

STATE OF NEW MEXICO
County of Luna
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DEC 29 1978

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

and received in Book 10 Page 717-22

ORDINANCE NO. 4 A

of Mue
LEAH WORTHAM, County Clerk
Marcy S. Mayus
Reception No. 28940

AN ORDINANCE PROVIDING HEIGHT RESTRICTIONS FOR THAT PORTION OF DEMING MUNICIPAL AIRPORT LOCATED OUTSIDE THE CORPORATE LIMITS OF THE CITY OF DEMING, NEW MEXICO, BUT WITHIN THE JURISDICTION OF LUNA COUNTY, NEW MEXICO.

SECTION I. SCOPE, AUTHORITY AND TITLE

This ordinance is applicable to the area within a 9,000-foot radius from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs at Deming Municipal Airport. These regulations divide said area into zones and within such zones, specify the land uses permitted, regulate and restrict the height to which structures and trees may be erected or allowed to grow, and impose other restrictions and requirements necessary to effectuate the approach plan for said airport, said airport approach plan having been heretofore formulated and adopted by this ordinance, and the authority for same and for these regulations being NMSA 1953 Compilation, sections 14-40-14 through 14-40-24, all as appearing in Laws of 1965, Chap. 300; and Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace.

These regulations shall be known and may be cited as the Luna County Municipal Airport Zoning Regulations for Deming Municipal Airport.

SECTION II. DEFINITIONS

As used in these regulations, unless the context otherwise requires:

- (1) AIRPORT - Means Deming Municipal Airport, near Deming, New Mexico.
- (2) AIRPORT ELEVATION - Means the established elevation of the highest point on the usable landing area, which is 4,310 feet, MSL.
- (3) AIRPORT REFERENCE POINT - Means the point established as the approximate geographic center of the airport landing area and is established at a location described as follows: Longitude 107° 43' 17" West, Latitude 32° 15' 41" North.
- (4) HEIGHT - For this purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level unless otherwise specified.
- (5) LANDING AREA - Means the area of the airport used for the landing or take-off of aircraft.
- (6) NON-CONFORMING USE - Means any structure, tree or use of land which is lawfully in existence at the time these regulations become effective and does not then meet the requirements of said regulations.
- (7) PRIMARY SURFACE - Means a surface longitudinally centered on a runway and extends 200 feet beyond each end of that runway provided the surface is hard; otherwise, the primary surface ends at each end of that runway. The primary surface is established as 200 feet beyond each end of the runways and has a width of 500 feet for Runway 8-26 and 250 feet for Runway 4-22.
- (8) RUNWAY - Means the surface of an airport landing strip.
- (9) Other definitions are as set out in NMSA 1953 Compilation, 14-40-15; and in Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace.

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SECTION III. ZONES

In order to carry out the provisions of these regulations, there are hereby created and established certain zones which include all of the land lying within the Approach Zones, Transition Zones, Horizontal Zone and Conical Zone. Such areas and zones are shown on the Deming Municipal Airport Zoning Map consisting of 1 sheet, adopted by the Luna County Board of County Commissioners, and dated November 1972, a copy of which is attached to these regulations and made a part hereof. The various zones are hereby established and defined as follows:

- (1) **APPROACH ZONES** - An Approach Zone is established at each end of all runways on Deming Municipal Airport for landings and take-offs. The Approach Zone shall be longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface and having a width equal to that of the primary surface at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 2,000 feet for Runway 8-26 and 1,250 feet for Runway 4-22, all at a horizontal distance of 5,200 feet, and at a slope of 20 feet horizontally, 1 foot vertically beyond each end of all runways.
- (2) **TRANSITION ZONES** - Transition Zones are hereby established adjacent to each runway and Approach Zone as indicated on the zoning map. Transition Zones extend outward and upward at right angles to the runway centerline at a slope of 7 feet horizontally to 1 foot vertically from the sides of the primary surface and from the sides of the approach surfaces to the point where they intersect the surface of the Horizontal Zones, or the Conical Zone.
- (3) **HORIZONTAL ZONES** - A Horizontal Zone is hereby established as the area within the perimeter of which is constructed by swinging arcs of a radius of 5,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The Horizontal Zone does not include the Approach Zones, Conical Zones, and the Transition Zones.
- (4) **CONICAL ZONES** - A Conical Zone is hereby established as the area that commences at the periphery of the Horizontal Zones and extends outward therefrom at a slope of 20 feet horizontally to 1 foot vertically for a horizontal distance of 4,000 feet. The Conical Zone does not include the Approach Zones and Transition Zones.

SECTION IV. HEIGHT LIMITATIONS

Except as otherwise provided in these regulations, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by these regulations to a height in excess of the height limit herein established for each zone. Such height limitations are hereby established for each of the zones in question as follows:

- (1) **APPROACH ZONES** - 1 foot in height for each 20 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the runway and extending to a point 5,200 feet from the end of the runway;

- (2) TRANSITION ZONES - 1 foot in height for each 7 feet in horizontal distance beginning at any point 250 feet from the centerline of Runway 8-26 or 125 feet from the centerline of Runway 4-22, measured normal to and at the elevation of the centerlines of the runways extending 200 feet beyond each and thereof, extending to a height of 150 feet above the airport elevation which is 4,310 feet above the mean sea level. In addition to the foregoing, there are established height limits of 1 foot vertical height for each 7 feet horizontal distance measured from the edges of all Approach Zones for the entire length of the Approach Zones and extending upward and outward to the points where they intersect the horizontal and conical surfaces;
- (3) HORIZONTAL ZONES - 150 feet above the airport elevation or a height of 4,460 feet above mean sea level; and
- (4) CONICAL ZONE - 1 foot in height for each 20 feet of horizontal distance beginning at the periphery of the Horizontal Zones, extending to a height of 350 feet above the airport elevation.

Where an area is covered by more than 1 height limitation, the more restrictive limitations shall prevail. Nothing in these regulations shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to 200 feet above the surface of the land within a 3-mile radius of the airport reference point.

SECTION V. USE RESTRICTIONS

Notwithstanding any other provisions of these regulations, no use may be made of land within any zone established by these regulations in such manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, 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.

SECTION VI. NON-CONFORMING USES

(a) REGULATIONS NOT RETROACTIVE - These regulations 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 thereof, or otherwise interfere with the continuance of any non-conforming 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 these regulations and is diligently prosecuted.

(b) MARKING AND LIGHTING - Notwithstanding the preceding provision of this Section, the owner of any non-conforming 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 Luna County Board of County Commissioners to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights

shall be installed, operated, and maintained at the expense of the owner of the non-conforming structure or tree, and shall conform to the current Federal Aviation Administration Advisory Circular 70/7460-1.

SECTION VII. PERMITS

(a) FUTURE USES - Except as specifically provided in Paragraphs 1, 2 and 3 hereunder, no material change shall be made in the use of the land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

- (1) In the area lying within the limits of the Horizontal Zone and the Conical Zone but not within the limits of an Approach Zone or Transition Zone, no permit shall be required for any tree or structure less than 140 feet of vertical height above the ground except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.
- (2) In the areas lying within the limits of the Approach Zones but at a horizontal distance of not less than 1,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 30 feet of vertical height above the established airport elevation, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument Approach Zone.

Nothing contained in any of the foregoing exceptions 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 limits established by these regulations except as set forth in Section IV.

(b) EXISTING USES - No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of these regulations 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) NON-CONFORMING USES ABANDONED OR DESTROYED - Whenever the Luna County Board of County Commissioners determines that a non-conforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) VARIANCES - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with these regulations, may apply to the Board of Appeals for a variance from such regulations. 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 the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of these regulations.

(e) HAZARD MARKING AND LIGHTING - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question at the owner's own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

SECTION VIII. ADMINISTRATION

It shall be the duty of the Luna County Manager to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to said Luna County Board of County Commissioners upon forms furnished by it. Applications required by these regulations to be submitted to said Luna County Board of County Commissioners shall be promptly considered and granted or denied by it.

SECTION IX. BOARD OF APPEALS AND APPEALS

There is hereby created a Board of Appeals, and appeal rights and procedures, under and pursuant to NMSA 1953 Compilation, 14-40-20, sub-sections C, D (there being no existing board of appeals or adjustment), E, F, G, H, I, J (all as set out in Chapter 300, Laws of 1965.)

SECTION X. JUDICIAL REVIEW

Judicial review may be had as provided in, and under and pursuant to NMSA 1953 Compilation, 14-40-21, subsections A, B, C, D, E (all as set out in Chapter 300, Laws of 1965)..

SECTION XI. ENFORCEMENT AND REMEDIES

Violations, penalties, and additional relief are as provided in, and under and pursuant to NMSA 1953 Compilation, 14-40-22 (all as set out in Chapter 300, Laws of 1965).

SECTION XII. CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed herein 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 requirement shall govern and prevail.

SECTION XIII. SEVERABILITY

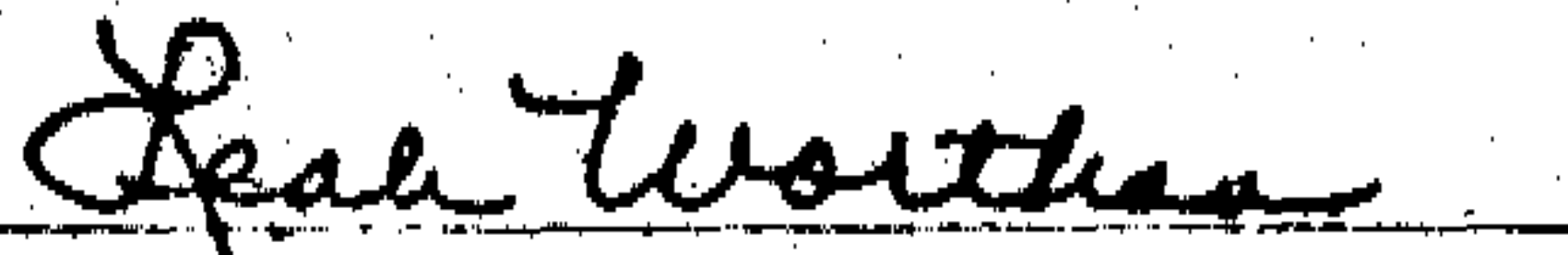
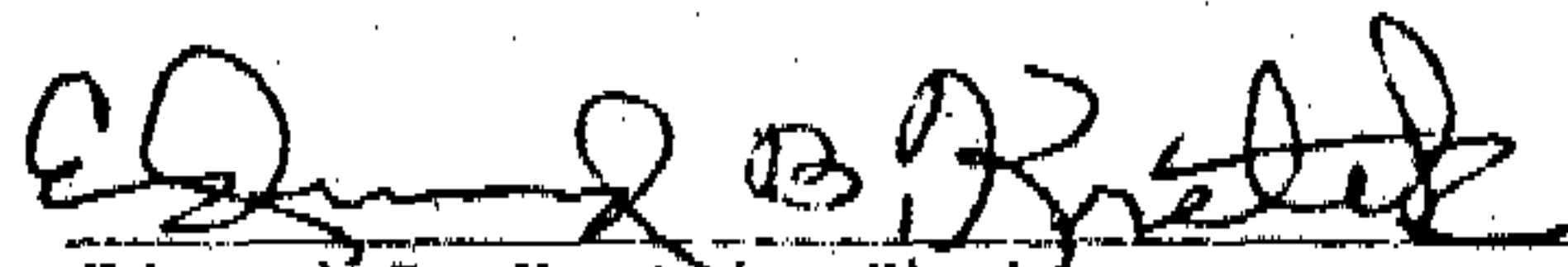
If any of the provisions of these regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

SECTION XIV. EFFECTIVE DATE

These regulations shall be in full force and effect from and after their passage by the 28 th day of January, 1979.

Passed, adopted and approved this 27th day of December, 1978.

ATTEST:


Sean WorthanLUNA COUNTY BOARD OF
COUNTY COMMISSIONERS
Edward B. Kretek, Chairman