

**TOWN OF CAVENDISH
MUNICIPAL ORDINANCE**

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

WHEREAS, the Town of Cavendish has, by authority granted in 24 V.S.A. §§ 1971 et seq., 2246, and 2291, the powers to adopt, amend, repeal, and enforce ordinances;

NOW, THEREFORE, to protect the public health, safety and well being, to promote the responsible use of resources and protection of the environment, and to protect and maintain the quiet rural atmosphere of the Town as identified in the Cavendish Town Plan, the Board of Selectmen of the Town of Cavendish hereby adopts this ordinance to regulate the construction and/or operation of aircraft take-off and landing facilities within the Town of Cavendish.

ARTICLE I. Definitions

1. **"Aircraft"** for the purposes of this ordinance means manned or unmanned airplanes including 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.
2. **"Operation(s)"** for the purpose of this ordinance 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.

ARTICLE II. Aircraft Operations Prohibited

Aircraft operations as defined herein and the use of land within the boundaries of the Town of Cavendish for the construction or operation of aircraft landing or takeoff facilities are prohibited within the Town of Cavendish limits, except:

1. In the case of a declared emergency landing as defined in the Federal Aviation Regulations; or
2. As part of the emergency response of a medical, wildfire, or law enforcement aircraft, or aircraft owned and operated by the state or a political subdivision of the state for emergency, disaster response purposes, or law enforcement purposes; or
3. In the case of special events allowing the use of aircraft for educational or charity events and fund raisers, if the use is specifically approved, in advance, by special permit issued by the Board of Selectmen which expressly authorizes the use of the aircraft and with any special conditions as may be imposed by the Board of Selectmen; or
4. Aircraft operations for construction activities, if the use is approved, in advance, by the Cavendish Board of Selectmen with said approval expressly authorizing the use of the particular aircraft and particular landing spot and with any special conditions as may reasonably be imposed by the Board.

5. Select Board municipal approvals referred to in subsections 3 and 4 above specifically do not grant or imply approvals for any aspect of operations which require approval by state or federal aviation authorities.

ARTICLE III. **Enforcement and Penalties**

1. A violation of this ordinance shall be a civil matter enforced in the Vermont Judicial Bureau or in the Windsor County Superior Court, at the election of the Cavendish Board of Selectmen.
2. 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. For purposes of enforcement in Superior Court, the Board of Selectmen may pursue all appropriate equitable relief. For purposes of enforcement in either the Judicial Bureau or the Superior Court, a civil penalty of \$500 shall be imposed for violation of this civil ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.
3. A municipal ticket will be issued 15 days after written notification of violation is mailed or delivered by the Board of Selectmen if the violation has not been corrected in accordance with this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.
4. For purposes of enforcement in the Judicial Bureau, the Town Zoning Administrator, if one exists, the Town Manager, Town Constable, any Sheriff, police officer, or other law enforcement official shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

ARTICLE 4. **Severability**

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

ARTICLE 5. **Pre-Existing Facilities**

Any aircraft landing or take-off facility, as herein defined, which is in existence or permitted by the State of Vermont prior to the effective date of this ordinance shall be considered pre-existing and is not subject to the restrictions of this ordinance. In the event that such pre-existing aircraft landing or take off facility so “grandfathered” is to cease aeronautic operations and change to non-aviation use, then this ordinance shall apply and the “grandfather” clause will be extinguished.

ARTICLE 6. **Jurisdiction**

This ordinance is a municipal ordinance effecting the Town of Cavendish, Vermont only. It specifically does not supercede or supplant any Federal or State of Vermont aviation related law or regulation.

ARTICLE 7. Effective Date

This ordinance shall become effective 60 days after its adoption by the Cavendish Board of Selectmen. 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 27th DAY OF FEBRUARY, 2013.

Cavendish Board of Selectmen

Robert W. Glidden, Chair

William Buswell

Daniel W. Churchill

Scott Ranney

George Timko

ADOPTION HISTORY:

1. Discussed at Select Board meetings held on: **5/14/12; 6/11/12; 7/9/12; 8/13/12; 9/10/12;11/13/12; 2/11/13, and 2/27/13.**
2. Read and approved at regular Select Board meeting on 9/10/12 and 2/11/13(after legal review) and entered in the minutes of those meetings which were approved on 10/09/12 and _____ respectively.
3. Adopted at Select Board meeting on _____ and entered in the minutes of that meeting which were approved on _____.
4. Posted in public places on _____.
5. Notice of Adoption published in the Vermont Journal newspaper on _____ and _____ with a notice of the right to petition.
6. Other actions [petitions, etc.)
7. Effective Date: _____, 2013

This ordinance is available for review at the Town Clerk's Office at 37 High Street in Cavendish. Questions concerning this ordinance may be directed to the Town Manager, Town of Cavendish Municipal Offices, 37 High Street, Cavendish, VT 05142 or call (802) 226-7291.