

TOWN OF DOVER
MUNICIPAL ORDINANCE

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Ordinance Prohibiting the Construction and/or Operation of Aircraft
Take-Off and Landing Facilities within the Town of Dover

The Select board of the Town of Dover (the "Town") hereby ordains:

Section 1: AUTHORITY

This ordinance is enacted pursuant to 24 V.S.A. §§ 1971 *et seq.*, and 2291, and is promulgated to protect the health, safety and welfare of the citizens of the Town and others and to maintain the quiet rural atmosphere of the Town as identified in the Dover Town Plan by regulating the operation of aircraft take-off and landing facilities within the Town and the construction of the same.

Section 2: DEFINITIONS

As used in this Ordinance, unless the context otherwise indicates

Aircraft means manned or unmanned airplanes including but not limited to helicopters, amphibious airplanes, ultra-lights or any other motorized craft used for navigation through the air, but excludes radio-controlled hobby aircraft, hot air balloons and hang gliders.

Operation(s) means a take-off and/or a landing of an aircraft, or helicopter hover testings where contact with the ground is involved but specifically does not include over-flights where landing and/or take-off is not involved.

Section 3: AIRCRAFT OPERATIONS PROHIBITED

Aircraft operations as defined herein and the use of land within the boundaries of the Town for aircraft operations or aircraft take-offs and landings, or the construction or operation of facilities for aircraft operations or aircraft take-offs and landings, are prohibited within the Town limits, except:

- a. At the Deerfield Valley Airport or its successor; or
- b. In the case of a declared emergency landing as defined in the Federal Aviation Regulations; or

- c. As part of the emergency response of a medical, wildfire, or law enforcement nature, or aircraft owned and operated by the State of Vermont or a political subdivision of the State for emergency, disaster response or law enforcement purposes; or
- d. In the case of special events, aircraft operations for educational or charity events and fund raisers is allowed, if the use is approved in advance by a permit issued by the Select board which expressly authorizes the use of the aircraft and with any conditions of approval as may be imposed by the Select board to ensure the aircraft operations do not result in an undue adverse effect on the character of the area or the health, safety and welfare of the Town; or
- e. Aircraft operations for construction activities is allowed, if the use is approved in advance by a permit issued by the Select board which expressly authorizes the use of the particular aircraft and particular landing and take-off location and with any conditions of approval as may be imposed by the Select board to ensure the aircraft operations do not result in an undue adverse effect on the character of the area or the health, safety and welfare of the Town.

The Select board approvals referred to in Subsections (d) and (e), above, specifically do not grant or imply approvals for any aspect of operations which require approval by State or federal aviation authorities. The application fee for the permits required by Subsections (d) and (e), above, shall be \$100.

Section 4: REVOCATION OF PERMITS

The Town Administration or Zoning Administrator is hereby authorized and empowered to revoke any permit issued by the Select board upon failure of the permittee to comply with any provisions of the permit or this Ordinance.

Section 5: RENEWAL OF PERMITS

Upon the expiration of any permits issued under this Ordinance or upon the end of a special event for which a permit was issued under Section 3(d), above, or upon the cessation of construction activities for which a permit was issued under Section 3(e), above, the take-off and landing of aircraft and aircraft operations for which the permit was issued shall be cease unless the holder thereof applies for a renewal permit upon payment of the fee set out at Section 3 hereof and upon the filing of a renewal application on forms furnished by the Town Administration or Zoning Administrator. Such forms shall include such questions as are reasonably required to enable the Select board to decide whether the renewal permit should be issued.

The Select board shall act within forty-five (45) days to issue a permit upon conclusion of a hearing or a permit shall be deemed approved.

Section 6: ENFORCEMENT AND PENALTIES

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- a. This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59. Any person who violates a provision of this civil ordinance or who violates any condition of a permit issued hereunder shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues. The Town Zoning Administrator, the Town Administration, any other individual designated by the Select board to enforce this ordinance, any Sheriff, police officer, or other law enforcement official may act as an Issuing Municipal Official and issue and pursue before the Judicial Bureau a municipal complaint for any violation of any provision of this ordinance.
- b. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 *et seq.* Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. Each day that the violation continues shall constitute a separate violation of this ordinance.
- c. Waiver Fee. An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amounts, for any person who declines to contest a municipal complaint and pay the waiver fee:

First offense - \$25
Second offense - \$50
Third offense - \$75
Fourth offense - \$100
Fifth offense - \$125
Sixth offense - \$175
Seventh offense - \$250
Eight offense - \$350
Ninth offense - \$450
Tenth offense - \$550

Offenses shall be counted on a calendar year basis.

- d. Civil Penalties. An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

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First offense - \$50
Second offense - \$100
Third offense - \$150
Fourth offense - \$200
Fifth offense - \$300
Sixth offense - \$400
Seventh offense - \$500
Eight offense - \$600
Ninth offense - \$700
Tenth offense - \$800

Offenses shall be counted on a calendar year basis.

- e. Other Relief. In addition to the enforcement procedures available before the Vermont Judicial Bureau, the Select board is authorized to commence a civil action to obtain injunctive and other appropriate relief, to request revocation of a permit or to pursue any other remedy authorized by law.

Section 7: SEVERABILITY

Any part or provision of this Ordinance shall be considered severable and, if any provision of this Ordinance or the application thereto to any person or circumstance is held invalid, such invalidity shall not eaffect other provisions or applications of the Ordinance which can be given effect without the invalid provisions of application, and to this end the provisions of this Ordinance are declared severable.

Section 8: PRE-EXISTING FACILITIES

Any aircraft landing or take-off facility or aircraft operations, as herein defined, at the Deerfield Valley Airport or for commercial and construction purposes in the Resort Center (RST) zoning district that are in existence and have received accessory and conditional use approval prior to August 1, 2015, shall be considered pre-existing and are not subject to the restrictions of this ordinance until December 31, 2021. In the event that such pre-existing aircraft landing or take-off facility or aircraft operations so "grandfathered" cease aeronautic operations and change to non-aviation use prior to December 31, 2021, then this ordinance shall apply and the "grandfather" clause will be extinguished.

Section 9: JURISDICTION

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This ordinance is a municipal ordinance affecting the Town of Dover, Vermont only. It specifically does not supersede or supplant any federal or State of Vermont aviation related law or regulation.

Section 10: EFFECTIVE DATE

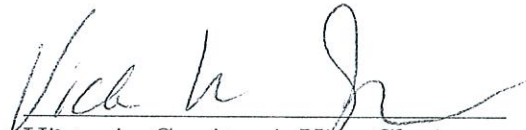
This ordinance shall become effective sixty (60) days after its adoption by the Dover Select board. If a petition for a vote on this ordinance is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

ENACTED AND ORDAINED ON THIS 7th DAY OF July, 2015.

TOWN OF DOVER SELECTBOARD



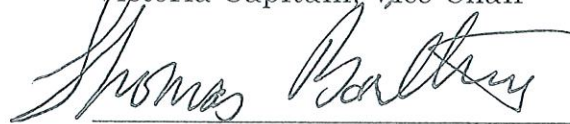
Randall Terk, Chair



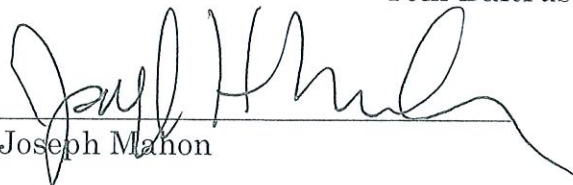
Victoria Capitani, Vice Chair



Linda Holland



Tom Baltrus



Joseph Mahon