

Hq-650 by-3A  
AC 150/5190-3

DOT LIBRARY  
10A TECHNICAL UNIT  
800 INDEPENDENT AVENUE  
WASHINGTON, DC 20591

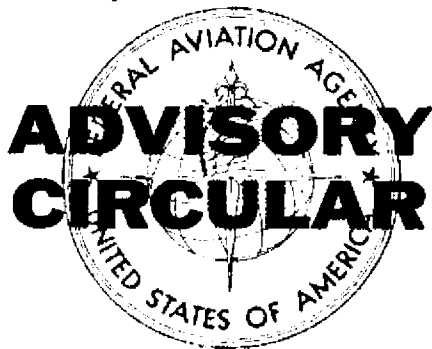
# MODEL AIRPORT ZONING ORDINANCE



1967

FEDERAL AVIATION AGENCY

# Federal Aviation Agency



AC NO: AC 150/5190-3

AIRPORTS

EFFECTIVE :

1/16/67

**SUBJECT : MODEL AIRPORT ZONING ORDINANCE**

1. **PURPOSE.** This Advisory Circular provides a Model Airport Zoning Ordinance. This Model Ordinance is intended merely as a guide and will require modification and revision to meet the varying circumstances and state and local law.
2. **REFERENCE.** Federal Aviation Regulations (FAR), Part 77, Objects Affecting Navigable Airspace. Part 77 establishes standards for determining obstructions in navigable airspace and sets forth the requirements for notice to the Administrator, Federal Aviation Agency (FAA), of certain proposed construction or alteration. This Part also provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace and provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation. It also provides for establishing antenna farm areas. Part 77 applies to any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used therein and, apparatus of a permanent or temporary nature. It also applies to the alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, or lateral dimensions, including equipment or materials used therein.
3. **BACKGROUND.** A purpose of airport zoning is to prevent the creation or establishment of structures or objects of natural growth which would constitute hazards or obstructions to aircraft operating to, from and in the vicinity of a particular airport. An airport zoning ordinance can be an effective method of controlling the height of structures and objects of natural growth and of generally attaining compatibility in the use of property in the immediate vicinity of an airport.

In order to determine what constitutes an obstruction to air navigation, the FAA has developed criteria published as Part 77 of the FARs, effective May 1, 1965. When applied to an actual airport, the criteria

prescribed in this Regulation make it possible to determine, for any location on or adjacent to the airport, the height above which any structure or growth would constitute an obstruction to air navigation.

The amendment to the Federal Airport Act (49 U.S.C. 1110), made by Public Law 88-280, requires airport planning to be reasonably consistent with other plans for the development of the area in which the airport is located if Federal aid to the airport is involved. The amendment also requires that appropriate action, including the adoption of zoning laws, be taken to the extent reasonable, to restrict the use of land in the vicinity of the airport.

The attached Model Ordinance has been prepared as a guide only for conforming a zoning ordinance with Part 77, FAR. This Model is a revised version of the original Model Zoning Ordinance dated November 7, 1944, which was compiled jointly by the Civil Aeronautics Administration and the National Institute of Municipal Law Officers. Basically, it is an updated reprint. Therefore, this Model does not provide guidance for the conformance of zoning to the requirements of P. L. 88-280. Satisfaction of the requirements of P. L. 88-280 is an airport owner obligation.

4. USE OF MODEL ZONING ORDINANCE. An airport zoning ordinance must, of course, conform to the prescribed authority of the particular airport zoning enabling act. The Model Zoning Ordinance, herein offered as an example, is limited to zoning for airports with runways; however, by appropriate change in terminology, it may also be applied to zoning for airports with landing strips. Only terminology applicable to the airport named in an ordinance should be used.

The Model Ordinance defines and provides for the establishment of various zones, prescribing height limitations for each such zone as required for the protection of the airport from the encroachment of obstructions or hazards to aircraft. The areas covered by these zones will vary from airport to airport depending upon, among other things, the size and layout of the airport, the type aircraft using the airport, the elevation of the landing area above sea level, and the nature of the surrounding terrain. The Model Ordinance, therefore, leaves the specific zone measurements to be inserted by the political subdivisions adopting the Ordinance to suit the requirements of its particular airport.

Any height limitations imposed by an airport 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 compensation. Therefore, the zoning ordinance should not purport to impose height limitations in any area where the approach slope is so close

to the ground that the application of criteria prescribed by Part 77 would result in unreasonable or unduly restrictive height limitations. This problem is taken care of in the Model Zoning Ordinance by the establishment of an "excepted height limitation."

The decision as to the excepted height limit to be applied or the distance from the airport at which the height limitations shall commence is one which 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 decision, the political subdivision should use the same procedure as is generally recognized as desirable in preparing comprehensive zoning ordinances.

Areas in the various zones where the applicable height limit is below the excepted height limit prescribed in the ordinance should be protected by the acquisition of title or of a property interest sufficient to insure the required protection.

The personnel of the FAA Regional Office, Airports Division, and Area Offices are available to assist in developing airport zoning regulations through advice as to the application of the criteria established by Part 77 to the particular airport and the desired approach protection.

5. AIRPORT ZONING MAP. Attached to the Model Zoning Ordinance and made a part thereof is a typical airport zoning map, reduced in size for printing. The map attached to the Model Ordinance is a map of the area affected by the airport zoning ordinance showing, among other things, the layout of the runways, the airport reference point, the airport boundaries, the airport elevation, and the topography of the area. The map also sets forth the various zones with the applicable height limitation for each, as described in the body of the ordinance. The hypothetical map contains several methods of land identification, as typical in different areas of the country, such as Section, Township and Range, block and lot, metes and bounds. This map also depicts 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.

Topographic maps of sufficient accuracy and detail may be available from local governmental sources. Suitable topographic map or maps (Quadrangle maps) may be obtained from the United States Department of the Interior, Geological Survey, Washington, D. C. That agency has developed such maps for quite a large number of areas throughout the country. In many of the states, other state agencies have available topographic maps developed by either the state or the United States Geological Survey. In the absence of contour topographic data, land height source data may be available from bench marks, railroads or highway or local project surveys.

However, contour data on a map should be shown to the extent it is reasonable, available and obtainable or required to legally support an ordinance.

6. BOARD OF ADJUSTMENT. The Model Ordinance provides for the creation of a Board of Adjustment to hear appeals from decisions of the municipal official designated to receive applications and issue permits, and also provides for judicial review of decisions of the Board of Adjustment. Such review and appeal procedures are intended to conform to the applicable constitutional requirements.
7. HOW TO GET THIS PUBLICATION. Obtain additional copies of this Circular AC 150/5190-3 , "Model Airport Zoning Ordinance," from the Federal Aviation Agency, Distribution Unit, Hq-438, Washington, D. C. 20553.
8. HOW TO GET FAR, PART 77. Copies of FAR, Part 77, are for sale by the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402, at a price of 35 cents per copy.



Chester G. Bowers  
Director, Airports Service

MODEL AIRPORT ZONING ORDINANCE

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 \_\_\_\_\_ AIRPORT BY CREATING AIRPORT APPROACH ZONES, TRANSITION ZONES, HORIZONTAL ZONE AND CONICAL ZONE, AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE \_\_\_\_\_ AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF APPEALS; AND IMPOSING PENALTIES.<sup>1/</sup>

This Ordinance is adopted pursuant to the authority conferred by \_\_\_\_\_.<sup>2/</sup> It is hereby found that an airport hazard endangers the lives and property of users of \_\_\_\_\_ Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of \_\_\_\_\_ Airport and the public investment therein. Accordingly, it is declared: (1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by \_\_\_\_\_ Airport; (2) that it is necessary in the interest of the public health, public safety and general welfare <sup>3/</sup> that the creation or establishment of airport hazards be prevented, and; (3) that the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY \_\_\_\_\_<sup>4/</sup>  
as follows:

- 
- <sup>1/</sup> This title may need to be revised to meet the usages and legal requirements of your state, and the political subdivision in question.
- <sup>2/</sup> This citation should be made to conform to the usual method of citing your state's laws.
- <sup>3/</sup> If other terms are commonly used by the courts of your state in defining the limits of the police power, such as "convenience" or "prosperity," they should be added here.
- <sup>4/</sup> A form of enacting clause commonly used by the political subdivision in adopting ordinances should be followed.

SECTION I: SHORT TITLE

This Ordinance shall be known and may be cited as "\_\_\_\_\_ Airport Zoning Ordinance."

SECTION II: DEFINITIONS

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

- (1) AIRPORT - Means \_\_\_\_\_ Airport.
- (2) AIRPORT ELEVATION - Means the established elevation of the highest point on the usable landing area.
- (3) AIRPORT HAZARD - Means any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.
- (4) AIRPORT REFERENCE POINT - Means the point established as the approximate geographic center of the airport landing area and so designated.
- (5) BOARD OF ADJUSTMENT - Means a board consisting of \_\_\_\_\_ members appointed by the \_\_\_\_\_ as provided in \_\_\_\_\_<sup>5/</sup>.
- (6) 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.
- (7) INSTRUMENT RUNWAY - Means a runway equipped or to be equipped with a precision electronic navigation aid or landing aid or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.
- (8) LANDING AREA - Means the area of the Airport used for the landing, taking off or taxiing of aircraft.
- (9) NONCONFORMING USE.- Means any pre-existing structure, tree, natural growth or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- (10) NONINSTRUMENT RUNWAY - Means a runway other than an instrument runway.
- (11) PERSON - Means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

---

<sup>5/</sup> Insert the number of members appointed to the Board of Adjustment, the appointing body, and the enabling legislation authorizing same.

- (12) RUNWAY - Means the paved surface of an airport landing strip.
- (13) STRUCTURE - Means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
- (14) TREE - Means any object of natural growth.

### SECTION III: 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 within the instrument approach zones, noninstrument approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on \_\_\_\_\_ Airport Zoning Map consisting of \_\_\_\_\_ sheets, prepared by \_\_\_\_\_, and dated \_\_\_\_\_ 19\_\_\_\_, which is attached to this Ordinance and made a part hereof. The various zones are hereby established and defined as follows:

- (1) INSTRUMENT APPROACH ZONE - An instrument approach zone is established at each end of the instrument runway for instrument landings and takeoffs. The instrument approach zones shall have a width of 1,000 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 16,000 feet at a distance of 50,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.
- (2) NONINSTRUMENT APPROACH ZONE - A noninstrument approach zone is established at each end of all noninstrument runways for noninstrument landings and takeoffs. The noninstrument approach zone shall have a width of \_\_\_\_\_ <sup>6/</sup>feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of \_\_\_\_\_ <sup>6/</sup>feet at a distance of 10,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.
- (3) VFR APPROACH ZONE - A visual flight rules approach zone shall have a width of 200 feet at a distance of 100 feet beyond each end of the runway widening thereafter uniformly to a width of 500 feet at a distance of 3,100 feet beyond each end of the runway.<sup>7/</sup>

---

<sup>6/</sup> The applicable distance in feet must be based on runway lengths as set forth in Section 77.27 of Part 77 of the Federal Aviation Regulations.

<sup>7/</sup> For VFR airports only, see criteria in Part 77, FAR.



- (4) **TRANSITION ZONES\*** - Transition zones are hereby established adjacent to each instrument and noninstrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways have variable widths as shown on the zoning map. Transition zones extend outward from a line \_\_\_\_\_ 6/feet on either side of the centerline of the noninstrument runway, for the length of such runway plus 200 feet on each end; and 500 feet on either side of the centerline of the instrument runway, for the length of such runway plus 200 feet on each end, and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both instrument and noninstrument approach zones for the entire length of the approach zones. These transition zones have variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) feet horizontally to the points where they intersect the surfaces of the horizontal and conical zones. Additionally, transition zones are established adjacent to the instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distance of 5,000 feet measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the centerline of the runway.
- (5) **HORIZONTAL ZONE** - A horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of \_\_\_\_\_ 8/feet. The horizontal zone does not include the instrument and noninstrument approach zones and the transition zones.
- (6) **CONICAL ZONE** - A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of \_\_\_\_\_ 8/feet. The conical zone does not include the instrument approach zones and transition zones.

#### SECTION IV: HEIGHT LIMITATIONS

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

---

8/ The applicable distance in feet must be based on runway length as set forth in Section 77.25 of Part 77 of the Federal Aviation Regulations.

\* Not applicable to VFR airports.

- (1) INSTRUMENT APPROACH ZONE - One (1) foot in height for each fifty (50) 9/feet in horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the instrument runway and extending to a distance of 10,200 feet from the end of the runway; thence one (1) foot in height for each forty (40) feet in horizontal distance to a point 50,200 feet from the end of the runway;
- (2) NONINSTRUMENT APPROACH ZONES - One (1) foot in height for each forty (40) or twenty (20) 9/feet in horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the noninstrument runway and extending to a point 10,200 feet from the end of the runway;
- (3) VFR AIRPORT APPROACH ZONES - One (1) foot in height for each twenty (20) 7/feet in horizontal distance beginning at a point 100 feet from and at the centerline elevation of the end of the runway and extending to a point 3,100 feet from the end of the runway;
- (4) TRANSITION ZONES - One (1) foot in height for each seven (7) feet in horizontal distance beginning at any point        9/feet normal to and at the elevation of the centerline of noninstrument runways, extending 200 feet beyond each end thereof, and 500 feet normal to and at the elevation of the centerline of the instrument runway, extending 200 feet beyond each end thereof, 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 of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the instrument approach zone projects through and beyond the conical zone, a height limit of one (1) foot for each seven (7) feet of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of 5,000 feet from the edge of the instrument approach zone measured normal to the centerline of the runway extended;
- (5) HORIZONTAL ZONE - One hundred fifty (150) feet above the airport elevation or a height of        feet above mean sea level;
- (6) CONICAL ZONE - One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of        10/feet above the airport elevation; and

---

9/ See in this connection Section 77.27 of Part 77.

10/ The number to be inserted here should be the elevation determined by the runway length involved. See Section 77.25 of Part 77.

- (7) EXCEPTED HEIGHT LIMITATIONS - Nothing in this Ordinance shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 11 feet above the surface of the land.

Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

#### SECTION V: USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use may be made of land within any zone established by this Ordinance in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off, or maneuvering of aircraft.

#### SECTION VI: NONCONFORMING USES

(a) Regulations not Retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes 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. Nothing herein contained 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.

(b) Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any 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 12/ to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of 13/.

- 
- 11/ The adoption of height limits should be reasonable and be 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.
- 12/ Insert here the title of the appropriate official who may be charged with the duty for determining the necessity for lighting and marking.
- 13/ Insert here the name of the appropriate political subdivision or body.

## SECTION VII: PERMITS

(a) Future Uses. Except as specifically provided in Paragraphs 1, 2 and 3 hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established 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.

- (1) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.
- (2) In the areas lying within the limits of the instrument and noninstrument approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such instrument or noninstrument approach zone.
- (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet 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, alteration or growth of any structure or tree in excess of any of the height limits established by this Ordinance except as set forth in Section IV.

(b) Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or 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.

(c) Nonconforming Uses Abandoned or Destroyed. Whenever the \_\_\_\_\_  
14/ determines that a nonconforming structure or tree 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.

(d) Variances. Any person desiring to erect or increase the height of  
any structure, or permit the growth of any tree, or use his property, not in  
accordance with the regulations prescribed in this Ordinance, may apply to  
the Board of Adjustment for a variance from such regulations. Such variances  
shall be allowed where it is duly found that a literal application or enforce-  
ment of the regulations would result in practical difficulty or unnecessary  
hardship and the relief granted would not be contrary to the public interest  
but will do substantial justice and be in accordance with the spirit of this  
Ordinance.

(e) Hazard 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 permit the \_\_\_\_\_13/  
at its own expense, to install, operate, and maintain thereon such markers  
and lights as may be necessary to indicate to flyers the presence of an  
airport hazard.

#### 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  
furnished by him. Applications required by this Ordinance to be submitted to  
the \_\_\_\_\_15/ shall be promptly considered and granted or denied by  
him. Applications for action by the Board of Adjustment shall be forthwith  
transmitted by the \_\_\_\_\_15/.

---

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

15/ Insert here the title of the appropriate official, such as Building  
Inspector.

SECTION IX: BOARD OF ADJUSTMENT

(a) 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; (3) to hear and decide specific variances.

(b) The Board of Adjustment shall consist of        members appointed by the 15/ and each shall serve for a term of        years and until his 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.

(c) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. The Chairman, or in his absence the acting chairman, 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 15/ and shall be a public record.

(d) The Board of Adjustment shall make written findings of fact 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.

(e) 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 to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.

## SECTION X: APPEALS

(a) Any person aggrieved, or any taxpayer affected, by any decision of the 15/ made in his administration of this Ordinance, may appeal to the Board of Adjustment.

(b) 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. 15/ shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(c) 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 his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the 15/ and on due cause shown.

(d) 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.

(e) 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/ 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.

## 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 \_\_\_\_\_ or imprisonment for not more than \_\_\_\_\_ days or both such fine and imprisonment, 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, 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 is 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\_\_\_\_.