**MODEL ZONING ORDINANCE**

**TO LIMIT THE HEIGHT OF OBJECTS AROUND THE AIRPORT (includes heliports)**

**SECTION 1: SHORT TITLE AND DESCRIPTION**

* 1. Title – This Ordinance shall be known and may be cited as the (Airport Name) Airport Zoning Ordinance.
	2. Description – An ordinance regulating and restricting the height to which structures may be erected or the height of objects of natural growth and otherwise regulating the use of property in the vicinity of Airport Name by creating the appropriate zones and establishing boundaries thereof: providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ height limitation and zoning district map, which is incorporated in and made part of this ordinance; providing for enforcement; establishing a zoning hearing board; and imposing penalties.

**SECTION 2: DECLARATION OF POLICY**

This Ordinance is adopted pursuant to the authority conferred by Local Governmental Entity with Zoning Authority.

It is hereby found that an obstruction has the potential for endangering the lives and property of users of Airport Name and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Airport Name; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to diminish or impair the utility of the 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 Airport Name;
	2. That it is necessary in the interest of public health, 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 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 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 AND ENACTED BY Local Governmental Entity with Zoning Authority as follows:

**SECTION 3: GENERAL DEFINITIONS**

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ORDINANCE SHALL HAVE THE MEANING GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

* 1. AIRCRAFT – Any contrivance, except an unpowered hang glider or parachute, used for manned ascent into or flight through the air.

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* 1. AIRPORT – Any area of land or water that is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas that are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon.
	2. AIRSPACE HAZARD – Any structure, tree, object or use of land that obstructs the airspace or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport or heliport.
	3. AIRPORT ELEVATION – The highest point of an airport’s useable landing area measured in feet above sea level.
	4. 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 surface zone height limitation slope set forth in Section 5 of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach surface zone.
	5. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL SURFACE ZONES – These zones are set forth in Section 4 of this Ordinance.
	6. BOARD OF APPEALS OR ADJUSTMENT – A Board appointed by the authority adopting these regulations. The numbers of members, powers, governing rules, etc., of the Board are set forth in Section 10 of this Ordinance.
	7. 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.
	8. DEPARTURE SURFACE – A surface longitudinally centered on the extended runway centerline, extending outward and upward from the runway end at the sample slope set forth by the departure surface zone height limitations in Section 5 of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the departure surface zone. *(Optional: departure surfaces are not included in FAR Part 77 and are not typically included in State regulations. They are surfaces defined by the FAA to protect aircraft departing in instrument flight rule conditions and may be more restrictive than other surfaces at some airports.)*
	9. FAA – Federal Aviation Administration of the United States Department of Transportation.
	10. HAZARD TO AIR NAVIGATION – An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
	11. 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.
	12. 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.
	13. 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 surface zone.
	14. LARGER THAN UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller-driven and jet-powered aircraft of greater than 12,500 pounds maximum gross weight.
	15. NONCONFORMING USE – Any pre-existing structure, object of natural growth, or use of land that is inconsistent with the provisions of this Ordinance or an amendment thereto.
	16. NON-PRECISION 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 non-precision instrument approach procedure has been approved or planned.
	17. OBSTRUCTION – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 5 of this Ordinance.
	18. 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 these.
	19. PRECISION INSTRUMENT RUNWAY – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or area type navigation with similar approach minimums as an ILS. It also means a runway for which a precision approach system is planned or approved.
	20. 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 4 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.
	21. RUNWAY – A defined area on an airport prepared for landing and takeoff of aircraft along its length.
	22. STRUCTURE – An object, including a mobile object, constructed or installed by man, including but not limited to, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

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* 1. 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 that 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.
	2. TREE – Any object of natural growth.
	3. UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.
	4. VISUAL RUNWAY – A runway intended solely for the operation of aircraft using visual approach procedures.

**SECTION 4: AIRPORT SURFACE 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 Airport Name. Such zones are shown on the Airport Name Height Limitation and Zoning District Map, prepared by Map Preparer, and dated \_\_\_\_\_\_\_\_\_, 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, with the height limitations defined in Section 5.

* 1. Utility Runway Visual Approach Surface Zone – Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface, which is 250 feet wide or the width of the primary surface correlating to the other runway end if wider. The 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 Non-precision Instrument Approach Surface Zone – Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface, which is 500 feet wide or the width of the primary surface correlating to the other runway end if wider. The 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 runway centerline.
	3. Runway Larger than Utility Visual Approach Surface Zone – Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface, which is 500 feet wide or the width of the primary surface correlating to the other runway end if wider. The 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 ¾ Mile Non-precision Instrument Approach Surface Zone – Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface, which is 500 feet wide or the width of the primary surface correlating to the other runway end if wider. The 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 ¾ Mile Non-precision Instrument Approach Surface Zone – Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 1,000 feet wide. The 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 Surface Zone – Established beneath the precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 1,000 feet wide. The 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.

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* 1. Heliport Approach Zone – The inner edge of the approach zone coincides with the width of the primary surface. The approach zone expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface.
	2. Departure Surface Zone – Established beneath the departure surface. This zone commences at the end of the runway. The inner edge of this zone is 1,000 feet wide. The zone expands outward uniformly to a width of 6,466 feet at a horizontal distance of 10,200 feet from the runway end. Its centerline is the continuation of the centerline of the runway. *(Optional: departure surfaces are not included in FAR Part 77 and are not typically included in State regulations. They are surfaces defined by the FAA to protect aircraft departing in instrument flight rule conditions and may be more restrictive than other surfaces at some airports.)*
	3. Transitional Surface Zones – Established beneath the transitional surfaces adjacent to each runway and approach surface as indicated on the Height Limitation and Zoning District Map.
	4. 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.
	5. Horizontal Surface Zone – Established beneath the horizontal surface, 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet radii for utility and visual runways and 10,000 feet radii for all other runways 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 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. The horizontal surface zone does not include the approach surface and transitional surface zones.
	6. Conical Surface Zone – Established beneath the conical surface. This zone commences at the periphery of the horizontal surface and extends outward there from a horizontal distance of 4,000 feet.

**SECTION 5: AIRPORT SURFACE 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 Surface 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 Non-precision Instrument Approach Surface 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 Surface 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 ¾ Mile Non-precision Instrument Approach Surface 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 ¾ Mile Non-precision Instrument Approach Surface 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 Surface 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. Heliport 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 heliport approach zone centerline.
	8. Runway Departure Surface Zone – Slopes forty (40) feet outward for each foot upward beginning at the end of the runway and at the runway end elevation and extending to a horizontal distance of 10,200 feet along the extended runway centerline. *(Optional: departure surfaces are not included in 14 CFR Part 77 and are not typically included in State regulations. They are surfaces defined by the FAA to protect aircraft departing in instrument flight rule conditions and may be more restrictive than other surfaces at some airports.)*
	9. Transitional Surface Zones – Slopes 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 (insert associated elevation for airport above mean sea level). In addition to the foregoing, when an airport has a precision instrument runway approach 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 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 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.
	10. Heliport Transitional Zones – Slopes two (2) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of 250 feet measured horizontally from and at 90-degree angles to the primary surface centerline and heliport approach zones centerline.
	11. Horizontal Surface Zone – Established at 150 feet above the established airport elevation (insert associated horizontal surface height for airport above mean sea level).
	12. Conical Surface Zone – Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal surface and at 150 feet above the established airport elevation and extending to a height of 350 feet above the established airport elevation (insert associated conical surface height for airport above mean sea level).
	13. 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 feet above the surface of the land. (*The adoption of height limits should be reasonable and based on land use consideration in the vicinity of the airport and the nature of the area to be zoned. The height limits adopted should not be so low as to constitute a taking of private property without due process of law.*)

**SECTION 6: AIRPORT ZONING REQUIREMENTS**

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 the 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 7: 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 any nonconforming use, except as provided in Section 8 (relating to permits and variances). 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 executed.
	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 or nearby of such markers and lights as shall be deemed necessary by the (Federal Aviation Administration, State aeronautics agency and/or airport sponsor) 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 (typically airport sponsor).

**SECTION 8: PERMITS AND VARIANCES**

8.1 Future Uses – Except as specifically provided in a, b, or c hereunder, no material change shall be made in the use of erected or otherwise established structures, and no tree shall be planted in any zone hereby created unless a permit therefore 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 allow 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 Subsection 8.4 of this section.

* + 1. 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 (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
		2. 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 (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.
		3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic feature 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 that no permit is required to make maintenance repairs to or to replace parts of existing structures that do not enlarge or increase the height of an existing structure.

8.2 Existing Uses – Before any nonconforming structure may be replaced, substantially altered, or rebuilt, or tree allowed to grow higher or be replanted, a permit must be secured from the municipality authorizing the replacement or change. No permit shall be granted that would allow the establishment or creation of an obstruction or allow 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.

* 1. Nonconforming Uses Abandoned or Destroyed – Whenever the (airport sponsor) determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, has physically deteriorated, or has decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this Ordinance.
	2. Variance – Any person desiring to erect any structure, increase the height of any structure, permit the growth of any object of natural growth, or otherwise use his property in violation of airport zoning regulations may apply to the Board of Adjustment for a variance from the zoning regulations in question. A variance shall only be granted after the requirements of Section 8 are satisfied. A variance may be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and would be in accordance with the spirit of the regulations and this Ordinance. Any variance may be granted subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this Ordinance. The application for variance shall be accompanied by a determination from the FAA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for variance to the requirements of the Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the airport manager (or person of equivalent description) for advice as to the aeronautical effects of the variance. If the airport manager (or person of equivalent description) does not respond to the application within fifteen (15) working days after receipt, the Board of Adjustment may act without such input to grant or deny said application.
	3. Obstruction Marking and Lighting – In granting any permit or variance under this section, the Board shall, if it deems the action advisable to effectuate the purpose of this Ordinance and reasonable under the circumstances, condition the permit or variance as to require the owner of the structure or object of natural growth in question to allow the airport sponsor, at its own expense, or to require the person or persons requesting the permit or variance, to install, operate, and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the FAA.

**SECTION 9: ENFORCEMENT/NOTICE**

* 1. Local Enforcement – It shall be the duty of the (identify appropriate entity, such as airport manager/director) to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the (insert appropriate entity) upon a form published for that purpose. Applications required by this Ordinance to be submitted to the (insert appropriate entity) shall be promptly considered and granted or denied.
	2. Application for action by the Board of Adjustment shall be forthwith transmitted by the (insert name of entity to receive application).

**SECTION 10: BOARD OF ADJUSTMENT** (or name of local body)

10.1 Powers – There is hereby created a Board of Adjustment to have and exercise the following powers: to hear and decide appeals from any order, requirement, decision, or determination made by the (insert appropriate entity) 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.

10.2 Creation/Members/Removal – *Where a zoning board of appeals or adjustment already exists, it may be appointed as the Board of Adjustment. Otherwise,* The Board shall consist of \_\_\_ members, each to be appointed for a term of \_\_\_\_ years by the authority adopting the regulations and to be removable by the appointing authority, for cause, upon written charges and after a public hearing.

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* 1. Governing Rules – 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. For conduct of any hearing or taking of any action, a quorum shall not be less than a majority of all members. 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 (insert appropriate entity) and due cause shown.
	2. Findings of Fact/Conclusions of Law – 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 that comes before it under the provisions of this Ordinance.
	3. Voting – 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 (title of appropriate entity) 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 11: APPEALS**

* 1. Right of Appeal – Any person aggrieved or taxpayer affected by any decision of the municipality or joint zoning hearing board may appeal to the Board of Adjustment as provided by law.
	2. Reasonable Time Requirement – All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment. The Board 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.
	3. Stay of Proceedings – An appeal shall stay all proceedings in furtherance of the action appealed from unless the municipality or Joint Zoning Hearing Board certifies to the Board, after the notice of appeal has been filed with it, that, by reason of the facts stated in the certificate, a stay would in its opinion cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the Board or notice to the municipality or joint zoning appeal board.
	4. Power to Reverse, Affirm, or Modify Orders – 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 12: ACQUISITION OF AIR RIGHTS**

In any case in which it is desired to remove, lower, or otherwise terminate a nonconforming structure or use, or the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations, or it appears advisable that the necessary approach protection be provided by acquisition of property rights, rather than by airport zoning regulations, the municipality within which the property or nonconforming use is located, or the municipality or municipal authority owning the airport or served by it, may acquire by purchase, grant, or condemnation, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such air rights, aviation easement, or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purpose of this Ordinance. In the case of the purchase of any property or any easement or estate, or interest therein, or the acquisition thereof by the power of eminent domain, the municipality making the purchase or exercising the power shall, in addition to the damages for the taking, injury, or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility that is required to be moved to a new location.

**SECTION 13: RELATION TO OTHER ZONING REGULATIONS**

* 1. Incorporation – In the event that a municipality has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of the comprehensive zoning regulations and be administered and enforced in connection therewith.
	2. Conflicts – In the event of conflict between any airport zoning regulations adopted under this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether the other regulations were adopted by the municipality that adopted the airport zoning regulations or by some other municipality or otherwise, the more stringent limitation or requirement shall govern and prevail.

**SECTION 14: JUDICIAL REVIEW**

Any person aggrieved or any taxpayer affected by any decision of the Board of Adjustment may appeal to (name of court) as provided by law. In cases where applicable law does not provide an appeal from a municipality to a Board, a person or taxpayer may appeal from a decision of a municipality or joint airport zoning board, as provided by law for similar zoning proceedings.

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**SECTION 15: 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 that can be given effect without the invalid provisions of this Ordinance.

**SECTION 16: INTERPRETATION OF LANGUAGE AND CAPTIONS**

* 1. Use of Language – Words of any gender used in the Ordinance shall be held and construed to include any other gender, and words in the singular shall be used to include the plural, unless the context otherwise requires.
	2. Use of Captions – The captions or headings of sections in this Ordinance are inserted for convenience only and shall not be considered in construing the provisions herein if any question of intent should arise.

**SECTION 17: ADOPTION**

Effective Date – WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of public health, safety, morals, 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 municipality and publication and posting as required.