particularly with this section;
- c. That economic and environmental considerations are in balance; and
- d. That any social, economical, physical, or environmental impacts are reasonably minimized.

5. Any application for a proposed use in the Airport Impact Zone or a Limited Development Area Zone may be denied if, in the opinion of the Commission, the proposed use is not related to the present land use patterns in the area.

6. In approving a proposed use in the Airport Impact Zone or a Limited Development Area Zone, the Council shall be satisfied that the applicant is fully appraised of the City's policy relative to development in the area in relation to the existing airport and accessory uses thereof.

7. The Council may require establishment and maintenance of aesthetic or noise screens, the use of a flare resistant material in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce hazards to airport operations, including lighting and marking of airport hazards in accordance with Section 67-4-314 MCA.

### SECTION VI: USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within the Airport Influence Area or 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, make 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, creating bird strike hazards, facilities intended for the takeoff and /or landing of aircraft, 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. Regulations Not Retroactive - The regulations prescribed by this Ordinance shall not be construed to require the removal or other change or alteration of any structure lawfully in existence when this Ordinance becomes effective, not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any lawful structure, the

# ORDINANCES

## MILES CITY, MONTANA

construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

### SECTION VIII: PERMITS

1. Future Uses - No material change shall be made in the use of land, no structure shall be erected or otherwise established, in any zone hereby created unless a permit therefore 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 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 Section VIII, 4.
2. Existing Uses - No permit shall be granted that would allow a nonconforming use 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.
3. Nonconforming Uses Abandoned or Destroyed - Whenever the Council determines that a nonconforming use has been abandoned, no permit shall be granted that would allow such use to deviate from the zoning regulations without submitting an application to the Board of Airport Hazard Adjustment for a variance.
4. Variances - Any person desiring to erect or increase the height of a structure, permit the growth of a tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Airport Hazard 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 air space. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in substantial practical difficulty or unnecessary hardship and where the variance would not be contrary to the public interest. A variance shall be granted for a nonconforming use where there is not immediate hazard to safe flying operations or persons and property in the vicinity of the airport and where the noise or vibrations from normal and anticipated normal operations of the airport would not be likely to cause structural damage. An application for variance to the requirements of this Ordinance will be considered by the Board of Airport Hazard Adjustment, which will act to grant or deny said application.

### SECTION IX: ENFORCEMENT

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



# ORDINANCES

## MILES CITY, MONTANA

action by the Board of Airport Hazard Adjustment shall be forthwith transmitted by the Miles City Airport Manager.

### SECTION X: BOARD OF AIRPORT HAZARD ADJUSTMENT

1. There is hereby created a Board of Airport Hazard Adjustment to have and exercise the following powers: (1) to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official, in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Airport Hazard Adjustment under such regulations may be required to pass; and (3) to authorize upon appeal in specific cases such variance from the terms of this Ordinance was permitted under Section VIII 4.
2. The Miles City Zoning Board of Adjustment shall also serve as the Board of Airport Hazard Adjustment hereunder. The terms of the members of the Board of Airport Hazard Adjustment for purposes of this ordinance are concurrent with their terms as members of the Miles City Zoning Board of Adjustment.

### SECTION XI: APPEALS

1. Any person aggrieved, or any officer, department, board or bureau of the City of Miles City affected, by any decision made in the administration of the Ordinance, may appeal to the Board of Airport Hazard Adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Airport Hazard Adjustment, by filing with the Miles City Airport Manager a notice of appeal specifying the grounds thereof. The Miles City Airport Manager shall forthwith transmit to the Board of Airport Hazard Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Miles City Airport Manager certifies to the Board of Airport Hazard Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Miles City Airport Manager cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Airport Hazard Adjustment or by a court of record on application, with notice to the City of Miles City and on due cause shown.
4. The Board of Airport Hazard 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.
5. The Board of Airport Hazard Adjustment 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 as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

**ORDINANCES**  
**MILES CITY, MONTANA**

6. The concurring vote of four members of the Board of Airport Hazard Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the administrative official; to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance; or to effect any variance hereunder.

SECTION XII: JUDICIAL REVIEW

Any person or persons, jointly or severally, aggrieved, or any taxpayer or any officer, department, board or bureau of the City of Miles City, affected, by any decision of the Board of Airport Hazard Adjustment, may appeal to the appropriate court of record as provided for in §76-2-327 MCA..

SECTION XIII: PENALTIES

1. Any person who violates any provision of this Ordinance is guilty of a misdemeanor and punishable by a fine not to exceed \$500.00, imprisonment in the county jail for a period not to exceed 6 months, or both. Each day a violation continues to exist constitutes a separate offense.
2. The City of Miles City may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this Ordinance.

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.

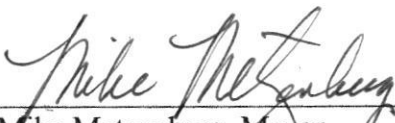
SECTION XV: SEVERABILITY

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 the 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.

SECTION XVI: EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its final passage.

Said ordinance read and put on its passage this 29<sup>th</sup> day of May, 2003.

  
Mike Metzberg, Mayor

ATTEST:



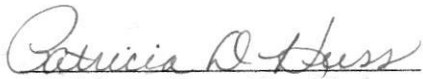
**ORDINANCES**  
**MILES CITY, MONTANA**

Patricia D. Huss, City Clerk

FINALLY PASSED AND ADOPTED this 10<sup>th</sup> day of June, 2003.

  
Mike Metzberg, Mayor

ATTEST:

  
Patricia D. Huss, City Clerk