AC NO: 150/5190-3A
DATE: 19 Sep 72

ADVISORY CIRCULAR

MODEL AIRPORT HAZARD ZONING ORDINANCE

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

Initiated by: AAS-560

AC NO: 150/5190-3A

DATE: 19 Sep 72

ADVISORY CIRCULAR

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

SUBJECT: MODEL AIRPORT HAZARD ZONING ORDINANCE

1. PURPOSE. This advisory circular provides a model airport hazard zoning ordinance for airports. The model ordinance is intended merely as a guide to control manmade and natural hazards to aircraft and will require modifications and revisions to meet the varying circumstances and the state and local laws. This advisory circular does not pre-empt the requirements in Part 77 of the Federal Aviation Regulations.

2. CANCELLATION. AC 150/5190-3, Model Airport Zoning Ordinance, dated 16 January 1967.

3. REFERENCES.

   a. The following FAA publications may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402. Make check or money order payable to the Superintendent of Documents; no c.o.d. orders are accepted.

      (1) Federal Aviation Regulations (FAR), Volume XI, Part 77, Objects Affecting Navigable Airspace ($2.75).

      (2) AC 150/5070-5, Planning the Metropolitan Airport System ($1.25).

      (3) AC 150/5070-6, Airport Master Plans ($1.25).

      (4) AC 150/5390-1A, Heliport Design Guide ($0.75).

   b. Obtain copies of the following publications and additional copies of this advisory circular from the Department of Transportation, Distribution Unit, TAD-484.3, Washington, D. C. 20590.

Initiated by: AAS-560

(1) AC 70/7460-1A, Obstruction Marking and Lighting

(2) AC 150/5050-3, Announcement of a Report Entitled Planning the State Airport System.

(3) AC 150/5300-8, Planning and Design Criteria for Metropolitan STOL Ports.

4. BACKGROUND.

a. The purpose of airport hazard 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 an airport. An airport zoning ordinance can be an effective means 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 the airport.

b. The standards established in FAR Part 77 make it possible to determine, for any location on or adjacent to an airport, the height above which any structure or growth would constitute an obstruction to air navigation.

c. The Airport and Airway Development Act of 1970, Public Law 91-258, enacted 21 May 1970,requires airport planning to be consistent with other plans for the development of the area in which the airport is located if Federal aid for the airport is involved. It also requires that appropriate action, including the adoption of zoning laws, 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.

d. The enclosed Model Ordinance may be used as a guide in preparing a zoning ordinance which protects the airspace described in FAR Part 77, AC 150/5300-8, and AC 150/5390-1A. This Model is a revised version of the original Model Zoning Ordinance dated 7 November 1944.

5. USE OF MODEL ZONING ORDINANCE.

a. An airport hazard zoning ordinance must conform to the prescribed authority of the particular airport zoning enabling act.

b. The Model Ordinance defines and provides for the establishment of various zones and prescribes height limitations for each zone as required to protect the airport from encroachment of obstructions or hazards to aircraft. The areas covered by these zones will vary

from airport to airport depending upon the type, size, and layout of the airport, the type of 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.

c. Any height limitations imposed by an airport hazard 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 FAR 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."

d. The decision as to the excepted height limits to be applied or the distances 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 a decision, the political subdivision should use the same procedures generally recognized as desirable in preparing comprehensive zoning ordinances.

e. 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.

f. The FAA personnel in regional and district offices should be consulted when developing airport zoning regulations as applicable to FAR Part 77, AC 150/5390-1A, and AC 150/5300-8.

6. AIRPORT HAZARD ZONING MAP.

a. Attached to the airport hazard zoning ordinance and made a part thereof is an airport hazard zoning map. The airport hazard zoning map is similar for CTOL (Conventional Take Off Landing) airports, STOL (Short Take Off Landing) ports, and heliports and may be compiled from data in FAR Part 77, AC 150/5390-1A, and AC 150/5300-8. A typical example of the airport hazard zoning map was reduced in size for printing on the last page of this publication.

b. The airport hazard zoning map is of the area affected by the airport hazard zoning ordinance and shows the layout of the runways, the airport boundaries, the airport elevation, and the area topography. The map also sets 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 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.

c. Topographic maps of sufficient accuracy and detail may be available from local governmental sources. Suitable topographic maps (Quadrangle maps) may be obtained from the Washington Distribution Section, United States Geological Survey, 1200 South Eads Street, Arlington, Virginia 22202, and the Denver Distribution Section, United States Geological Survey, Federal Center, Denver, Colorado 80225, for those people living east and west of the Mississippi River, respectively. This agency has developed such maps for a large area throughout the country. Many state agencies have topographic maps available. In the absence of contour topographic data, land height source data may be available from bench marks, railroads, highways, or local project surveys. However, contour data on a map should be shown to the extent it is reasonably available and obtainable or required to legally support the ordinance.

7. 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.

8. GENERAL INSTRUCTIONS FOR USING THE ENCLOSED ZONING ORDINANCE. The enclosed zoning ordinance may be used as a guide for CTOL airports, STOL ports, heliports, or any combination thereof. The blank spaces will be filled in with the appropriate specific instructions shown in Appendix 1, pages 14 and 15. The general instructions emphasize using portions of the enclosed zoning ordinance that apply for a specific airport. The general instructions are as follows:

a. The zoning ordinance will be renumbered as material is deleted and/or added.

b. Material prior to Section I and Section I are satisfactory for any airport type or types.

c. Section II should only define the terms applicable for the specific airport zoning ordinance.

d. Section III should only include the airport zones applicable for the specific airport. Zones in items 1 through 6, 10, 14, and 15 are for CTOL runways. 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, and STOL ports do not have immediately available criteria for horizontal or conical zones. Zones in items 7, 8, 11, and 12 are for heliports. Zones in items 9 and 13 are for STOL runways.

e. Section IV should only include the applicable height limitations for the airport zones used in Section III for a specific airport.

f. Sections V through XV are satisfactory for any airport type or types.

Clyde W. Pace Jr.

CLYDE W. PACE, JR.
Acting Director, Airports Service

AIRPORT HAZARD ZONING ORDINANCE

(See Instruction #1, Page 14)

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 (See Instruction #1, page 14) 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 (See Instruction #1, page 14) ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES. (See Instruction #2, page 14).

This Ordinance is adopted pursuant to the authority conferred by (See Instruction #3, page 14) . It is hereby found that an airport hazard endangers the lives and property of users of (See Instruction #1, page 14) ,and property or occupants of land in its vicinity, and also if the obstruction type, in effect reduces the size of the area available for the landing, takeoff, and manuevering of aircraft, thus tending to destroy or impair the utility of (See Instruction #1, page 14) 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 (See Instruction #1, page 14) .

(2) that it is necessary in the interest of the public health, public safety, and general welfare (See Instruction #4, page 14) 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 subdivision may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY (See Instruction #5, page 14) as follows:

SECTION I: SHORT TITLE

s Ordinance shall be known and may be cited as "(See Instruction #1, e 14) Hazard Zoning Ordinance."

SECTION II: DEFINITIONS

sed in this Ordinance, unless the context otherwise requires:

AIRPORT - The (See Instruction #1, page 14).

AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from mean sea level.

AIRPORT HAZARD - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

STRUCTURE - An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formation, and overhead transmission lines.

TREE - Any object of natural growth.

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.

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.

PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

BOARD OF ADJUSTMENT - A board consisting of (See Instruction #6, page 14) members appointed by the (See Instruction #6, page 14) as provided in (See Instruction #6, page 14).

RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length.

(11) VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service's approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

(12) 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.

(13) 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, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

(14) 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 FAA approved airport layout plan; a military service's approved military airport layout plan; any other FAA planning document, or military service's military airport planning document.

(15) 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; but 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 of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(16) HELIPORT PRIMARY SURFACE - The area of the primary surface coincides in size and shape with the designated landing and takeoff area of a heliport (runway). This surface is a horizontal plane at the elevation of the established heliport elevation.

) STOL PRIMARY SURFACE - An imaginary plane, 300 feet wide, centered on the runway. Its length extends 100 feet beyond each runway end. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

) APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined in (See Instruction #7, page 14).

SECTION III: AIRPORT ZONES

order to carry out the provisions of this Ordinance, there are hereby ated and established certain zones which include all of the land lying hin the approach zones, transitional zones, horizontal zones, and conical es as they apply to a particular airport. Such zones are shown on e Instruction #1, page 14) Hazard Zoning Map consisting of ___ sheets, pared by _____, and dated ___19__ , which is attached to this linance and made a part hereof. An area located in more than one (1) of following zones is considered to be only in the zone with the more trictive height limitation. The various zones are hereby established and ined as follows:

Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is (See Instruction #8, page 14) 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 being the continuation of the centerline of the runway.

Utility Runway Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is (See Instruction #8, page 14) 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 being the continuation of the centerline of the runway.

Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is (See Instruction #8, page 14) 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 being the continuation of the centerline of the runway.

4. Runway Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is (See Instruction #8, page 14) 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 being the continuation of the centerline of the runway.

5. Runway Larger Than Utility With a Visibility Minimum As Low As 3/4 Mile Non-Precision 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 being 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 being the continuation of the centerline of the runway.

7. Heliport Visual Flight Rules (VFR) Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is (See Instruction #9, page 14) 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. Its centerline being the continuation of the centerline of the primary surface.

8. Heliport Instrument Flight Rules (IFR) Approach Zone - The inner edge of of this approach zone coincides with the width of the primary surface and is 300 feet wide. The approach zone expands outward uniformly to a width of 3,400 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the centerline of the primary surface.

9. STOL Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the primary surface and is 300 feet wide. The approach zone expands outward uniformly to a width of 3,400 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.

10. Transitional Zones.- These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward 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 zones for those portions of the precision approach zones 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 zones and at 90 degree angles to the extended runway centerline.

Heliport VFR Transitional Zones - These zones extend outward from the sides of the primary surface and the approach zones a horizontal distance of 250 feet from the primary surface centerline and the extended primary surface centerline.

Heliport IFR Transitional Zones - These zones extend outward from the sides of the primary surface and a portion of the sides of the approach zones a horizontal distance of 350 feet from the primary surface centerline and the extended primary surface centerline.

STOL Precision Instrument Transitional Zones - These zones extend outward from the sides of the primary surfaces a horizontal distance of 400 feet and from a portion of the sides of the approach zones a variable horizontal distance of 400 feet at the primary surface end to zero feet at a horizontal distance of 1,500 feet measured outward along the extended primary surface centerline.

Horizontal Zone - The horizontal zone is hereby established by swinging arcs of (See Instruction #10, page 14) 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.

Conical Zone - The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zones and the transitional zones.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

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

1. Utility Runway Visual Approach Zone - Slopes upward twenty (20) feet horizontally for each foot vertically, 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 Zone - Slopes upward twenty (20) feet horizontally for each foot vertically 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 upward twenty (20) feet horizontally for each foot vertically 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 Non-Precision Instrument Approach Zone - Slopes upward thirty-four (34) feet horizontally for each foot vertically 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 Non-Precision Instrument Approach Zone - Slopes upward thirty-four (34) feet horizontally for each foot vertically 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 upward fifty (50) feet horizontally for each foot vertically 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 VFR Approach Zones - Slopes upward eight (8) feet horizontally for each foot vertically 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 extended primary surface centerline.

8. Heliport IFR Approach Zones - Slopes upward fifteen (15) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface, and extending to a distance of 10,000 feet along the extended primary surface centerline.

STOL Approach Zones - Slopes upward fifteen (15) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface, and extending to a distance of 10,000 feet along the extended runway centerline.

Transitional Zones - Slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, 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 upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, height limits sloping upward and outward seven (7) feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

Heliport VFR Transitional Zones - Slopes upward and outward two (2) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach surfaces, and extending a distance of 250 feet measured horizontally from and at 90 degree angles to the primary surface centerline and extended centerline.

Heliport IFR Transitional Zones - Slopes upward and outward four (4) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and a portion of the sides of the approach surface and extending a distance of 350 feet measured horizontally from and at 90 degree angles to the primary surface centerline and extended centerline.

STOL Transitional Zones - Slopes upward and outward four (4) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and a portion of the sides of the approach surface and extends to an elevation of 100 feet above the primary surface.

Horizontal Zone - One hundred and fifty (150) feet above the airport elevation or a height of _____ feet above mean sea level.

15. Conical Zone - Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

16. 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 (See Instruction #11, page 14) feet above the surface of the land.

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

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 or otherwise in any way create a hazard or endanger 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 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 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 (See Instruction #12, page 15) 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 (See Instruction #13, page 15).

SECTION VII: PERMITS

Future Uses - 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.

(a) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.

(b) Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine 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.

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 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.

Nonconforming Uses Abandoned or Destroyed - Whenever the (See Instruction #14, page 15) 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.

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 enforcement of the regulations would result in practical difficulty or unnecessary hardship and 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.

5. 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 (See Instruction #13, page 15), at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

SECTION VIII: ENFORCEMENT

It shall be the duty of the (See Instruction #15, page 15) to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the (See Instruction #15, page 15) upon a form furnished by him. Applications required by this Ordinance to be submitted to the (See Instruction #15, page 15)shall be promptly considered and granted or denied by him. Application for action by the Board of Adjustment shall be forthwith transmitted by the (See Instruction #15, page 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 (See Instruction #15, page 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 (See Instruction #13, page 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.

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 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 (See Instruction #15, page 15), and on due cause shown.

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.

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 (See Instruction #15, page 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 variation in this Ordinance.

SECTION X: APPEALS

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

All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the (See Instruction #15, page 15) a notice of appeal specifying the grounds thereof. (See Instruction #15, page 15) shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the (See Instruction #15, page 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 (See Instruction #15, page 15), and on due cause shown.

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 provision 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: JUDICAL 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 (See Instruction #16, page 15).

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 __ 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, 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, and 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__.

SPECIFIC INSTRUCTIONS FOR USING THE PRECEDING ZONING ORDINANCE

Insert the name of airport such as Airville Municipal Airport, Heliport, or STOL port, or a combination thereof.

This title may need to be revised to meet the usages and legal requirements of your state, and the political subdivisions in question.

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

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.

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

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

Insert FAR Part 77 for CTOL or heliport runways. Insert AC 150/5390-1A, and AC 150/5300-8 for heliport and STOL port runways, respectively. (Note heliports have two references, and do not have horizontal and conical zones. STOL ports do not have immediately available criteria for horizontal or conical zones.)

The applicable distance in feet must be based on the primary surface width as set forth in FAR Part 77.

The applicable distance in feet must be based on the primary surface width as set forth in the Heliport Design Guide advisory circular (AC 150/5390-1A).

The arc radius is 5,000 feet for all runways designated as utility or visual and 10,000 feet for all others. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway.

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 of determining the necessity for lighting and marking.

13. Insert here the name of the appropriate political subdivision or body.

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.

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.

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
Washington, D.C. 20501

Official Business

POSTAGE AND FEES PAID
FEDERAL AVIATION
ADMINISTRATION
DOT 515

FIRST CLASS