

RAVALLI COUNTY

AIRPORT
AFFECTED
AREA

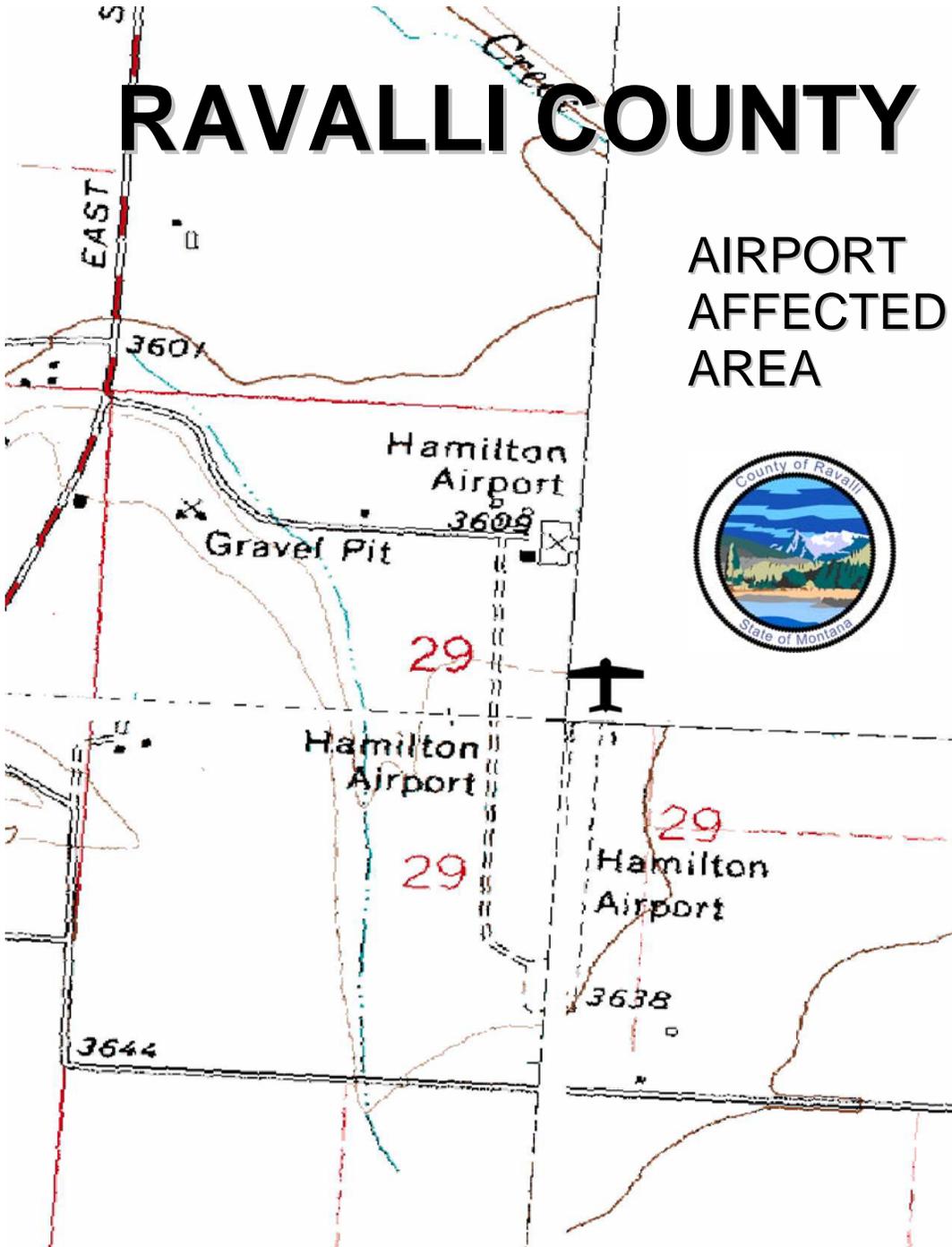


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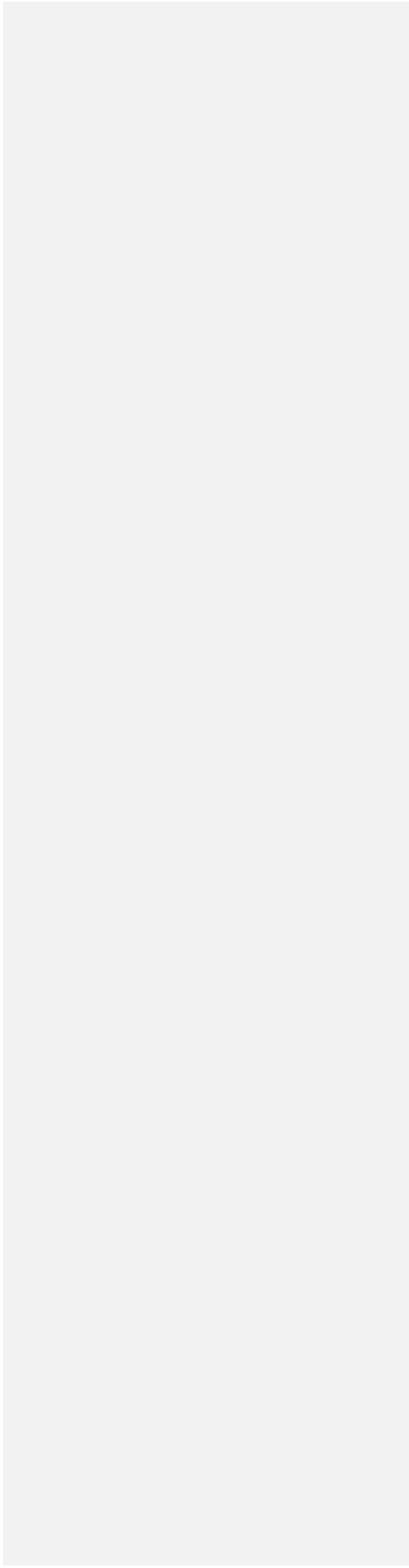
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RAVALLI COUNTY AIRPORT AFFECTED AREA STANDARDS

Adopted by Resolution No. ____

Section I. General Provisions

A. Title

These regulations shall be known as the Airport Affected Area (AAA) Regulations for the Ravalli County Airport.

B. Authority

Authorization for these regulations is in the Airport Compatibility Act found in Title 67, Chapter 7, Montana Code Annotated, as may be amended from time to time.

C. Purpose and Intent

It is the purpose of these regulations to promote the public health, safety and general welfare of airport users and persons and property in the vicinity of the Ravalli County Airport by addressing the effects of noise, height of structures and trees, and land use in the vicinity of the Ravalli County Airport, in accordance with Section 67-7-203, MCA. These regulations are intended to protect the transportation infrastructure provided to the community by the Airport from incompatible development and protect the Airport from personal or property injury claims due to noise and hours of operations.

D. Designation of Airport Affected Area

A hearing was held by the Ravalli County Commissioners on ___ (date) ___ before the Airport Affected Area (AAA) was designated, after notice was published according to Section 7-1-2121, MCA. A draft of these regulations was addressed at that hearing and public comment was taken and considered.

The Airport Affected Area for the Ravalli County Airport is shown on the attached sheet designated "Airport Affected Area Drawing ("AAA Drawing")." The AAA encompasses part of the 14 CFR, Part 77 surfaces which are shown on the "Airport Airspace Drawing." The Airport Airspace Drawing also identifies existing airport hazards and natural terrain penetrations that intrude into the Part 77 surfaces. The legal description of the AAA is found on an attachment to the sheet and is separately recorded. The AAA Drawing is on file with the Ravalli County Clerk and Recorder and the City of Hamilton

clerk.

E. Jurisdiction

The AAA for the Ravalli County airport is located partially within the jurisdictional area of the City of Hamilton.

Comment [JPL1]: This needs to be discussed with Hamilton planners. Amendment of their zoning may be necessary.

F. Severability

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment affects only the part held invalid.

G. Conflict with Other Regulations

Whenever the provisions of these regulations are at variance with other adopted rules, regulations or resolutions, the provisions setting the greater restriction shall apply.

Comment [JPL-2]: DB reports that he does not like this wording. Any suggestions for a change?

Section II. Definitions

Definitions which generally apply to Title 67 and to these regulations are found in Section 67-1-101, MCA, as may be amended from time to time. In addition, definitions specific to the Airport Compatibility Act are found in Section 67-7-103, MCA. The Airport Compatibility Act allows definitions from 14 CFR, Part 77 to apply to these regulations as well. The following definitions apply to these regulations. If there is a conflict in interpretation between Title 67 or 14 CFR, Part 77 and these regulations, the more restrictive applies.

A. Specific Terms Defined

Words not defined below but appearing elsewhere in these regulations will carry the definitions used in the latest version of the Merriam-Webster Dictionary.

1. **“Aeronautical Areas”** are those areas of the Airport property shown on ALP Airport Layout Plan for existing and future aviation needs such as runways, hangars, aprons, taxi lanes, etc.
2. **“Airport”** is the Ravalli County Airport.
3. **“Airport Affected Area” or “AAA”** is the land and space above the ground surface of an airport in the proximity of the airport, the use of which may be affected by the airport’s existence, and includes zones which are delineated areas on the ground which lie beneath the horizontal surface, the conical surface, the primary surface(s), the approach surfaces and the transitional surface as described in 14 CFR, Part 77 and in these

regulations. The AAA for the Ravalli County Airport is 10,000 feet from the thresholds of Runway 16 and Runway 34 and one mile on each side of each runway.

4. **“Airport Appeals Board”** for the Ravalli County Airport is the Board of Ravalli County Commissioners.
5. **“Airport Board”** is the Ravalli County Airport Board.
6. **“Airport Elevation”** is the highest point on the Airport’s established runways measured in feet above mean sea level (MSL) and based on the North American Vertical Datum of 1988 (NAVD 88). The elevation of the Ravalli County Airport is 3649 feet.
7. **“Airport Layout Plan (ALP)”** is a graphic depiction of existing conditions and future proposed development. An ALP typically consists of several drawings, each intended to depict specific information about the airport, and an ALP report explaining the reasoning behind, and important features of, the ALP.
8. **“Areas”** consist of land within certain boundaries shown on the AAA Drawing and designate where various land uses are permitted.
9. **“Electromagnetic Effect”** is any interference or impediment to the transmission or quality of navigation or communication signals to or from aircraft, meteorological equipment, navigation equipment, communications equipment, or air traffic control facilities caused by a power source, radio frequency transmitter, or an object or surface that emits, reflects or re-radiates an electromagnetic signal or electrical pulse.
10. **“Compliance Officer”** is that person designated by the Governing Body of the owner of the airport to serve as the Governing Body’s representative to issue permits and variances under these regulations and to administer the regulations.
11. **“FAA”** is the Federal Aviation Administration.
12. **“Governing Body”** is the Ravalli County Board of County Commissioners.
13. **“Height”** is the vertical difference in feet between the highest point of a structure or tree and the ground elevation coinciding with its location shown on the Vicinity Sketch.
14. **“Non-aeronautical Areas”** are those areas of the airport property, outside

Comment [LJT3]: MCA 67-7-201(3) states AAA is 10,000 off threshold and one mile off sides “unless evaluations for a specific runway show that the accident data justifies a lesser area”. Individuals may wish to present information evaluating crash data where it exists to justify lesser area.

Comment [J4]: The only place this term is used is in deleted sections

Comment [LJT5]: Need to confirm. Between 3623 (N), 3638 (S)?

of the Aeronautical Areas, which might be suitable for other uses.

15. **“Nonconforming Use”** is any preexisting Obstruction, Structure, Tree or other object of natural growth or use of land that is lawfully in existence when these regulations become effective, but does not conform to the height or use provisions of these regulations.
16. **“Normal Airport Operations”** are those operations allowed by Federal Aviation Regulations.
17. **“Obstruction”** means any tree or structure that penetrates the height limitation for each zone.
18. **“Runway”** is the defined and prepared surface of an airport, suitable for landing or taking off by aircraft, as well as planned extensions documented on the AAA Drawing. The type(s), dimensions and orientation of the runway(s) at the Ravalli County Airport are 16 and 34.
19. **“Structure”** is an object five feet (5') or taller, constructed, placed, or installed by a person, including but not limited to buildings, towers (cell or otherwise), radio antennae, cranes, smoke stacks, earth formations, and overhead transmission lines.
20. **“Surfaces”** are 14 CFR, Part 77.25 civil airport imaginary surfaces for existing and planned development of the Airport as documented on the AAA Drawing. These surfaces are located above and in relation to a runway or runways. Types of surfaces include Approach Surface, Conical Surface, Horizontal Surface, Primary Surface and Transitional Surface.
21. **“Terrain Penetration”** is any natural land surface that penetrates into any of the civil airport imaginary surfaces as defined in 14 CFR, Part 77.25.
22. **“Threshold”** is the beginning of the portion of a runway which is available for landing.
23. **“Tree”** is any vegetation or other naturally growing object greater than five feet (5') above the ground.
24. **“Variance”** is an allowed deviation from the height or use requirements of these regulations.
25. **“Vicinity Sketch”** is an 8 ½" x 11", non-reduced copy of a portion of a 7.5 minute USGS Quadrangle Map showing the location of a proposed structure, tree or land use, and identifies the ground elevation at the proposed location. The Vicinity Sketch must include the name of the USGS map copied, the Township and Range of the area shown, and the

Comment [JPL6]: Definition received from Dave Hedditch on October 2, 2009

Comment [LJT7]: Page: Customize with lat/long

horizontal and vertical data upon which the map is based (typically found in the lower right-hand corner).

- 26. “Zones” are delineated areas on the ground as shown on the AAA Drawing within which certain height restrictions apply.

Section III. Administration

A. Appointment of Compliance Officer

The Ravalli County Airport Manager shall be known as the “AAA Compliance Officer” or simply “Compliance Officer” and shall serve as the County’s representative to issue permits and variances under these regulations and to administer these regulations.

B. Fees for Permits and Variances.

An administrative fee shall be assessed for processing permits and variances as follows:

- 1. Basic permit: \$ _____
- 2. Conditional Use Permit: \$ _____
- 3. Variance: \$ _____

Comment [JPL8]: John thinks this should be taken out and established at a later date when Page will have an accurate accounting of costs associated with processing each application type. Reference Pogreba regs re: establishment of fee for appeals?

C. Basic Permit Procedure

The purpose of the basic permit procedure is to allow the Compliance Officer to monitor the height of Structures or Trees and the uses in the AAA and to advise those members of the public who wish to change or add Structures, Trees, or uses in the AAA where there may be legal restrictions on that activity. The notification procedure is established in order to protect the public health, safety and general welfare of aviators and area citizens as well as protect the current flying operations at the Airport and those expected in the future. In all cases, notification of a landowner’s intent to place new Trees or Structures or establish new uses within the AAA shall be provided to the Compliance Officer by the landowner before the proposed activity occurs.

1. When the Basic Permit Procedure is Required

- a. When a landowner proposes to erect a new Structure or plant a new Tree in the AAA, or when a new use will be established in the AAA.
- b. If existing Structures in the AAA are altered, repaired or replaced, which increases their existing perimeter, height, or change of use or occupancy.

- c. If uses of land or Structures are changed

2. Procedure for Notifying Compliance Officer

- a. Obtain an "AAA Notification, CUP, Variance" form from County.
- b. Submit to the Compliance Officer for review and acceptance.

Comment [JPL9]: This is new. Must be created.

D. Conditional Use Permit Procedure

The purpose of the conditional use permitting procedure is to allow the Compliance Officer to impose conditions on proposed new uses to ensure the proposed new use does not pose a hazard to the public's health, safety, and general welfare and to protect the current flying operations at the Airport and those expected in the future.

1. When a Conditional Use Permit is Required

- a. When the Compliance Officer determines that the proposed use as described on the "AAA Notification, CUP, Variance" form is a conditional use as described in Section IV.C.2 of these regulations.

2. Procedure for Obtaining an AAA Structure Conditional Use Permit

- a. Obtain an "AAA Notification, CUP, Variance" form from the Compliance Officer.
- b. Submit to the following to the Compliance Officer:
 - The fee,
 - Completed "AAA Notification, CUP, Variance" form,
 - A drawing with enough detail to determine height of the structure above ground level, and
 - A vicinity sketch which shows the location of the structure within the AAA, in relation to property or section lines.
- c. The proposal may be discussed with the Airport Board prior to making a decision about whether or not to grant the permit.
- d. After consulting with the Airport Board, if applicable, the Compliance Officer shall either grant, grant with conditions or deny the proposal in writing, explaining the decision.
- e. The decision by the Compliance Officer may be appealed to the Airport Appeals Board, pursuant to Section 67-7-302, MCA (2009).

3. Procedure for Obtaining an AAA Tree Conditional Use Permit

- a. Obtain an "AAA Notification, CUP, Variance" form from the Compliance Officer.
- b. Submit the following to the Compliance Officer:

- ~~• Completed “AAA Notification, CUP, Variance” form,~~
- ~~• A description of the planned tree, including:
 - ~~○ Species and expected height at maturity,~~
 - ~~○ Existing height relative to the ground, and~~
 - ~~○ Location on a vicinity sketch of the tree within the AAA~~~~

~~c. The Compliance Officer shall either grant, grant with conditions or deny the requested permit in writing, explaining the decision.~~

~~d. The decision by the Compliance Officer may be appealed to the Airport Appeals Board, pursuant to Section 67-7-302, MCA (2005).~~

Comment [JPL10]: This can probably be removed, b/c the CO will look at structures or trees in terms of height, not use.

4. Procedure for Obtaining an AAA Conditional Use Permit

- a. Obtain an “AAA Notification, CUP, Variance” form from the Compliance Officer.
- b. Submit the following to the Compliance Officer:
 - The fee,
 - The completed “AAA Notification, CUP, Variance” form,
 - A description of the existing use and proposed use of the land or structure,
 - Vicinity sketch with detail to determine the location of the proposed use within the AAA, in relation to property or section lines.
- c. The requested conditional use permit may be discussed with the Airport Board prior to making a decision about whether or not to grant the permit. The meeting at which the discussion occurs must be properly noticed and public comment about the proposed conditional use must be allowed at the meeting of the Airport Board.
- d. The Compliance Officer shall notify the adjacent landowner(s) of the request by mail at least 10 calendar days before the Airport Board meeting, if it is determined that the Airport Board will be consulted. The discussion of the requested conditional use permit with the Airport Board must be set forth as an agenda item in the notice for the meeting of the Airport Board and public comment allowed.
- e. After consulting with the Airport Board, if applicable, and taking into consideration any public comment, the Compliance Officer shall either grant, grant with conditions or deny the requested conditional use permit in writing, explaining the decision.
- f. The decision by the Compliance Officer may be appealed to the Governing Body.

5. Criteria for Granting Conditional Use Permits

- a. Permits may be granted for Structures or Trees that will exceed the height limitations of zones set forth in these regulations or for uses which are not in accordance with these regulations only if a Variance has been granted pursuant to the procedure in Section III.D below.
- b. Any permit may require the owner of the Structure or Tree in question to allow the Governing Body, at the owner's expense, to install, operate and maintain the lights and markers necessary to warn pilots of the presence of that Structure or Tree.
- c. Permits may be granted to allow a change in a Nonconforming Use despite its existence on the date the AAA was designated and these regulations if a Variance is granted pursuant to Section III.D below.

Comment [JPL11]: This section may not be necessary

E. Variances

1. When necessary

A person who seeks to erect or increase the height of a structure, or permit the growth of a tree, in excess of the height limitations in these regulations, or use property in a manner which is not a permitted or is a conditional use, must seek a Variance from these regulations.

2. Circumstances for Granting a Variance

In order for the Compliance Officer to grant a Variance, both of the following conditions must be satisfied:

a. Substantial practical difficulty or unnecessary hardship

If a literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship, a Variance must be granted, subject to the public interest evaluation below; and

b. Public interest

A Variance is not contrary to the public interest when it is determined, after review by the Governing Body or its designated Compliance Officer and after consultation with the FAA and Airport Board, if applicable, that:

- There is no immediate hazard to air navigation,
- There is no hazard to persons or property in the vicinity of the Airport, and
- When the noise or vibrations from normal and anticipated normal Airport operations would not be likely to cause damage

to Structures.

Public interest considerations include hours of operation and the annoyance to the intended users of the Structures.

3. Imposition of Conditions for a Variance

Conditions may be imposed for granting a Variance, including, but not limited to, a requirement that the owner of a Structure or Tree pay for the installation, operation and maintenance of lights and markers necessary to warn pilots of the presence of an AAA Obstruction. The Governing Body may install the lights or markers.

4. AAA Obstruction Variance

a. Procedure

The following procedure shall be followed in order to request and process an AAA Obstruction Variance:

- i. Obtain an "AAA Notification, CUP, Variance" form from the Compliance Officer and a FAA Form 7460-1.
- ii. The following items shall be submitted to the Compliance Officer:
 - The fee,
 - Completed "AAA Notification, CUP, Variance" form,
 - A list of the names and addresses of adjoining landowners within a 300-foot radius of the subject property,
 - A drawing with enough detail to determine the overall height of the Obstruction above ground level
 - Vicinity sketch which shows the location of the structure or tree within the AAA in relation to property or section lines,
 - A detailed explanation of why literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship,
 - Address why granting the Variance will not create an immediate hazard to persons or property in the vicinity of the airport as well as assurance that the normal and anticipated normal airport operations will not be likely to cause damage to any proposed Structure(s), and
 - The Form 7460-1 must be filled out, a copy provided to the Compliance Officer, and submitted to the FAA.
 - Proof of mailing notice
- iii. The requested variance must be evaluated by the Airport Board. The Compliance Officer shall notify the adjacent landowner(s) of the request by mail, at least 10 calendar days before the Airport Board meeting and this notice must include the date, time and

place of the meeting. The discussion of the requested variance with the Airport Board must be specifically set forth as an agenda item in the notice for the meeting of the Airport Board. Public comment about the Variance must be allowed at the meeting of the Airport Board.

- iv. After consulting with the Airport Board and taking into consideration any public comment and the FAA determination Form 7460-1, the Compliance Officer shall either grant, grant with conditions, or deny the requested Variance in writing, explaining the decision.
- v. The decision of the Compliance Officer may be appealed to the Governing Body.

b. Criteria for granting an AAA Obstruction Variance

- i. The requested Variance will not be scheduled for discussion by the Airport Board until the FAA has made a determination, pursuant to Form 7460-1, whether or not there is a hazard to air navigation.
- ii. A Variance must be granted when the applicant demonstrates a literal application or enforcement of the regulations would result in substantial practical difficulty or unnecessary hardship, when the Variance would not be contrary to the public interest, and when the noise or vibrations from normal and anticipated normal airport operations would not be likely to cause damage to the proposed Structure(s). Whether or not the FAA determines there is a hazard to air navigation, FAA recommended mitigation must be a condition of granting any Variance.

5. AAA Use Variance

a. Procedure

The following procedure shall be followed in order to request and process an AAA Use Variance:

- i. Obtain an “AAA Notification, CUP, Variance” form from the Compliance Officer.
- ii. The following items shall be submitted to the Compliance Officer:
 - The fee
 - Completed “AAA Notification, CUP, Variance” form with a description of the existing use and proposed use of the land or structure,
 - A list of the names and addresses of adjoining landowners within a 300-foot radius of the subject property,

- Detailed explanation as to why the proposed use should be allowed by Variance,
- Vicinity sketch showing the location of the proposed use within the AAA in relation to property or section lines,
- Detailed explanation why literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship, and
- Address why granting the variance will not create an immediate hazard to air navigation or to persons or property in the vicinity of the airport as well as assurance that the normal and anticipated normal airport operations will not be likely to cause damage to any proposed structure(s), as well as steps which will be taken to mitigate the effects of normal airport operations.
- **Proof of Notice**

- iii. The requested variance must be addressed by the Airport Board prior to the Compliance Officer making a decision about whether or not to grant the variance. The **Compliance Officer** shall notify the adjacent landowner(s) of the request by mail, at least 10 calendar days before the Airport Board meeting and this notice must include the date, time and place of the meeting. The discussion of the requested Variance with the Airport Board must be specifically set forth as an agenda item in the notice for the meeting of the Airport Board. Public comment about the variance must be allowed at the meeting of the Airport Board.
- iv. After consulting with the Airport Board and taking into consideration any public comment, the Compliance Officer shall either grant, grant with conditions or deny the requested variance in writing, explaining the decision.
- v. The decision of the Compliance Officer may be appealed to the Governing Body.

b. Criteria for granting an AAA Use Variance

- i. A Variance must be granted when the applicant demonstrates a literal application or enforcement of the regulations would result in substantial practical difficulty or unnecessary hardship, when the Variance would not be contrary to the public interest, and when the applicant demonstrates the noise or vibrations from normal and anticipated normal airport operations would not be likely to cause damage to any proposed structure(s).
- ii. If noise will affect the use sought by Variance, a public interest

critterion is the extent to which the applicant proposes to mitigate the effect of that noise.

6. Notice to Applicant

Granting of a variance puts the person who **builds a Structure, or places an Obstruction** pursuant to that variance or buys property for which a variance has been granted on notice the Airport existed before the Variance was granted and that noise, fumes, vibrations, light, or any other effects from normal and anticipated normal Airport operations may occur.

Comment [u12]: Best ways for informing subsequent property owners that variance has been granted?

F. Appeals

1. An appeal from a decision by the Compliance Officer must be submitted, in writing, to the Governing Body, within thirty (30) calendar days of the written decision by the Compliance Officer. Appeals may be filed by the applicant, by any aggrieved person or taxpayer, or by the governing body of a political subdivision and must state, with specificity, the basis of the appeal. An unsuccessful appellant may appeal further to the 21st Judicial District Court.
2. This appeal process does not apply to a determination by the FAA that a requested Obstruction would create a hazard to air navigation.

G. Enforcement

The Compliance Officer is the agent designated by the Governing Body to enforce these regulations. Written notice of a violation must be given by the Compliance Officer to the violator, specifying how these regulations have been violated, how the violation can be remedied, and setting a reasonable deadline for the correction of the violation, prior to the imposition of a penalty. The penalty provisions of these regulations must also be included in the notice.

H. Penalty

If a person who violates the provisions of these regulations does not correct a violation, after notification pursuant to Section F above, that person is subject to a civil penalty and a criminal penalty. The civil penalty is a fine of \$100 for each day that the violation is not remedied after the Governing Body has determined there is a violation for which a fine should be assessed against the violator, has given its own written notice of the violation to the violator, has held a hearing on the violation and has provided a written determination to the violator that there is a violation.

In addition the County Attorney may file any other applicable civil action, and may file misdemeanor criminal charges for a violation of these regulations. Pursuant to Section 45-2-104, MCA, a person is absolutely liable for a violation of these regulations. Upon conviction, a fine of \$500 must be imposed, and there shall be

no imprisonment as a penalty for misdemeanor violation of these regulations.

I. Injunction

Without limiting any other action allowed by law, the County Attorney may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of Title 67, Chapter 7 or of these regulations.

J. Immunity

1. Generally

After the designation of an AAA, a person may not recover damages from a local government, an airport authority, an airport operator, or an airport owner for any injury caused by noise, fumes, vibrations, light, or any other effects from normal and anticipated normal airport operations.

2. After granting a Variance

A person owning or using a Structure built pursuant to a Variance may not collect damages from a governing body or local government or from an airport authority, airport operator, or airport owner for interference with the enjoyment of that structure caused by noise, fumes, vibrations, light, or any other effects from normal and anticipated normal airport operations.

Section IV. Airport Affected Area (AAA)

A. Introduction.

Utilizing its police power, the Governing Body designated an AAA for the Ravalli County Airport in accordance with Section 67-7-201, MCA (2005). The AAA includes the land surrounding the runways and the space or surfaces above that land.

Height restrictions for zones and land use restrictions in specified areas found in these regulations are meant to be reasonable and are designed to promote and protect the health, safety and general welfare of Airport users and persons and property in the vicinity of the Airport, taking into consideration the character the flying operations conducted or expected to be conducted at the Airport, the nature of the terrain, future development of the Airport, and FAA recommendations for aeronautical surfaces necessary for safe flying operations. In addition, these regulations protect the Airport and its operations from uses which may infringe on Airport operations and result in liability to the Airport.

B. Zones

1. Explanation of Zones

Zones are established by these regulations to reasonably regulate the height of Structures and Trees around the Airport. The zones for the Airport are described below, and are shown on the AAA Drawing.

2. Height Restrictions in Zones

Restricting the height of Structures or Trees in certain Zones protects the health, safety and welfare of the users of the Airport as well as persons and property in the vicinity of the Airport. Nothing in these regulations should be construed to prohibit the construction of any Structure or the growth or maintenance of any Tree up to but not exceeding the height established in each Zone. In order to comply with federal requirements and those found in Section 67-7-203 (1), MCA, the Airport hereby adopts the following height restrictions for the following Zones:

a. Approach Zone

- i. *Description of zone:* The NPI approach Zone exists at each end of the runway, beginning at 200 feet from the end of each runway, centered on the extended runway centerline, with an initial width of 500 feet, widening thereafter uniformly to a width of 3,500 feet at a distance of 10,000 feet beyond the end of the primary surface. The approach surface slopes 34 feet outward for each foot upward for a horizontal distance of 10,000 feet.
- ii. *Height restriction:* This Zone is shown on the AAA Drawing. It extends outward and upward beginning 200 feet from the end of the runway, in accordance with the description of this Zone in this section.

b. Transitional Zone

- i. *Description of Zone:* The NPI transitional Zone is immediately below the transitional surface. The transitional surface is perpendicular to the runway centerline and its extension. It begins at the outer periphery of the approach surface and the primary surface and extends upward at a slope of 7 feet horizontally for each foot vertically from the sides of these two surfaces until it intersects the horizontal and conical surfaces.
- ii. *Height Restriction:* Unless a Structure or Tree is a Nonconforming Use, or is allowed as a Variance obtained through these regulations, it shall not penetrate the surface above this Zone

described in Section I and shown on the AAA Drawing.

c. Horizontal Zone

- i. *Description of Zone:* The horizontal Zone lies beneath the horizontal surface, which is a plane 150 feet above the established Airport Elevation, the perimeter of which coincides with the perimeter of the horizontal Zone shown on the AAA Drawing and as established by 14 CFR, Part 77.25 (a). The horizontal Zone does not include the transitional Zone.
- ii. *Height Restriction:* Unless a Structure or Tree is a Nonconforming Use, or allowed as a Variance obtained through these regulations, it shall not penetrate the surface of a plane 150 feet above the Airport Elevation within this zone as shown on the AAA.

d. Conical Zone

- i. *Description of Zone:* The conical Zone commences at the periphery of the horizontal Zone and lies below the conical surface. A conical surface slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone, for a horizontal distance of 4,000 feet. The conical surface begins at 150 feet above the Airport Elevation.
- ii. *Height Restriction:* Unless a Structure or Tree is a Nonconforming Use, or allowed as a Variance obtained through these regulations, it shall not penetrate the surface above this Zone described in Section I and shown on the AAA Drawing.

e. Primary Zone

- i. *Description of Zone:* The NPI primary Zone is 500 feet wide, centered on the runway, extending 200 feet from each end of each paved runway. The primary surface is the ground.
- ii. *Height Restrictions:* No Structure or Tree shall be placed in this zone.

C. Areas

Areas are designated in the AAA to address the concern the FAA and the Airport have about compatible uses or land around the Airport.

1. Explanation of Areas within the AAA

These regulations describe both Zones and Areas, which overlap. If there

is a conflict between allowable heights and allowable uses, the more **stringent** interpretation applies.

a. Airport Property Area

This Area, as shown on the AAA Drawing, encompasses that land owned by the Governing Body and designated for Airport use. The Airport is required to comply with FAA regulations and **grant assurances** within its own boundaries to remain eligible for federal funding assistance, including maximizing the use of non-aeronautical areas in order to provide revenue to the Airport.

b. Runway Protection Area.

This Area is the land delineated on the ground below the runway protection Zones as defined by FAA Advisory Circular 150/5300-13, "Airport Design." The Runway Protection Area for the runway(s) at the Airport is shown on the AAA Drawing.

c. Limited Development Area

This is the entire AAA excluding the Airport Property Area and the runway protection Area.

2. Land Use in Areas

The term "area" or "areas" as used in these regulations and as shown on sheets which are part of the AAA maps or drawings may differ from the zones set forth in Section IV.B. Regulation of land uses in these areas the airport serves to protect the health and safety of the users of the airport. Well-established accident data indicate land uses which concentrate people should be avoided. Land use regulations protect persons and property in the vicinity of the airport from airport-related effects such as high-probability accident areas, noise, fumes, vibrations, light or any other effects from normal and anticipated normal airport operations.

Permitted uses are those uses which are allowed, and obtaining a permit for these uses pursuant to these regulations serves as notification to the Compliance Officer of those uses. Conditional uses are those uses which may be allowed provided a permit is obtained pursuant to the procedures set forth in these regulations. Conditional uses will be scrutinized to a greater extent than permitted uses and may be limited in duration. All other uses are prohibited, including sources of electromagnetic effects that may interfere with electronic navigational aids, and lights other than navigational aids that glare upward or shine on or in the direction of the airport and bird attractants such as solid waste disposal sites, lagoons and certain types of agriculture. Under extraordinary circumstances some uses which are not permitted or listed as conditional uses may be allowed,

provided a variance is obtained pursuant to these regulations.

When the following areas overlap, the more restrictive uses apply.

a. Airport Property Area

The Airport property is designated on the AAA Drawing as such. To the extent it has been acquired with federal grant funds it is subject to any use restrictions required by the grant assurances.

i. Permitted uses

- (aa).** Aircraft runways, taxiways, ramps and parking areas and fuel storage facilities
- (bb).** Aircraft operational facilities including, but not limited to, instrument landing systems, visual navigational aids and related equipment, communication facilities, weather service offices and equipment
- (cc).** Hangars and building which may be used for the storage or maintenance of aircraft, for airport snow removal, sweeping and other maintenance equipment and other aviation-related or ancillary activities
- (dd).** Terminal buildings that may house offices of airline companies and other businesses and concessionaires
- (ee).** Offices and facilities for airport management, air charter, air taxi, crop spraying, aircraft sales or rentals and air cargo processing facilities in non-aeronautical areas
- (ff).** Agriculture (other than forestry, livestock farms or other use which might create a wildlife attractant on or near the Airport), golf courses (excluding club houses), tourism information centers and museums
- (gg).** Flight schools, flying clubs and other schools or training facilities relating to aviation or air-related transportation
- (hh).** Offices and facilities for the operation and maintenance of air rescue, emergency, search and rescue, and firefighting services
- (ii).** Aircraft maintenance, manufacturing and testing facilities

- (jj). Offices and facilities of federal, state and local government entities

ii. Conditional Uses

- (aa). Light commercial development
- (bb). Industrial development provided it does not create large areas of standing water, or generate smoke, dust, excess light, or steam which may reduce visibility at the Airport
- (cc). Outdoor baseball/softball facilities and other public or private recreational uses, provided such use does not result in a concentration of people during times of peak Airport use
- (dd). Driver education test track
- (ee). Export/import facilities
- (ff). Automobile racing facilities
- (gg). Firearm and sport shooting ranges
- (hh). Water storage tanks or water storage towers
- (ii). Businesses not located in the terminal building, and those uses that are sanctioned by the Airport Board/Authority as non-aeronautical uses allowed by the FAA, but have not already been mentioned

b. Runway Protection Area

i. Permitted Uses

- (aa). Agriculture consisting of grazing and growing of crops other than trees and those crops which might serve as a wildlife attractant
- (bb). Below-ground utilities
- (cc). Highways and roadways

ii. Conditional Uses

- (aa). Fences

c. Limited Development Area

i. Permitted Uses

- (aa).** Agriculture-related buildings within the height restrictions for an overlapping zone, provided those buildings do not house a concentration of people
- (bb).** Mining, quarrying, or other extraction activity, including the processing or refining of ore or other raw materials provided that activity does not result in ponding of water which will attract birds or involve equipment which exceeds the height limitations for an overlapping zone
- (cc).** Golf course with limited water hazards
- (dd).** Park, playground, other public recreation site or facility, or community service facility owned and operated by a governmental agency or non-profit community organization provided its use does not result in a concentration of people during times of peak Airport use
- (ee).** Veterinary clinic, animal pound or kennel provided steps are taken to guarantee the facility will not be a bird attractant
- (ff).** Private or public grounds and buildings for games, sports, riding arenas, race tracks and similar activities provided their use does not result in a concentration of people during times of peak Airport use
- (gg).** Water supply and treatment facility, provided the facility is not a bird attractant
- (hh).** Manufacturing and warehousing
- (ii).** Travelers' accommodation facilities
- (jj).** Retail and wholesale trade facilities
- (kk).** Roadways, automobile parking areas and railroads that comply with height restrictions of an overlapping zone

ii. Conditional Uses

- (aa).** Power lines, provided their height does not exceed the height limitations for the overlapping zone
- (bb).** Residential use if the residences are clustered with unbuilt

open space, provided the development is away from the extended runway centerline, the utilities are underground and steps are taken by the applicant to mitigate noise

- (cc). Any other use that the Compliance Officer deems appropriate and reasonable that meets the intent and purpose of these regulations per any reasonable conditions, upon consent of the Airport Board and the Governing Body.

Section V. Nonconforming Uses

It is not the purpose or intent of these regulations to require removal or alteration of any Structure or Tree existing when these regulations are initially adopted or to require the cessation or alteration of a use that is lawfully in existence when these regulations are initially adopted. However, it is assumed Nonconforming Uses will not continue forever. The following provisions are designed to reasonably address Nonconforming Uses.

A. **Documentation of uses, Structures, Trees**

The Compliance Officer shall document, to the best of the Officer's ability and within a reasonable time after adoption of these regulations, those existing uses of land and the existence of Structures or Trees found in the AAA that constitute Nonconforming Uses with an estimate of the height of Structures or Trees.

1. Nonconforming uses of land

Any lawful use of land in existence when these regulations become effective may continue. Reconstruction of a Structure constitutes a Nonconforming Use after destruction or substantial damage which affects that use may be prohibited. Any addition to or remodel of structure(s) containing a Nonconforming Use requires a Variance under these regulations.

2. Nonconforming structures or trees

Existing Structures may continue to exist but their expansion is prohibited unless a Variance is obtained under the provisions of these regulations. Existing Trees may continue to exist, but additional growth, if deemed a hazard by the Compliance Officer, may be trimmed to mitigate the hazard.

B. **Maintaining nonconforming trees**

After identification of Trees in place at the time these regulations become effective, the County may trim those trees, at its expense, to maintain their

Comment [p13]: Use Google Earth/Visual Earth to document existing structures in place at time. Page should keep on file for record. Also, examine tax assessor records at the time these regs go into effect to double-confirm existing structures. Use DOR data to determine use?

heights at the time of identification.

C. *Marking nonconforming trees or structures*

If the County elects to install, operate and maintain, at its own expense, lights and markers necessary to warn pilots of a Nonconforming Use the owners of those Structures or Trees shall allow this activity.

D. *Substantial damage to a nonconforming use*

“Substantial damage” occurs when 80% or more of a structure or tree is deteriorated or decayed or when that structure or tree has been torn down or destroyed. The Compliance Officer has the authority to determine substantial damage.

E. *Residential land uses*

If land in an area in which residential use is not permitted by these regulations has been developed for that use or platted for that use, the residential use may continue, but existing owners must be notified by the Compliance Officer that the lots are within an adopted AAA within a reasonable time after its designation. It is the responsibility of those owners to notify subsequent purchasers of the property that the property is in an AAA and may be affected by these regulations.

Section VI. *Amendment of Regulations*

These regulations may be amended by following the same procedure for adoption.

Section VII. *Additional Provisions*

A. *Acquisition of property rights*

A political subdivision within which a property or nonconforming use is located, or a political subdivision owning an airport or served by an airport may protect that airport by utilizing statutory rights set forth in Section 67-7-210, MCA, eminent domain and other sections found in Title 67.

B. *Relationship of AAA regulations to zoning ordinances*

If a governing body has adopted a zoning ordinance or resolution and there is a conflict between these regulations and the zoning ordinance or resolution, the more stringent limitation or requirement prevails.

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