



A Model Zoning Ordinance to Limit Height of Objects Around Airports

AC: 150/5190-4A
DATE: 12/14/87

Advisory Circular



U.S. Department
of Transportation
**Federal Aviation
Administration**

Advisory Circular

Subject: A MODEL ZONING ORDINANCE TO
LIMIT HEIGHT OF OBJECTS AROUND
AIRPORTS

Date: 12/14/87
Initiated by: AAS- 100

AC No: 150/5190-4A
Change:

1. PURPOSE.

a. This advisory circular provides a model zoning ordinance to be used as a guide to control the height of objects around airports.

b. This advisory circular has been editorially updated for reprint/stock purposes only. There were no changes made to the content of the advisory circular except to update the format and renumber the document to AC 150/5190-4A.

2. CANCELLATION. AC 150/5190-4, A Model Zoning Ordinance to Limit Height of Objects Around Airports, dated August 23, 1977.

3. FOCUS.

a. Aviation safety requires a minimum clear space (or buffer) between operating aircraft and other objects. When these other objects are structures (such as buildings), the buffer may be achieved by limiting aircraft operations, by limiting the location and height of these objects, or, by a combination of these factors. This advisory circular concerns itself with developing zoning ordinances to control the height of objects, based on the obstruction surfaces described in Subpart C of Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, current edition. It should be recognized, however, that not all obstructions (objects whose height exceeds an obstruction surface) are a hazard to air navigation.

b. The Federal Aviation Administration (FAA) conducts aeronautical studies on obstructions which examine their effect on such factors as: aircraft operational capabilities; electronic and procedural requirements; and, airport hazard standards. If an aeronautical study shows that an obstruction, when evaluated against these factors, has no substantial adverse effect upon the safe and efficient use of navigable airspace, then the obstruction is considered not to be a hazard to air navigation. Advisory Circular 150/5300-4, Utility Airports--Air Access to National Transportation, current edition, presents additional discussion on hazards to air navigation.

c. Airport zoning ordinances developed for height limitations do not in themselves ensure compatible land use surrounding the airport. Land use zoning, incorporating height limiting criteria, is an appropriate means for achieving this objective. Advisory Circular 150/5050-6, Airport-Land Use Compatibility Planning, current edition, presents generalized guidance for compatible land use planning in the vicinity of airports.

4. BACKGROUND.

a. The purpose of zoning to limit the height of objects in the vicinity of airports is to prevent their interference with the safe and efficient operations of the airport.

b. Section 511 of the Airport and Airway Improvement Act of 1982, states, in part, the following: ". . . Sec. 511(a) SPONSORSHIP. As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances in writing, satisfactory to the Secretary that . . . (4) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, re-locating, marking, or lighting or mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards; (5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff aircraft;" Conformity with this advisory circular will assist the responsible local government in complying with the Section 511 assurances with respect to the height of objects. However, this advisory circular does not address other land use compatibility criteria, such as noise compatibility, which may be required under Section 511.

c. This advisory circular is based on the obstruction surfaces described in Subpart C of FAR Part 77. Examples of zoning ordinances for a utility airport and for a larger than utility airport have been included in appendices 2 and 3.

5. USE OF MODEL ZONING ORDINANCE.

a. Those responsible for drafting an airport zoning ordinance to limit height of objects are aware, of course, that it must conform to the prescribed authority of that particular airport zoning enabling act. Only terminology applicable to the airport named in the ordinance should be used.

b. The model ordinance included in this advisory circular defines and provides for the establishment of various zones and prescribes height limitations for each zone as required to prevent the creation or establishment of objects which would interfere with the operation of the airport. These zones will vary depending on the type, size, and layout of the runways. The model ordinance, therefore, leaves the specific zone measurements to be inserted by the political subdivision adopting the ordinance as appropriate for its particular airport.

c. The appendices also include examples of how the model ordinance may be used for various types of airports. Since much of the technical terminology and definitions are derived from Federal Aviation Regulations, technical procedural handbooks, and advisory circulars, care should be taken to ensure that language used in the ordinance drafted is consistent with terms used in the model ordinance.

d. Any height limitations imposed by a zoning ordinance must be "reasonable," meaning that the height limitations prescribed should not be so low at any point as to constitute a taking of property without compensations under local law. Therefore, the zoning ordinance should not purport to impose height limitations in any area so close to the ground that the application of criteria prescribed would result in unreasonable or unduly restrictive height limitations. This is provided for by provision 12, Excepted Height Limitations, of Section IV, Airport Zone Height Limitations, in the Model Zoning Ordinance.

e. The decision as to the excepted height limits should be made on the basis of local conditions and circumstances, including the uses being made of property in the vicinity of the airport. In making such a decision, the political subdivision should use the same procedures generally recognized as desirable in preparing comprehensive zoning ordinances, including necessary coordination with recognized state, regional, and local planning offices, where applicable.

f. Areas in the various zones where the height limitation is below the excepted height limit prescribed in the ordinance should be acquired to ensure the required protection. In the approach area, the minimum acquisition begins at the end of the primary surface defined in FAR Part 77, Section 77.25, and extends outward with the width of the approach surface defined in that section, to a point where the approach surface slope reaches a height of 50 feet above the ground elevation of the runway or terrain, whichever distance is the shorter. If easements are acquired, they should include the right of passage over the property by aircraft as well as the right to prevent creation of future obstructions.

g. Drafters of airport zoning ordinances should consult with Federal Aviation Administration (FAA) Airports personnel in regional or district offices when developing airport zoning regulations.

h. The standards contained in FAR Part 77, Subpart C, make it possible to determine, for any location on or adjacent to an airport, the height at which any structure or object of natural growth would constitute an obstruction. Section 77.13 of FAR Part 77, Subpart C sets forth the requirements for filing notice of proposed construction or alteration.

i. If the object exceeds a height or surface defined in Subpart C of FAR Part 77, it would be an obstruction and would be the subject of an aeronautical study by the FAA to determine its effect on navigable airspace. If the object is concluded to have a substantial adverse effect upon the safe and efficient utilization of such airspace, it would be determined to be a hazard to air navigation. The FAA cannot prevent its erection without local assistance. The enactment of this proposed model zoning ordinance will permit the local authorities to control the erection of hazards to air navigation and thus protect the community's investment in the airport.

j. The FAA aeronautical study will be made available to the local zoning authorities and will set forth the effects on aviation of any proposed object that would constitute an obstruction under Subpart C of FAR Part 77. This information can then be considered by the Board of Adjustment when processing applications for variances.

6. AIRPORT ZONING ORDINANCE MAP.

a. Attached to the airport zoning ordinance and made a part thereof is the airport zoning map. The airport zoning map is similar for all types of airports and heliports, and must be compiled from the criteria in Subpart C of FAR Part 77 as reflected in the Ordinance. A typical example of this zoning map was reduced in size for printing in this publication (see appendix 4).

b. The airport zoning map is of the area affected by the airport zoning ordinance and shows the layout of the runways, the airport boundaries, the airport elevation, and the area topography. The map should also set forth the various zones with the applicable height limitations for each as described in the body of the ordinance. The zoning map should contain a method of land identification, as typical in different areas of the country, such as section, township and range, block and lot, or metes and bounds. This map should also depict other identifying geographic objects such as streams, rivers, railroads, roads, and streets. By using a map with this amount of detail, in conjunction with the text of an ordinance, a property owner should, without undue difficulty, be able to determine not only the location of his property, but also the height limitations imposed thereon by the ordinance.

c. Adequate topographic maps may be available from local government sources. Standard topographic maps (quadrangle maps) are available from the U. S. Geological Survey. Maps should be ordered from the Distribution Branch, U. S. Geological Survey, P. O. Box 25286, Federal Center, Denver, Colorado 80225.

d. Many state agencies also make topographic maps available. In the absence of contour topographic data, land evaluation source data may be available from bench marks, railroads, highways, or local project surveys. Contour data on zoning maps should be shown to the extent reasonably available or required locally to support the ordinance.

7. BOARD OF ADJUSTMENT. The model ordinance provides for the creation of a Board of Adjustment to hear appeals, to hear and decide special exemptions, and to hear and decide special variances. Provision is also made for judicial review of decisions of the Board of Adjustment. Such review and appeal procedures are intended to conform to applicable constitutional requirements.

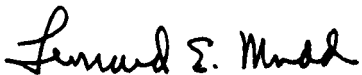
8. GENERAL INSTRUCTIONS FOR USING THE MODEL ZONING ORDINANCE.

a. The model zoning ordinance may be used as a guide for developing airport zoning ordinances to limit the height of objects that may interfere with the operation of a civil airport or heliport. The blank spaces should be filled in with appropriate **data** as noted.

b. It is not necessary that all material set forth in the model ordinance be used for all airport zoning ordinances. For example, if the airport to be zoned is a utility airport with no precision or nonprecision instrument runways existing or planned, those definitions and paragraphs referring to precision or nonprecision instrument runways or larger than utility runways may be omitted, (see appendix 2). However, if the airport changes to a larger than utility airport or receives instrument approach procedures, the ordinance should be amended to provide for the changes.

c. Section III should only include the airport zones applicable to the airport being zoned. An approach zone is applied to each end of each runway based upon the type of approach available or planned for that runway end. The most precise type of approach, existing or planned, for either end of the runway determines the primary surface width. Heliports do not have horizontal or conical zones. Other zones to accommodate the areas covered in FAR Par 77.23(a)(2) and (3) may be added.

d. Examples of several airport-type ordinances are included in the appendices for guidance.



LEONARDE.MUDD
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APPENDIX 1. MODEL ZONING ORDINANCE TO LIMIT HEIGHT
OF OBJECTS AROUND AN AIRPORT 1/

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE _____ 2/ BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE _____ 2/ ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES. 1/.

This Ordinance is adopted pursuant to the authority conferred by _____ 3/. It is hereby found that an obstruction has the potential for **endangering** the lives and property of users of _____ 2/, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of _____ 2/; and that an obstruction may reduce the size of areas **available** for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of _____ 2/ and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by _____ 2/;
- (2) ~~that~~ it is necessary in the interest of the public health, public safety, and general welfare _____ 4/ that the creation or establishment of obstructions that are a hazard to air navigation be **prevented**; and
- (3) that the prevention of these obstructions should **be** accomplished, to the extent legally possible, by the exercise of the police power without compensation.

1/ This title should be written to meet the usages and legal requirements of your state, and the political subdivision.

2/ Insert the name of the airport being zoned by the Ordinance.

3/ This citation should be made to conform to the usual method of citing your state laws.

4/ If other terms are commonly used **by** the courts of your state in defining the limits of police power, such as "convenience" or "prosperity," they should be added here.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY _____ 5/ as follows:

SECTION I: SHORT TITLE

This Ordinance shall be known and may be cited as _ 2/ Zoning Ordinance.

SECTION II: DEFINITIONS

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

1. AIRPORT - _____ 2/.
2. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from sea level.
3. 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 Section IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are set forth in Section III of this Ordinance.
5. BOARD OF ADJUSTMENT - A Board consisting of _ 6/ members appointed by the _ 6/ as provided in _ 6/.
6. CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 or a horizontal distance of 4,000 feet.
7. HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

5/ A form of enacting clause commonly used by the political subdivision in adopting ordinances should be followed.

6/ Insert the number of members appointed to the Board of Adjustment, the appointing body, and the enabling legislation authorizing same.

8. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. HELIPORT PRIMARY SURFACE - The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.
10. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
11. 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.
12. NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
13. NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
14. OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.
15. 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.
16. PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
17. PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface

is the same as the elevation of the nearest point on the runway centerline.

18. RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.
19. STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
20. TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the aides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces 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.
21. TREE - Any object of natural growth.
22. 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.
23. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

SECTION III: AIRPORT ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surface, transitional surfaces, horizontal surface, and conical surfaces as they apply to - 2/. Such zones are shown on - 2/ Zoning map consisting of ___ sheets, prepared by ___, and dated ___ 19 ___, which is attached to this Ordinance and made a part hereof. An area located in more than one (1) 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. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is ___ 7/ feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

7/ Insert dimension as set forth in FAR Part 77. Where more than one dimension is applicable, insert dimension identified to the appropriate runway involved.

2. Utility Runway 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 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 7/ 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.
4. 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 7/ 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 of the runway.
5. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument 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 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
6. 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.
7. Heliport Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 8/ feet wide. The approach zone expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface.
8. Transitional Zones - The transitional zones are the **areas** beneath the transitional surfaces.

8/ The size of the heliport primary surface must be based on present and future heliport operations.

9. Heliport Transitional Zones - These zones extend outward from the sides of the primary surface and the heliport approach zones a horizontal distance of 250 feet from the primary surface centerline and the heliport approach zone centerline.
10. Horizontal Zone - The horizontal zone is established by **swinging arcs** of 9/ feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
11. 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.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

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

1. Utility Runway Visual Approach Zone - Slopes twenty (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.
2. Utility Runway Nonprecision Instrument Approach Zone - Slopes twenty (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.
3. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (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.
4. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four (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.

9/ The radius of arc is:

- a) 5,000 feet for all runways designated **utility** or **visual**,
- b) **10,000** feet for **all** others.

The radius of the arcs for each end of the runway shall **be the same**.
The radius used shall be the longest determined for either end.

5. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four **(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.
6. Precision Instrument Runway Approach Zone - Slopes fifty **(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 forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
7. Helicopter Approach Zone - Slopes eight **(8)** feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the helicopter approach zone centerline.
- a. Transitional Zones - Slope seven **(7)** 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 airport elevation which is ___ feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven **(7)** feet outward for each foot upward beginning at the sides of and at 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 **(7)** feet outward for each foot upward beginning at the sides of and at 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.
9. Helicopter Transitional Zones - Slope two (2) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the helicopter approach zones and extending a distance of 250 feet measured horizontally from and at 90 degree angles to the primary surface centerline and helicopter approach zones centerline.
10. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of ___ feet above mean sea level.
11. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of **350** feet above the airport elevation.

12. Excepted Height Limitations - Nothing in this Ordinance shall **be con-** strued as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to _____ 10/ feet above the surface of the land.

SECTION V: USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use **may be made** of land or water within 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, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

SECTION VI: NONCONFORMING USES

1. Regulations Not Retroactive - 'The regulations prescribed **by** this Ordinance 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 Ordinance, or otherwise interfere with the continuance of 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 Ordinance, and is diligently prosecuted.
2. 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 _ 11/ to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall **be** installed, operated, and maintained at the expense of the _ 12/.

10/ The adoption of height limits should **be** reasonable and **based on land** use considerations in the vicinity of the airport and the nature of the area to **be** zoned. The adoption of height limits should not **be so low as** to constitute a taking of private property without due process of law.

11/ Insert the title of the appropriate official who has been charged with the responsibility for determining the necessity for marking and lighting.

12/ Insert the name of the appropriate political body or subdivision.

SECTION VII: PERMITS

1. Future Uses - Except as specifically provided in a, b, and c 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 Ordinance shall be granted unless a variance has been approved in accordance with Section VII, 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 seventy-five 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 seventy-five 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 seventy-five feet of 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 Ordinance except as set forth in Section IV, 12.

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 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 _ 13/ determines that a nonconforming tree or structure 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.

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 Ordinance, 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 shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and 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 Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the _ 14/ for advice as to the aeronautical effects of the variance. If the _ 14/ does not respond to the application within fifteen (15) 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 Ordinance 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 owner to permit the _ 12/ at its own expense, to install, operate, and maintain the necessary markings and lights.

13/ Insert here the title of the appropriate official charged with making this determination.

14/ Insert here the official or body responsible for operation and maintenance of the airport to be zoned.

SECTION VIII: ENFORCEMENT

It shall be the duty of the ___ 15/ to administer and enforce the regulations prescribed herein. **Applications for** permits and variances shall be made to the ___ 15/ upon a form published for that purpose. Applications required by this Ordinance to be submitted to the ___ 15/ shall be promptly considered and granted or denied. Application for **action by** the Board of Adjustment shall be forthwith transmitted by the ___ 15/.

SECTION IX: 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 ___ 15/ in the enforcement of this Ordinance; (2) to hear and **decide special** exceptions to the terms of this Ordinance upon which such 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 ___ members appointed by the ___ 12/ and each shall serve for a term of ___ years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of ___ year, ___ for a term of ___ years, and ___ for a term of ___ 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 Ordinance. 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 ___ 15/ 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 Ordinance.

15/ Insert here the title of the appropriate official, such as Director, Department of Public Works, etc.

5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the ___ 15/ or decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

SECTION X: APPEALS

1. Any person aggrieved, or any taxpayer affected, by any decision of the _ 15/ made in the administration of the Ordinance, 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 ___ 15/ a notice of appeal specifying the grounds thereof. The _ 15/ 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 _ 15/ 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 _ 15/ cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the _ 15/ 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 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 may be appropriate under the circumstances.

SECTION XI: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of ___ as provided in Section ___ of Chapter ___ of the Public Laws of _ 16/.

16/ Insert the jurisdiction. Consideration should be given the desirability of setting forth this procedure here, or as an alternative attaching to all copies of this Ordinance, a copy of excerpts from the statute cited.

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Appendix 1

SECTION XII: PENALTIES

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than _____ dollars or imprisonment for not more than _____ days or both; and **each day** a violation continues to exist shall **constitute a** separate offense.

SECTION XIII: 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 XIV: 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 XV: EFFECTIVE DATE

WHEREAS, the **immediate** operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare, an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage **by** the _____ and publication and posting as required **by law**.
Adopted by the _____ this _____ day of _____, 19__.

APPENDIX 2. SAMPLE ORDINANCE FOR UTILITY-TYPE
AIRPORT WITHOUT INSTRUMENT PROCEDURES

ZONING ORDINANCE TO LIMIT HEIGHT OF OBJECTS AROUND AIRVILLE AIRPORT

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE AIRVILLE AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE AIRVILLE AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

This Ordinance is adopted pursuant to the authority conferred by Chapter 333 of the Laws of the State of xxxxx. It is hereby found that an obstruction has the potential for endangering the lives and property of users of Airville Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Airville Airport; and that an obstruction may reduce the size of areas **available** for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the **utility** of Airville Airport and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of **being** a public nuisance and may injure the region served by Airville Airport;
- (2) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- (3) that the prevention of these obstructions should **be** accomplished, to the **extent** legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political **subdivision may** raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN COUNTY, XXXX, AS FOLLOWS:

SECTION I: SHORT TITLE

This Ordinance shall **be** known and may be cited as Airville Airport Zoning Ordinance.

SECTION'II: DEFINITIONS

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

1. AIRPORT - Means Airville Airport.
2. AIRPORT ELEVATION - 100 feet **above** mean sea level.
3. 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 Section IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are set forth in Section III of this Ordinance.
3. BOARD OF ADJUSTMENT - A board consisting of 3 members appointed **by** the Board of County Commissioners of Indian County as provided for in Chapter 33 of the Laws of the **State** of xxxxx.
6. 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.
7. HAZARD TO AIR NAVIGATION - An obstruction determined to have a **substantial** adverse effect on the safe and efficient utilization of the navigable airspace.
8. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the **datum** shall **be** mean sea level elevation unless otherwise specified.
9. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
10. NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
11. OBSTRUCTION - Any structure, growth, or other object, including a **mobile object**, which exceeds a limiting height set forth in Section IV of this Ordinance.

12. 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.
13. PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
14. RUNWAY - A defined area on an airport prepared for landing and **take-off** of aircraft along its length.
15. STRUCTURE - An **object, including a mobile** object, constructed or installed **by** man, including **but** without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
16. TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to *where* they intersect the horizontal and conical surfaces
17. TREE - Any **object** of natural growth.
18. 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.
19. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

SECTION III: AIRPORT ZONES

In order to carry **out** the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Airville Airport. Such zones are shown on the Airville Airport Zoning Map consisting of one sheet, prepared **by** the Department of Public Works and dated August 1, 1975, which

is attached to this Ordinance and made a part hereof. An area located in more than one (1) 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. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward **uniformly** to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
3. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by **drawing** lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
4. 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.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

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

1. Utility Runway Visual Approach Zone - Slopes twenty (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.
2. Transitional Zones - Slope seven (7) 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 airport elevation which is 100 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
3. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 250 feet above mean sea level.

4. Conical Zone - Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
5. Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

SECTION V: USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within 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, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

SECTION VI: NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed by this Ordinance 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 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 structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
2. 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 Director, Department of Public Works, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Indian County Department of Public Works .

SECTION VII: PERMITS

1. Future Uses - Except as specifically provided in a, b, and c 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 Ordinance shall be granted unless a variance has been approved in accordance with Section VII, 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 seventy-five 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 seventy-five 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 seventy-five feet of 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 Ordinance except as set forth in Section IV,5.

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 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 Director, Department of Public Works, determines that a nonconforming tree or structure 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.

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 Ordinance, 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 shall **be allowed** where it is **duly** found that a literal application or enforcement of the regulations will result in unnecessary hardship and 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 Ordinance. Additionally, no application for variance to the requirements of this Ordinance may **be** considered **by** the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 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 Ordinance 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 owner to permit the Indian County Department of Public Works, at its own expense, to install, operate, and maintain the necessary markings and lights.

SECTION VIII: ENFORCEMENT

It shall **be** the duty of the Director, Department of Public Works, to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Director, Department of Public Works upon a form published for that purpose. Applications required **by** this Ordinance to be submitted to the Director, Department of Public Works, shall **be** promptly considered and granted or denied. Application for action **by** the Board of Adjustment shall be forthwith transmitted **by** the Director, Department of Public Works.

SECTION IX: 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 Director, Department of Public **Works**, in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such 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 Board of County Commissioners 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 Ordinance. 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 action, all of which shall immediately be filed in the office of 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 Ordinance.
5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Director, Department of Public Works, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

SECTION X: APPEALS

1. Any person aggrieved, or any taxpayer affected, by any decision of the Director, Department of Public Works, made in the administration of the Ordinance, 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 Director, Department of Public Works, a notice of appeal specifying the grounds thereof. The Director, Department of Public Works, 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 Director, Department of Public Works, 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 Director, Department of Public Works 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 Director, Department of Public Works, 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 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 may be appropriate under the circumstances.

SECTION XI: 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 Section 333.111 of Chapter 333 of the Public Laws of the State of xxxxx.

SECTION XII: PENALTIES

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than 500 dollars or imprisonment for not more than 180 days or both; and each day a violation continues to exist shall constitute a separate offense.

SECTION XIII: 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 XIV: 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 XV: EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare, an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Indian County Board of Commissioners and publication and posting as required by law. Adopted by the Indian County Board of Commissioners this 12th day of October, 1975.

APPENDIX 3. SAMPLE ORDINANCE FOR LARGER THAN UTILITY
TYPE AIRPORT WITH INSTRUMENT APPROACHES

ZONING ORDINANCE TO LIMIT HEIGHT OF OBJECTS AROUND AIRVILLE AIRPORT

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE AIRVILLE AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE AIRVILLE AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

This Ordinance is adopted pursuant to the authority conferred by Chapter 49 of **Statutes** of the **State** of xxxxx. It is hereby found that an obstruction has the potential for endangering the lives and property of users of Airville Airport, and property or occupants of land in its vicinity; that an **obstruction** may affect existing and future instrument approach minimums of Airville Airport; and that an **obstruction** may reduce the size of areas available for the **landing**, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Airville Airport and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of **being** a public nuisance and may injure the region served by Airville Airport;
- (2) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation **be** prevented; and
- (3) that the prevention of these obstructions should **be** accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY THE CITY COUNCIL OR AIRVILLE, XXXXX, AS FOLLOWS:

SECTION I: SHORT TITLE

This Ordinance shall **be** known and may **be** cited as Airville Airport Zoning Ordinance.

SECTION II: DEFINITIONS

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

1. AIRPORT - Means Airville Airport.
2. AIRPORT ELEVATION - 100 feet above mean sea level.
3. 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 Section IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are set forth in Section III of this Ordinance.
5. BOARD OF ADJUSTMENT - A board consisting of 3 members appointed by the City Council as provided in Chapter 12 of the Laws of the State of xxxxx.
6. 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.
7. HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial **adverse** effect on the safe and efficient utilization of the navigable airspace.
8. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall **be** mean sea level elevation unless otherwise specified.
9. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
10. 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.
11. NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

12. NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
13. OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which **exceeds** a limiting height set forth in Section IV of this Ordinance.
14. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
15. PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure **utilizing** an Instrument Landing System (ILS) or a Precision Approach Radar (FAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
16. PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
17. RUNWAY - A defined area on an airport prepared for landing and **take-off** of aircraft along its length.
18. STRUCTURE - An **object**, including a mobile **object**, constructed or installed **by** man, including **but** without limitation, buildings, towers, cranes, **smokestacks**, earth formation, and overhead transmission lines.
19. TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) 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 surfaces 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.
20. TREE - Any **object** of natural growth.

21. **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.
22. **VISUAL RUNWAY** - A runway intended solely for the operation of aircraft using visual approach procedures.

SECTION III: AIRPORT ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Airville Airport. Such zones are shown on Airville Airport Zoning Map consisting of one sheet, prepared by the Department of Public Works, dated September 1, 1975, which is attached to this Ordinance and made a part hereof. 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. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Utility Runway 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 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. 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.
4. 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 of the runway.

5. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument 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 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- b. 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.
7. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
8. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
9. 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.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance 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 question as follows:

1. Utility Runway Visual Approach Zone - Slopes twenty (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.
2. Utility Runway Nonprecision Instrument Approach Zone - Slopes twenty (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.
3. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (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.

4. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four **(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.
5. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four **(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.
6. Precision Instrument Runway Approach Zone - Slopes fifty **(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 forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
7. Transitional Zones - Slope seven (7) 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 airport elevation which is 100 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven **(7)** feet outward for each foot upward beginning at the sides of 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 **(7)** 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.
8. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 250 feet above mean sea level.
9. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of **350** feet above the airport elevation.
10. Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to **50** feet above the surface of the land.

SECTION V: USE RESTRICTION

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within 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, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

SECTION VI: NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed in this Ordinance 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 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 structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
2. 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 City Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Airville.

SECTION VII: PERMITS

1. Future Uses - Except as specifically provided in a, b, and c 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 ordinance shall be granted unless a variance has been approved in accordance with Section VII, 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 seventy-five 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 seventy-five 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 seventy-five feet of 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 Ordinance except as set forth in Section IV, 10.

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 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 City Manager determines that a nonconforming tree or structure 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.
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 Ordinance, 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 shall be allowed where it is duly found that a literal application or enforcement of the regulations will

result in unnecessary hardship and 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 Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 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 Ordinance 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 owner to permit the City of Airville, at its own expense, to install, operate, and maintain the necessary markings and lights.

SECTION VIII: ENFORCEMENT

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

SECTION IX: 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 City Manager in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such 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 City 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 Ordinance. 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 City 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 Ordinance.
5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the City Manager or decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

SECTION X: APPEALS

1. Any person aggrieved, or any taxpayer affected, by any decision of the City Manager, made in the administration of the Ordinance, 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 City Manager a notice of appeal specifying the grounds thereof. The City Manager 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 City Manager 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 City Manager 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 City Manager 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 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 may **be** appropriate under the circumstances.

SECTION XI: 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 Section III of Chapter 12 of the Public **Laws** of the **State** of xxxxx.

SECTION XII: PENALTIES

Each violation of this Ordinance or of any regulation, order, **or** ruling promulgated hereunder shall constitute a misdemeanor and be punishable **by** a fine of not more than 500 dollars or imprisonment for not more than 180 days or both; and each day a violation continues to exist shall constitute a separate offense.

SECTION XIII: 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 XIV: 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 XV: EFFECTIVE DATE

WHEREAS, the **immediate** operation of the provisions of this Ordinance is necessary for the preservation of the public health, **public** safety, and general welfare, an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage **by** the City Council and publication and posting as required **by law**.
Adopted by the City Council this 12th day of October, 1975.