

ARTICLE NINE. ENCROACHMENT PERMITS

Sec. 9. Conformance.

When it is necessary for any individual, corporation, firm and/or their contractors and agents to install or construct utility lines, services, and appurtenances within a county right-of-way or to pursue any construction operation, a written permit shall be obtained from the county. If a state permit is required in connection with the work, then a county permit will not be necessary, except for that part of work, if any, which is solely on county right-of-way. (Note: Encroachment for agricultural purposes is not considered necessary, and any cases of such on county right-of-way will [be] subject to enforcement of the penalties of this ordinance.)

Affected roads. Prior to the requirement of any permit pursuant to Article 9 of Ordinance 130, the county shall compile a complete list of county roads, which list shall be continuously updated. Right-of-way width information also shall be listed, as available. (Note: Right-of-way problems may include: old plats not being recorded; rights-of-way of varying widths; prescriptive right-of-way only as wide as the scraped surface; etc.) (Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.1. Application process.

If a permit is required prior to beginning work, the applicant shall prepare a drawing of the proposed work showing the location and details of such work. This shall be submitted to the county at least two weeks prior to the date the permit is desired. Simple service connections will be given a high priority and will be returned within seven days.

This permit shall be kept at the work site at all times while said work is under way and must be shown to any representative of the county or law enforcement officer on demand. (Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.2. Standards of construction.

A. Protection of highway traffic. Adequate provisions shall be made for the protection of the

highway traffic at all times. Necessary detours, barricades, warning signs and watchmen shall be provided by and at the expense of the applicant. The work shall be planned and carried out so that there will be the least possible inconvenience to the highway traffic. The applicant agrees to observe all SCDHPT and OSHA rules and regulations while carrying on the work contemplated herein and take all other precautions that circumstances warrant.

B. Standards of construction. All work shall conform to recognized standards of construction and shall be performed in a workmanlike manner. Adequate provisions shall be made for maintaining the proper drainage of the highway. All work for which a permit is required shall be subject to the supervision and satisfaction of the county.

1. Pipes, conduits, and other placements.
 - a. Service and other small diameter pipes shall be jacked, driven or otherwise forced, not washed, underneath the pavement on any surfaced road without disturbing said pavement. The minimum ground cover for both dirt and paved roads shall be 24 inches. In the cases of structures being placed under ditches or swales, 36-inch minimum cover will be provided.
 - b. Complete tunnelling shall not be permitted.
 - c. All pipes and conduits under the highway shall be placed at approximately right angles to the centerline of the highway.
 - d. Road cuts. No open cuts in paved roads will be permitted except by the permission of the roads and bridges supervisor in the following circumstances: 1. other utility lines in place make it impractical to bore; 2. obstructions in the right-of-way prevent boring, i.e., tree stumps; 3. physical limitations preventing equipment from being placed safely in a position to bore; 4. safety hazard prevents boring; and 5. any emergency situation which endangers life or property. Where road is to be cut, the work shall be done in clear weather when traffic is lightest. Mate-

rials and methods of compaction shall be adapted to achieve prompt restoration of traffic service. Signing and warning devices will be supplied by the utility company or its contractor and will be in compliance with the "South Carolina Manual on Uniform Traffic Control Devices." Traffic will be maintained at all times and lane closures will only be permitted after a traffic control plan is approved by the roads and bridges supervisor. Driveways will be maintained so as to permit ingress and egress to properties adjacent to the roadway. Blocking or closing of a driveway will not be tolerated without the approval of the property owner. Restoration will be performed to return the road to the specifications in article five of this ordinance. Initial restoration shall be maintained in good condition by the permittee for the period prior to resurfacing and repairs as necessary shall be made immediately following notification; however, permittee shall not wait for notification to perform necessary repairs.

- e. Where there is at least three feet of right-of-way beyond the travel surface and drainage setback, underground cable installed parallel to the roadway may not be placed closer than three feet to the paved roadway or scraped surface.
2. **Inspection.** In order that visual inspection can be performed during construction, the roads and bridges supervisor is to be notified 24 hours prior to commencement of work. The line, road cut, or boring repair must be inspected and approved by the roads and bridges supervisor upon completion of the project and again one year from that date. During this period, the applicant and/or owner shall remain liable for the cost of repairs and any damages which may be due to the county arising from the work performed originally by the applicant. For pavement cuts, the applicant will remain liable for two years following approval of

the repair for any repairs or damages which may be due to the county arising from the work until the road cut is repaired.

(Ord. No. 91-3, § 12, 5-20-91; Ord. No. 92-15, § 2, 10-5-92)

Sec. 9.3. Activities not requiring encroachment permits.

1. **Overhead installation.** A permit will not be required for aerial service connections from an existing line on county right-of-way unless it is anticipated that such connections will entail alterations for traffic flow.

2. **Underground installation.** A permit will not be required for a service connection from a line on county right-of-way where the excavation is to be on the back slope of the ditch or swale. If the installation will involve undue interference with the normal flow of traffic, if drainage facilities or appurtenances are affected, or if a road crossing is involved, a permit will be necessary; provided, however, that the roads and bridges supervisor may approve a variance based on site conditions and good engineering practices.

3. **Maintenance.** A permit will not be required for normal or emergency maintenance on overhead or underground facilities such as replacing poles, piping, cables, pedestals, markers, etc., unless such repairs will entail alterations of normal traffic flow. Normal maintenance which will entail replacement of more than 300 feet of underground line will require a permit. Repairs or replacements will conform to standards specified in section 9.2 and compaction standards set forth in article five of this ordinance.

(Ord. No. 91-3, § 12, 5-20-91; Ord. No. 92-15, § 3, 10-5-92)

Sec. 9.4. Public convenience and safety.

The developer, his agents and/or contractors shall at all times conduct the permitted work within the county right-of-way in such a manner as to provide for and insure the safety and convenience of the traveling public and the residents along and adjacent to the road, street or highway and to offer the least practicable obstruction to the flow of traffic. The road or any portion of it will not be closed by the developer, his agents

and/or contractors unless written permission has been received by the county administrator.
(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.5. Revocation of permit.

Failure to comply with the provisions of this section shall be grounds for revocation of this permit and reason for not issuing future permits to the contractor or developer concerned. Should the developer not respond to a notice, written or oral, that corrective action is needed within 24 hours, it shall be deemed grounds for revocation. When circumstances beyond the developer's control prohibit correction and a temporary solution can be agreed upon between the county administrator, the roads and bridges supervisor and the developer, a written extension may be granted.
(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.6. Effective date and extensions.

Encroachment permits shall be valid for a period of six months from the date of issue. One extension may be granted by the county administrator upon written request from the applicant not to exceed an additional six months. All other extensions shall require reapplication for a new permit.
(Ord. No. 91-3, § 12, 5-20-91)

Sec. 9.7. Fees. (Suspended for one year of evaluation.)

At the time of filing the application, a \$25.00 permit fee to cover the inspection shall be paid to the county administrator's office. Refer to appendix E-1 for a nonutility encroachment permit form and appendix E-2 for a utility encroachment permit form.
(Ord. No. 91-3, § 12, 5-20-91)

ARTICLE TEN. LEGAL STATUS PROVISIONS

Sec. 10. Conflict with other laws.

Whenever the provisions of this ordinance impose more restrictive standards than are required under other statutes, the requirements of this ordinance shall govern. Whenever the provisions

of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

Sec. 10.1. Validity.

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Sec. 10.2. Repeal of conflicting ordinances.

All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this ordinance full force and effect.

Sec. 10.3. Effective date.

This ordinance shall take effect and be in force from and after the date of its adoption by the Darlington county council.

ARTICLE ELEVEN. JETPORT SAFETY AND HEIGHT ZONING REGULATIONS*

Sec. 11. Short title.

This article shall be known and may be cited as the "Darlington County Jetport Safety and Height Zoning Ordinance."
(Ord. No. 97-8, § I, 5-5-97)

Sec. 11.1. Definitions.

[The following words, terms and phrases, as used in this article, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:]

Approach surface. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in

*Editor's note—Ord. No. 97-8, adopted May 5, 1997, did not specifically amend this Code, hence, codification of §§ I—XIV of said ordinance as §§ 11—11.13 herein was at the editor's discretion.

section 11.3 of this article. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal, and conical zones. These zones are set forth in section 11.2 of this article.

Conical surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Established jetport elevation. One hundred ninety-two feet above mean sea level.

Hazard to air navigation. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface. A horizontal plane 150 feet above the established jetport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal plane.

Jetport means the Darlington County Jetport.

Larger than utility runway. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Noise impacts. The noise contour from the FAA integrated noise model fosters land use compatibility by restricting residential and other noise sensitive development in the 55 LDN and higher noise contours.

Nonconforming use. Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this article or an amendment thereto.

Nonprecision instrument runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equip-

ment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction. Any structure, growth, or other object, including a mobile object which exceeds a limiting height set forth in section 11.3 of this article.

Person. An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representation or any of them.

Precision instrument runway. A runway having an existing precision instrument approach procedure. It also means a runway for which a precision approach procedure is planned and is so indicated on an approved jetport layout plan or any other planning document.

Primary surface. A surface longitudinally centered in a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in section 11.2 of this article. The elevation of any point on the primary surface is the same as the elevation of the nearest point in the runway centerline.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Safety zones. As established in sections 11.4 and 11.5 are zones which limits population and building density and overlay the height limitation and noise impact zones provided in other sections of this article.

Structure. An object, including a mobile object, constructed or installed by man, including but without limitation, building, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Transitional surfaces. These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional sur-

faces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Tree. An object of natural growth.

Utility runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Visual runway. A runway intended solely for the operation of aircraft using visual approach procedures.

(Ord. No. 97-8, § II, 5-5-97)

Sec. 11.2. Zones and zoning map.

In order to carry out the provisions of this article, the appropriate airspace surfaces as contained in FAR Part 77, Subpart C, and defined in section 11.1 of this article are hereby converted to zones. These established zones include the land lying beneath the associated airspace surface which include the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces. Such zones are shown on Darlington County Jetport Zoning Maps consisting of two sheets, and dated January 1995, which are attached to Ordinance No. 97-8 and made a part hereof [by reference]. The safety zones have been included, as modified, from Darlington County Development Ordinance No. 130. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. *Runway larger than utility visual approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. This approach zone is applicable to each end of Runway 10/28.

2. *Runway larger than utility with a visibility minimum greater than 3/4-mile nonprecision instrument approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline runway. This approach zone is applicable to each end of Runway 16/34.
3. *Precision instrument runway approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. This approach zone is applicable to each end of Runway 5/23.
4. *Transitional zones.* The transitional zones are the zones beneath the transitional surfaces.
5. *Horizontal zone.* The horizontal zone is established by swinging arcs of 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawings lien tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
6. *Conical zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

(Ord. No. 97-8, § III, 5-5-97)

Sec. 11.3. Height limitations.

Except as otherwise provided in this article, no structure shall be erected, altered, or maintained and no tree shall be allowed to grow, in any zone created by this article, to a height in excess of the applicable height herein established for such zone.

Such applicable height limitations are hereby established for each of the zones in questions, as follows:

1. *Runway larger than utility visual approach zone.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. This approach zone is applicable to each end of Runway 10/28.
2. *Runway larger than utility with a visibility minimum greater than 3/4-mile nonprecision instrument approach zone.* Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline. This approach zone is applicable to each end of Runway 16/34.
3. *Precision instrument runway approach zone.* Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline. This approach zone is applicable to each end of Runway 5/23.
4. *Transitional zones.* Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the jetport elevation which is 192 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the side so and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone,

there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

5. *Horizontal zone.* Established at 150 feet above the jetport elevation or at a height of 342 feet above mean sea level for the Darlington County Jetport.
6. *Conical zone.* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the jetport elevation and extending to a height of 350 feet above the airport elevation.
7. *Excepted height limitations.* Except as defined in section 11.4, nothing in this article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height of 50 feet above the surface of the land. Such potential obstructions should be resolved through the purchase of property in easement, or in fee simple.

(Ord. No. 97-8, § IV, 5-5-97)

Sec. 11.4. Land use and safety zoning map.

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Darlington County Jetport; and 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, there are hereby created and established the following safety zones:

1. *Safety zone A—Runway 5/23.* All land in the approach zones of the runway which extends outward from the end of the primary surface for a distance of 2,500 feet and is 1,750 feet wide at the outer edge and 1,000 feet wide at the inner end.
2. *Safety zone A—Runway 16/34.* All land in the approach zones of the runway, which extends outward from the end of the pri-

mary surface for a distance of 1,700 feet and is 1,010 feet wide at the outer edge and 500 feet wide at the inner end.

3. *Safety zone B—Runway 5/23.* All land in that position of the approach zone of the runway which extends outward from zone A for a distance of 2,500 feet and is 2,500 feet wide at the outer edge and 1,750 feet wide at the inner edge.
4. *Safety zone B—Runway 16/34.* All land in that portion of the approach zones of the runway, which extends outward from safety zone A for a distance of 3,300 feet and is 2,000 feet wide at the outer edge and 1,010 feet wide at the inner edge.
5. *Safety zone C.* All land which is enclosed within the perimeter of the horizontal zone, as defined in section 11.2 jetport zones and zoning map, and which is not included in safety zones A or B.

(Ord. No. 97-8, § V, 5-5-97)

Sec. 11.5. Safety zone use limitations.

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the jetport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of the pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the jetport. In addition, safety zones listed below define permitted uses in the designated areas.

1. *Safety zone A.* Areas designated as safety zone A shall contain no buildings or temporary structures, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include agriculture and essential air-navigation equipment.

2. *Safety zone B.* Areas designated as safety zone B shall be restricted in use as follows:

- A. Each use shall be on a site whose area shall not be less than ten acres.
- B. Each use shall not create, attract, or bring together a site population that would exceed the number on the table listed below.
- C. Each site shall have no more than one building plot upon which any number of structures may be erected.
- D. A building plot shall be single, uniform and noncontrived area, whose shape is uncomplicated and whose area shall not exceed the following area:

Site Area as Least (Acres)	But Less Than (Acres)	Building Plot Area (sq. ft.)	Max. Site Population (persons/A)
10	20	72,500	60
20	and up	145,000	120

- E. The following uses are specifically prohibited in zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, camp grounds, and other places of public or semipublic assembly.

3. *Zone C.* Zone C is subject only to height restrictions set forth in section 11.3 of this zoning ordinance, and to the general restrictions contained in article 4, Building Codes and Permits of Development Ordinance No. 130.

(Ord. No. 97-8, § VI, 5-5-97)

Sec. 11.6. Nonconforming uses.

1. *Regulations not retroactive.* The regulations prescribed in this article 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 the effective date of this article, 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 structure, the construction or alteration of which was begun

prior to the effective date of this article, and is diligently prosecuted and completed within one year thereof.

2. *Obstruction marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the zoning administrator to indicate to the operators of aircraft in the vicinity of the aircraft obstructions. See FAA Advisory Circular 70-7460-1H for further guidance. Such markers and lights shall be installed, operated, and maintained at the expense of the airport sponsor.

3. [*Tree topping.*] Notwithstanding any preceding provision of this section, if, by a determination of the Federal Aviation Administration (FAA), the encroachment of any tree into regulated airspace is such that providing markers and lights is insufficient to protect the life and property of the flying public, the county planning commission shall institute steps to have such trees topped at the expense of the airport, if requested in writing by the county jetport commission. If unsuccessful in obtaining the cooperation of the parties involved, the planning commission shall petition the county council to institute the appropriate legal action, possibly including condemnation, to insure the safety of the flying public in airspace regulated by this article.
(Ord. No. 97-8, § VII, 5-5-97)

Sec. 11.7. Permits.

1. *Future uses.* Except as specifically provided in (1), (2), and (3) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted 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. No permit for a use inconsistent with the provisions of

this article shall be granted unless a variance has been approved in accordance with section 11.7 4.

- A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 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 zones.
- B. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
- C. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet or vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this article except as set forth in section 11.3 7.

2. *Existing uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this article 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 zoning administrator determines that a nonconforming tree or structure has been abandoned or more than 50 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 otherwise deviate from the zoning regulations.

4. *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this article, 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 may be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that the relief 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 article.

Additionally, no application for variance to the requirements of this article may be considered by the board of adjustment unless a copy of the application has been furnished to the jetport commission for advice as to the aeronautical effects of the variance. If the jetport commission does not respond to the application within 60 days after receipt, the board of adjustment may act on its own to grant or deny said application.

5. *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the board of adjustment, this condition may be modified to require the airport sponsor, at its own expense, to install, operate, and maintain

the necessary markings and lights. FAA Advisory Circular 70-7460-1H provides further guidance to meet the requirement.
(Ord. No. 97-8, § VIII, 5-5-97)

Sec. 11.8. Enforcement.

It shall be the duty of the zoning administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the zoning administrator upon a form published for that purpose. Applications required by this article to be submitted to the zoning administrator shall be promptly considered and granted or denied. Application for action by the board of adjustment shall be forthwith transmitted by the zoning administrator.
(Ord. No. 97-8, § IX, 5-5-97)

Sec. 11.9. Board of adjustment.

1. There is hereby created a board of adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this article; (2) to hear and decide special exceptions to the terms of this article upon which board of adjustment under such regulations may be required to pass; and, (3) to hear and decide specific variances.

2. The board of adjustment shall consist of three members appointed by the county council and each shall serve for a term of three years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

3. The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this article. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson or, in the absence of the chairperson, the acting chairperson may administer oaths and compel the attendance of witnesses. All hearings of the board

of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the county clerk and on due cause shown.

4. The board of adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this article.

5. The concurring vote of majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the zoning administrator or decide in favor of the applicant on any matter upon which it is required to pass under this article, or to effect variation to this article.
(Ord. No. 97-8, § X, 5-5-97)

Sec. 11.10. Appeals.

1. Any person aggrieved, or any taxpayer affected, by any decision of the zoning administrator made in the administration of the article, may appeal to the board of adjustment.

2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of 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 zoning administrator certifies to the board of 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 zoning administrator cause imminent peril to life or property. In such case, proceedings shall not be

stayed except by order of the board of adjustment or notice to the zoning administrator and on due cause shown.

4. The board of 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 adjustment may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances.
(Ord. No. 97-8, § XI, 5-5-97)

Sec. 11.11. Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment, may appeal to the circuit court as provided in applicable public laws.
(Ord. No. 97-8, § XII, 5-5-97)

Sec. 11.12. Penalties.

Each violation of this article or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable as provided by section 1-8 of the Darlington County Code.
(Ord. No. 97-8, § XIII, 5-5-97)

Sec. 11.13. Conflicting regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this article 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.
(Ord. No. 97-8, § XIV, 5-5-97)

ARTICLE TWELVE. COMMUNICATION TOWERS

Sec. 12.1. Purpose and intent.

This article is designed to control the construction, placement, or modification of communica-