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**MODEL**

**AIRPORT AFFECTED AREA REGULATIONS**

Adopted by Resolution No. \_\_\_\_ [Ordinance No. \_\_\_\_]

**Section I. General Provisions**

**A. Title**

These regulations shall be known as the \_\_\_\_\_ Airport Affected Area (AAA) Regulations [or the Airport Affected Area (AAA) Regulations for the \_\_\_\_\_ Airport].

**B. Authority**

Authorization for these regulations is in the Airport Compatibility Act found in Title 67, Chapter 7, Montana Code Annotated (2005).

**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 \_\_\_\_\_ Airport by addressing the effects of noise,<sup>1</sup> height of structures and trees, and land use in the vicinity of the \_\_\_\_\_ Airport, in accordance with Section 67-7-203, MCA.<sup>2</sup> 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 [\_\_\_\_ County Commissioners] [\_\_\_\_ City Commission] [\_\_\_\_ Airport Authority] on \_\_ (date) \_\_\_\_\_ before the Airport Affected Area (AAA) was designated, after notice was published according to [Section 7-1-2121, MCA/Section 7-1-4127, MCA].<sup>3</sup> A draft of these regulations was addressed at that hearing and public comment was taken and considered.

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<sup>1</sup> The best way to address noise around an airport is to do a 14 CFR, Part 150 study.

<sup>2</sup> See 67-7-203 (1)(a), MCA.

<sup>3</sup> Refer to 67-7-201 (5)(b), MCA, and choose which applies.

The Airport Affected Area for the \_\_\_\_\_ Airport is shown on the attached sheet designated “Airport Affected Area Drawing (“AAA Drawing”).” The AAA encompasses [part of] [the entire] 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.<sup>4</sup> The legal description of the AAA is found on an attachment to the sheet (s) [and is separately recorded].<sup>5</sup> The AAA Drawing is on file with the [\_\_\_\_\_ County Clerk and Recorder/City/Town of \_\_\_\_\_ Clerk].<sup>6</sup>

**E. Jurisdiction**

**[Alternates]<sup>7</sup>**

1. The AAA for the \_\_\_\_\_ Airport is located entirely within the jurisdictional area of the [\_\_\_\_\_ County Commissioners][ \_\_\_\_\_ City Council][Commissioners of the \_\_\_\_\_ Airport Authority]. \_\_\_\_\_ [County] [Airport Authority][City] shall be exclusively responsible for the administration and enforcement of the provisions of these regulations for those areas affected.

2. The AAA for the \_\_\_\_\_ Airport is located partially within the jurisdictional area of [\_\_\_\_\_ County Commissioners][ \_\_\_\_\_ City Council][Commissioners of the \_\_\_\_\_ Airport Authority] and partially within the jurisdictional area of [\_\_\_\_\_ County Commissioners][ \_\_\_\_\_ City Council][Commissioners of the \_\_\_\_\_ Airport Authority].<sup>8</sup> By a resolution of each governing body, a copy of which is attached to these regulations, a joint airport affected area regulation board has been created,<sup>9</sup> and that board shall administer and enforce these regulations.<sup>10</sup>

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<sup>4</sup> See 67-7-203 (2)(c), MCA. This is a permissive provision in the law.

<sup>5</sup> Recording this legal description should result in title reports noting subsequently transferred property is in the AAA. Merely filing the AAA Drawing does not necessarily have this result.

<sup>6</sup> If either the airport or the AAA lie within a city or town, the AAA Drawing should be filed with both clerks. See 67-7-201 (4) and (5), MCA.

<sup>7</sup> Pick the alternate which most closely fits the situation, or modify for the particular airport.

<sup>8</sup> This alternate is used when the airport lies in two jurisdictions. For the purposes of the Airport Compatibility Act, the commissioners of an airport authority are a governing body. See 67-7-202, MCA, for the law for joint boards.

<sup>9</sup> Each of the governing bodies must follow 67-7-202 for the appointment of the board.

<sup>10</sup> This power is given to a joint board by 67-7-201 (1)(c) and -202 (2), MCA.

3. The \_\_\_\_\_ Airport is jointly owned by \_\_\_\_\_ County and the City [Town] of \_\_\_\_\_. The two jurisdictions have elected to designate the AAA and adopt the regulations for this area acting jointly, but without the appointment of a joint board.

**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.

**Section II. Definitions<sup>11</sup>**

**A. Generally**

Definitions which generally apply to Title 67 and to these regulations are found in Section 67-1-101, MCA (2005). In addition, definitions specific to the Airport Compatibility Act are found in Section 67-7-103, MCA (2005). 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.

**B. Specifically**

1. **“Aeronautical areas”** are those areas of the airport property shown on maps for existing and future aviation needs such as runways, hangars, aprons, taxi lanes, etc.

2. **“Airport”** is the \_\_\_\_\_ Airport.

3. **“Airport Affected Area (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 [parts of] the horizontal surface, [parts of] 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.<sup>12</sup> The AAA for the \_\_\_\_\_ Airport is \_\_\_\_\_ [at least 10,000 feet] \_\_\_\_\_ from the thresholds

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<sup>11</sup> See 67-7-203 (2)(b), MCA. This definition section is very general and can be expanded upon, utilizing Title 67 and 14 CFR, Part 77 definitions.

<sup>12</sup> See 67-7-103 (2)(a), MCA. Whether the zones lie beneath parts of or entirely beneath the surfaces depends upon the extent of the AAA.

of Runway \_\_\_\_ [and Runway \_\_\_\_] and \_\_\_\_ [at least 1 mile] \_\_\_\_ on each side of each runway.<sup>13</sup> [Additional description if the imaginary surfaces are going to be protected or if a noise study has been conducted.]<sup>14</sup>

**4. “Airport Appeals Board”** for the \_\_\_\_\_ Airport is made up of the [\_\_\_\_\_ County Commissioners][\_\_\_\_\_ City/Town Council] [\_\_\_\_\_ Airport Authority] [\_\_\_\_\_ Board of Adjustment][members appointed by \_\_\_\_\_].<sup>15</sup>

**5. “Airport Board”** is the \_\_\_\_\_ [County] [City/Town][County/City/Town] Airport Board.<sup>16</sup>

**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 \_\_\_\_\_ Airport is \_\_\_\_\_ 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.

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<sup>13</sup> According to 67-7-201 (3) the AAA may not be less than 10,000 feet from the thresholds of each runway or less than 1 mile wide on each side of each runway unless accident data justifies a lesser area. The AAA may exceed these dimensions if there has been a noise study or the governing body wishes to protect the imaginary surfaces found in 14 CFR, Part 77.25.

<sup>14</sup> See 67-7-201 (3), MCA. The minimum AAA size will not cover the entire airspace an airport may want to protect. Careful consideration must be given to the existing and planned approach procedures and what might happen if an obstruction occurs outside the AAA but within the FAA airspace boundaries.

<sup>15</sup> See 67-7-302 (1), MCA. An appointed Airport Appeals Board must consist of at least three members.

<sup>16</sup> This is a board created pursuant to Title 67, Chapter 10.

10. **“Enforcement 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 [\_\_\_\_\_ County Commission]  
[\_\_\_\_\_ City/Town Council] [\_\_\_\_\_ Airport Authority].

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 of the aeronautical areas, which might be suitable for uses such as office space for governmental entities.

15. **“Nonconforming Use”** is any preexisting 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.

[**Alternate:** A structure, tree or use that legally exists at the time these regulations become effective, but does not conform to the height restrictions of the Zone in which it is located or the use allowed in the Area in which it is located.]

16. **“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 \_\_\_\_\_ Airport are \_\_\_\_\_: <sup>17</sup>

17. **“Structure”** is an object [five feet (5') <sup>18</sup> or taller,] constructed 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.

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<sup>17</sup> The local jurisdiction, with the help of the airport engineer, should customize the description of the particular runways.

<sup>18</sup> Each locale should decide the height above which it wishes to regulate, and the zones within which it wishes to regulate heights. This decision may depend upon the extent of the airport property and consultation with the airport engineer, but the height for structures and trees should be the same.

**18. “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 Surfaces, Conical Surface, Horizontal Surface, Primary Surface and Transitional Surface.<sup>19</sup>

**19. “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.

**20. “Threshold”** is the beginning of the portion of a runway which is available for landing.

**21. “Tree”** is any vegetation or other naturally growing object greater than [five feet (5')] <sup>20</sup> above the ground.

**22. “Variance”** is an allowed deviation from the height or use requirements of these regulations.

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

**24. “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 Enforcement Officer <sup>21</sup>**

The \_\_\_(title such as planner, airport board secretary, other existing employee of the governing body) who shall be known as the “AAA Enforcement Officer” shall serve as the [County][City][Airport Authority]’s representative to issue permits and variances under these regulations and to administer the regulations.

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<sup>19</sup> The primary surface is typically owned by the airport, is regulated by the Airport Board or Airport Authority in accordance with existing FAA regulations in order to preserve the eligibility for federal funding and should not need protection by these regulations.

<sup>20</sup> See FN 18.

<sup>21</sup> See 67-7-301, MCA.

**B. Fees for Permits and Variances**

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

- 1. Basic permit: \$\_\_\_\_\_
- 2. Additional \$\_\_\_\_\_ for a conditional use permit
- 3. Additional \$\_\_\_\_\_ for a variance request

**C. Permit Procedure** <sup>22</sup>

The purpose of the permitting process is to allow the Enforcement 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 there are legal restrictions on that activity, in order to protect the public health, safety and general welfare as well as protect the current flying operations at the airport and those expected in the future. A permit must be obtained before the changes or additions are made.

**1. When a Permit is Required** <sup>23</sup>

- a. If the erection of a new structure in the AAA is planned
- b. If new trees are planted in the AAA [which are expected to grow taller than five feet (5') in height] <sup>24</sup>
- c. If existing structures in the AAA are substantially altered, repaired or replaced, which increases their existing perimeter, height or use
- d. If existing trees in the AAA are replaced [with trees which are expected to grow taller than five feet (5') in height]
- e. If uses of land or structures are changed

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<sup>22</sup> See 67-7-212, MCA. This model provides suggestions, but the local jurisdiction may add or delete whatever it wishes.

<sup>23</sup> The local jurisdiction can decide to exempt certain zones or areas from the permit requirement, such as the airport property and structures or trees less than a certain height, if appropriate.

<sup>24</sup> See FN 18.

## **2. Procedure for Obtaining an AAA Structure Permit <sup>25</sup>**

- a.** Obtain an application for a permit from the Enforcement Officer.
- b.** Submit to the Enforcement Office the fee, the completed application, 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 requested permit [may/must] be discussed with the [Airport Board][Airport Authority] prior to making a decision about whether or not to grant the permit.<sup>26</sup>
- d.** After consulting with the [Airport Board][Airport Authority], the Enforcement Officer shall either grant, grant with conditions or deny the requested permit in writing, explaining the decision.<sup>27</sup>
- e.** The decision by the Enforcement Officer may be appealed to the Airport Appeals Board, pursuant to Section 67-7-302, MCA (2005).

## **3. Procedure for Obtaining an AAA Tree Permit**

- a.** Obtain an application for a permit from the Enforcement Officer.
- b.** Submit the application and a description of the planned tree, including species and expected height at maturity, existing height relative to the ground and a location on a vicinity sketch of the tree within the AAA to the Enforcement Officer. (No fee is required for trees).<sup>28</sup>
- c.** The Enforcement Officer shall either grant, grant with conditions or deny the requested permit in writing, explaining the decision.

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<sup>25</sup> It must be clear to the Enforcement Office the proposed structure will not penetrate any of the surfaces, in order for a permit to issue. If there is any question, a variance and completion of FAA Form 7460-1 is appropriate.

<sup>26</sup> The local jurisdiction, when considering these regulations, should decide upon a procedure which works for that jurisdiction. If the discussion takes place with the [Airport Board][Airport Authority], it must occur at a properly noticed meeting, at which public comment is allowed.. If a structure may require FAA notification by Form 7460-1, a copy of which is attached to these regulations, consultation with the FAA is recommended.

<sup>27</sup> This provision applies if the consultation with the airport board or airport authority is mandatory; it can be revised if the consultation is permissive.

<sup>28</sup> During the legislative session the legislators were concerned about requiring permits for trees. Not requiring a fee is a possible solution, while still keeping track of trees within the AAA.

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

#### **4. Procedure for Obtaining an AAA Use Permit**

a. Obtain an application for a permit from the Enforcement Officer.

b. Submit to the Enforcement Officer the fee<sup>29</sup>, the application and a description of the existing use and proposed use of the land or structure, explaining why that proposed use is either a permitted or conditional use under these regulations. Submit a vicinity sketch with detail to determine the location of the proposed use within the AAA, in relation to property or section lines. If the proposed use involves changes to an existing structure, combine this application with a structure permit set forth above.

c. The requested permit [may/must] be discussed with the [Airport Board][Airport Authority] prior to making a decision about whether or not to grant the permit.<sup>30</sup> The meeting at which the discussion occurs must be properly noticed and public comment about the proposed use must be allowed at the meeting of the [Airport Board][Airport Authority].

d. If the requested permit is for a conditional use, the person requesting the permit shall notify the adjacent landowner(s) of the request by mail at least 10 days before the meeting. The discussion of the requested permit with the [Airport Board][Airport Authority] must be set forth as an agenda item in the notice for the meeting of the [Airport Board][Airport Authority] and public comment allowed.<sup>31</sup>

e. After consulting with the [Airport Board][Airport Authority] and taking into consideration any public comment, the Enforcement Officer shall either grant, grant with conditions or deny the requested permit in writing, explaining the decision.<sup>32</sup>

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<sup>29</sup> The fee for a basic permit differs from one for a conditional use. In all likelihood the Enforcement Office can process a permit for a permitted use without involving the airport board or airport authority, but may want input from one of those entities for a conditional use. This may require a staff report to the airport board or airport authority and will require more time.

<sup>30</sup> Again, the local jurisdiction has to consider and decide what the procedure will be.

<sup>31</sup> It is recommended that requested permits for conditional uses be discussed at a public meeting.

<sup>32</sup> This provision applies if the consultation with the airport board or airport authority is mandatory; can be revised if the consultation is permissive.

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

## 5. Criteria for Granting Permits

a. Permits will not 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, unless 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 [County Commissioners][Airport Authority Commissioners] [City/Town Council], 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.<sup>33</sup>

c. Permits will not be granted for structures or trees which result in obstructions to surfaces, or to allow a change in a nonconforming use despite its existence on the date the AAA was designated and these regulations were adopted.<sup>34</sup>

## D. 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 conditional use, must seek a variance from these regulations.

### 2. Circumstances for Granting a Variance

a. **Two considerations**<sup>35</sup>

#### i. 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.

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<sup>33</sup> See 67-7-212 (3), MCA.

<sup>34</sup> See 67-7-212 (2), MCA.

<sup>35</sup> See 67-7-303 (3), MCA. Note that these are conjunctive--both have to be satisfied.

## **ii. Public interest**

A variance is not contrary to the public interest when it is determined, after review by the [County][City/Town][Airport Authority] and after consultation with the FAA, that there is no immediate hazard to air navigation or to persons and 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.<sup>36</sup>

### **b. Conditions for a variance**

Conditions may be imposed for granting the variance, including, but not limited to, a requirement 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 [County][Airport Authority][City/Town] may install the lights or markers.<sup>37</sup> If it is impractical to mark a tree, the marking will not be required.

## **3. Notice to Applicant**

Granting of a variance puts the person who builds a structure 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.

## **4. AAA Obstruction Variance**

### **a. Procedure to request an AAA Obstruction Variance**

- i.** Obtain an application for a variance from the Enforcement Officer and a FAA Form 7460-1.
- ii.** Submit to the Enforcement Officer the fee, the completed application, a drawing with enough detail to determine the overall

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<sup>36</sup> The local jurisdictions may wish to expand upon what is and is not in the public interest. This last sentence is not part of 67-7-303, MCA.

<sup>37</sup> See 67-7-303 (5), MCA.

height of the structure or tree above ground level and a vicinity sketch which shows the location of the structure or tree within the AAA, in relation to property or section lines. In addition explain in detail why literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship. The application must address, to the best of the applicant's ability, 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). The Form 7460-1 must be filled out, a copy provided to the Enforcement Officer, and submitted to the FAA.

iii. The requested variance must be addressed by the [Airport Board][Airport Authority] prior to the Enforcement Officer making a decision about whether or not to grant the variance. The person requesting the variance shall notify the adjacent landowner(s) of the request by mail, at least 10 days before the [Airport Board] [Airport Authority] meeting and this notice must include the date, time and place of the meeting. The discussion of the requested variance with the [Airport Board][Airport Authority] must be specifically set forth as an agenda item in the notice for the meeting of the [Airport Board][Airport Authority]. Public comment about the variance must be allowed at the meeting of the [Airport Board][Airport Authority].

iv. After consulting with the [Airport Board][Airport Authority] and taking into consideration any public comment and the FAA determination [Form 7460], the Enforcement Officer shall either grant, grant with conditions or deny the requested variance in writing, explaining the decision.<sup>38</sup>

v. The decision of the Enforcement Office may be appealed to the Airport Appeals Board pursuant to Section 67-7-303 (2), MCA.

#### **b. Criteria for granting an AAA Obstruction Variance**

i. The requested variance will not be scheduled for discussion by the [Airport Board][Airport Authority] until the FAA has made a determination, pursuant to Form 7460-1, whether or not there is a hazard to air navigation.

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<sup>38</sup> See 67-7-303 (2), MCA

**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<sup>39</sup> 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).<sup>40</sup> Whether or not the FAA determinations there is a hazard to air navigation, FAA recommended mitigation must be a condition of granting the variance.

## **5. AAA Use Variance**

### **a. Procedure to request an AAA Use Variance**

**i.** Obtain an application for a variance from the Enforcement Officer.

**ii.** Submit to the Enforcement Officer the fee and the completed application with a description of the existing use and proposed use of the land or structure, and explain in detail why that proposed use should be allowed by variance. In addition, submit a vicinity sketch which shows the location of the proposed use within the AAA, in relation to property or section lines. Also explain in detail why literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship. The application must address, to the best of the applicant's ability, 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.

**iii.** The requested variance must be addressed by the [Airport Board][Airport Authority] prior to the Enforcement Officer making a decision about whether or not to grant the variance. The person requesting the variance shall notify the adjacent landowner(s) of the request by mail, at least 10 days before the

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<sup>39</sup> See 67-7-303 (3), MCA.

<sup>40</sup> See 67-7-303 (4), MCA. Only the FAA has the ability to determine whether an obstruction is a hazard to air navigation, based on an evaluation described in FAA AC 70/7460-2k.

[Airport Board] [Airport Authority] meeting and this notice must include the date, time and place of the meeting. The discussion of the requested variance with the [Airport Board][Airport Authority] must be specifically set forth as an agenda item in the notice for the meeting of the [Airport Board][Airport Authority]. Public comment about the variance must be allowed at the meeting of the [Airport Board][Airport Authority].

iv. After consulting with the [Airport Board][Airport Authority] and taking into consideration any public comment, the Enforcement Officer shall either grant, grant with conditions or deny the requested variance in writing, explaining the decision.<sup>41</sup>

v. The decision of the Enforcement Office may be appealed to the Airport Appeals Board pursuant to Section 67-7-303 (2), MCA (2005).

#### **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<sup>42</sup> 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).<sup>43</sup>

ii. If noise will affect the use sought by variance, a public interest criterion is the extent to which the applicant proposes to mitigate the effect of that noise.

#### **E. Appeals<sup>44</sup>**

1. An appeal from a decision by the Enforcement Office must be submitted, in writing, to the Airport Appeals Board, within thirty (30) days of the written decision by the Enforcement Officer. Appeals may be filed by the applicant, by

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<sup>41</sup> See 67-7-303 (2), MCA.

<sup>42</sup> See 67-7-303 (3), MCA.

<sup>43</sup> See 67-7-303 (4), MCA.

<sup>44</sup> See 67-7-302, MCA.

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 a court of record.

2. This appeal process does not apply to a determination by the FAA that a requested obstruction would create a hazard to air navigation.

**F. Enforcement**<sup>45</sup>

The Enforcement Officer is the agent designated by the [County Commission] [City/Town Council][Commissioners of the Airport Authority] to enforce these regulations.<sup>46</sup> Written notice of a violation must be given by the Enforcement 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.

**G. Penalty**<sup>47</sup>

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 [County Commission] [Commissioners of the Airport Authority] [City/Town Council] 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] [City] Attorney 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.

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<sup>45</sup> See 67-7-301, MCA.

<sup>46</sup> Note that 67-7-301, MCA, allows the governing body to perform this function.

<sup>47</sup> See 67-7-304, MCA.

## **H. Injunction**<sup>48</sup>

The [County Commission] [Commissioners of the Airport Authority] [City/Town Council] 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.

## **I. 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.<sup>49</sup>

### **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.<sup>50</sup>

## **Section IV. Airport Affected Area (AAA)**

### **A. Introduction.**

Utilizing its police power, [the \_\_\_\_\_ County Commission] [\_\_\_\_\_ Joint Airport Affected Area Board] [\_\_\_\_\_ Airport Authority] [City and County] designated an AAA for the \_\_\_\_\_ 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 the health, safety and general welfare of airport users and persons and property in the vicinity of the airport, taking into consideration the character of 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

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<sup>48</sup> See 67-7-305, MCA.

<sup>49</sup> See 67-7-201 (6), MCA.

<sup>50</sup> See 67-7-303 (6), MCA.

operations.<sup>51</sup> 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**<sup>52</sup>

Zones are established by these regulations to reasonably regulate the height of structures and trees around the airport. The term “zones” as used in these regulations and as shown on the AAA Drawing refers to those areas on the ground and above the ground in which the height of structures and trees is regulated to protect the public health, safety and general welfare. The zones for the \_\_\_\_\_ Airport are [described on the addendum to these regulations and incorporated by this reference][described below][shown on the AAA Drawing].

[The following is an **example** and the local jurisdiction can decide whether it wants to provide this level of detail in the regulations:

“Legal descriptions of the zones follow:

- a. Approach Zones
  - i. Runway 8  
Beginning at the point XX, thence XXX feet at a bearing of XXXX, etc.
  - ii. Runway 26  
Beginning at the point XX, thence XXX feet at a bearing of XXXX, etc.
- b. Transitional Zones  
Runway 8-26  
Beginning at the point XX, thence XXX feet at a bearing of XXXX, etc.
- c. Horizontal Zone  
Beginning at the point XX, thence XXX feet at a bearing of XXXX, etc.
- d. Conical Zone  
Beginning at the point XX, thence XXX feet at a bearing of XXXX, etc”]

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<sup>51</sup> See 67-7-203 (1)(a)(b)(c)(d) and (e), MCA.

<sup>52</sup> See 67-7-203 (2)(d), MCA.

## 2. Height Restrictions in Zones <sup>53</sup>

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.<sup>54</sup> Nothing in these regulations should be construed to prohibit the construction of any structure or the growth or maintenance of any tree to a height (a) equal to or below the airport elevation; or (b) up to fifty (50) <sup>55</sup> feet above the surface of the land except in the approach or transitional zones. 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: <sup>56</sup>

### a. Approach Zone

[Insert height restriction text from the Addendum for each type of runway]

### b. Transitional Zone

[Insert height restriction text from the Addendum for each type of runway]

### c. Horizontal Zone

[Insert height restriction text from the Addendum]

### d. Conical Zone

[Insert height restriction text from the Addendum]

## 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. <sup>57</sup>

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<sup>53</sup> See 67-7-203 (2)(d), MCA. The proposer of a structure is required to notify the Administrator of the FAA if any construction or alteration will result in a structure more than 200 feet in height above the ground level at its site, or that would penetrate the FAA imaginary surfaces, by Form 7460-1. These limitations vary depending upon how the airport fits into the specifications in 14 CFR, Part 77.13(a).

<sup>54</sup> See 67-7-203 (1)(a), MCA.

<sup>55</sup> This height is a recommendation, only, and must be determined for each airport, in consultation with the airport engineer.

<sup>56</sup> The height restrictions depend upon the type of runway and the local jurisdiction needs to consider the Addendum to this model and work with the airport engineer to establish these heights. The description of the height limitations for each of the zones should be straight-forward enough for the Enforcement Officer to interpret—both for the inventory and for permitting/variance purposes.

<sup>57</sup> One of the paragraphs in the Airport Improvement Plan grant assurances reads as follows:

## 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 [\_\_\_\_\_ County] [\_\_\_\_\_ Airport Authority] [by the City/Town of \_\_\_\_\_] 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.<sup>58</sup>

#### [Airport Critical Area]<sup>59</sup>

This area encompasses the Runway Object Free Area (ROFA), the Taxiway Object Free Area (TOFA), the Runway Visibility Zone (RVZ) and the Runway Protection Zones (RPZ). (These areas may be described with specificity.)<sup>60</sup>

### 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."<sup>61</sup> The Runway Protection Area for the runway(s) at the \_\_\_\_\_ Airport is shown on the AAA Drawing.

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**Compatible Land Use.** It (airport owner) will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

<sup>58</sup> All structures proposed on airport property shall be in full compliance with the ALP for the airport or shall be coordinated with the FAA.

<sup>59</sup> It is up to the local jurisdiction and the airport engineer whether to include the Airport Critical Area in this list because typically this area is owned by the airport and under control of an airport board or an airport authority and not subject to any of the requirements of the regulations.

<sup>60</sup> For more additional background and descriptions, consult the FAA AC 150/5300-13.

<sup>61</sup> The dimensions and height restrictions in this area depend upon the type of the runway.

**c. Limited Development Area (s)** <sup>62</sup>

These are areas surrounding the airport property but within the AAA.

**2. Land Use in Areas** <sup>63</sup>

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 around 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. <sup>64</sup>

Permitted uses are those uses which are allowed, and obtaining a permit for these uses pursuant to these regulations serves as notification to the Enforcement 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. <sup>65</sup> 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.

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<sup>62</sup> These areas are specific to a particular airport and should be decided upon by the governing body and the airport engineer. Land use in this limited area should be restricted to uses that are not noise sensitive; those that do not promote public assembly; those that do not have distracting lights, glare, smoke, provide electronic interference and those that are not bird attractants. The height restrictions depend upon the overlap of the zones.

<sup>63</sup> See 67-7-203 (2)(f), MCA.

<sup>64</sup> See 67-7-201 (6), MCA. High-probability accident areas are shown on page 38 and 39 of a 1999 Washington State Department of Transportation publication entitled Airports and Compatible Land Use.

<sup>65</sup> See 67-7-203 (2)(f)(iii)(iv)(v), MCA.

**[The permitted and conditional uses for an airport are particular for that airport. The following are provided as a “menu” from which to choose, taking into consideration existing data about airports and compatible land use.]**

**a. Airport Property Area**

The airport property at the \_\_\_\_\_ Airport is designated on the AAA Drawing as such.<sup>66</sup> To the extent it has been acquired with Federal grant funds it is subject to any use restrictions required by the grant assurances. Residential use on airport property will not be allowed.

**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

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<sup>66</sup> The boundaries of the airport property are fact specific and land use in this area depends upon the size of the property. To the extent the airport property includes the Airport Critical Area, the Runway Protection Area or the Limited Development Area, those land use restrictions must apply.

**(hh).** Offices and facilities for the operation and maintenance or air rescue, emergency 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 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 facilities

**(ff).** Automobile racing facilities

**(gg).** Firearm and sport shooting ranges

**(hh).** Water storage tanks or towers that comply with height restrictions of an overlapping zone

**(ii).** Businesses not located in the terminal building, and those uses that are sanctioned by the [Airport Board] [Airport 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** <sup>67</sup>

c. **Limited Development Areas** <sup>68</sup>

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

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<sup>67</sup> Some of the conditional uses found in the list for the Airport Property Area may be appropriate as conditional uses in the Runway Protection Area, depending upon the airport.

<sup>68</sup> These areas are specific to certain airports and need to be delineated with the help of the airport engineer. The permitted and conditional uses are suggestions, only. Mobile homes, churches, schools, hospitals, nursing homes, daycare centers or other concentrations of people indoors or outdoors are considered incompatible land uses.

(gg). Water supply and treatment facility, provided the facility is not a bird attractant

(hh). Manufacturing and warehousing

(ii). Travelers' accommodation facilities [depending upon the boundaries of the area]

(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

**Section V. Nonconforming Uses**<sup>69</sup>

It is not the purpose or intent of these regulations to require removal or alteration of any existing structure or tree or to require the cessation or alteration of a use that is lawfully in existence when these regulations become effective. However, it is assumed nonconforming uses will not continue forever.<sup>70</sup> The following provisions are designed to reasonably address nonconforming uses or structures or trees.

**A. Documentation of uses and structures or trees**

The Enforcement 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, with an estimate of the height of structures or trees.<sup>71</sup>

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<sup>69</sup> See 67-7-209, MCA.

<sup>70</sup> See 67-7-203 (2)(g), MCA.

<sup>71</sup> See 67-7-203 (2)(h), MCA. Ideally this information would be provided to the airport engineer for incorporation into an Airport Layout Plan airspace drawing.

## **1. Nonconforming uses of land**

Any lawful use of land in existence when these regulations become effective may continue, but reconstruction of a structure which contains a nonconforming use after destruction or substantial damage which affects that use may be prohibited. Any addition to or remodel of structure containing a nonconforming use requires a variance under these regulations.

## **2. Nonconforming structures or trees**

Existing structures or trees may continue to exist but their expansion or additional growth is prohibited unless a variance is obtained under the provisions of these regulations.

### **B. 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.<sup>72</sup> The Enforcement Officer has the authority to determine substantial damage. A substantially damaged structure or tree, which is nonconforming, may not be reconstructed or replaced without first obtaining variance under the provisions of these regulations and then obtaining a permit.

### **C. Maintaining nonconforming trees**

After identification of trees in place at the time these regulations become effective, the [County][Airport Authority][City/Town] may trim those trees, at its expense, to maintain their heights at the time of identification.<sup>73</sup>

### **D. Marking nonconforming trees or structures**

If the [County][Airport Authority][City/Town] 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.<sup>74</sup>

### **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 Enforcement Officer that the lots are within an

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<sup>72</sup> See 67-7-209 (1), MCA.

<sup>73</sup> See 67-7-209 (2), MCA.

<sup>74</sup> See 67-7-209 (3), MCA.

adopted AAA within a reasonable time after its designation.<sup>75</sup> 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 as set forth in Section 67-7-201 (5), MCA. If appropriate, other boards or commissions may be involved.<sup>76</sup>

## **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.<sup>77</sup>

### **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.<sup>78</sup>

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<sup>75</sup> See 67-7-209 (4), MCA.

<sup>76</sup> See 67-7-208, MCA.

<sup>77</sup> This provision may be customized to name the applicable political subdivisions(s).

<sup>78</sup> See 67-7-211, MCA.

# Addendum to Model Airport Affected Area (AAA) Regulations<sup>79</sup>

## Section I. Types of Zones and Surfaces [Chose whichever type applies]

### A. Precision Instrument Runway Zones and Surfaces [or NPI runway with 3/4-mile or less approach visibility minimums]

#### 1. Approach Zone and Approach Surface

The PI 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 1,000 feet, widening thereafter uniformly to a width of 16,000 feet at a distance of 50,000 feet beyond the end of the primary zone. The approach surface slopes 50 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface, for a horizontal distance of 10,000 along the extended runway centerline. The approach surface then slopes 40 feet outward for each foot upward for the next 40,000 feet.<sup>80</sup>

#### 2. Primary Zone and Primary Surface

The PI primary zone is 1,000 feet wide, centered on the runway, extending 200 feet from each end of each [paved]<sup>81</sup> runway. The primary surface is immediately above the primary zone.<sup>82</sup>

#### 3. Transitional Zone and Transitional Surface<sup>83</sup>

The PI transitional zone is immediately below the transitional surface. The transitional surface is perpendicular to the runway centerline and its extension. The transitional surface begins at the outer periphery of the approach zone and the primary zone and slopes extends upward at a slope of 7 feet horizontally for each 1 foot vertically from the sides of these two surfaces until it intersects the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally

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<sup>79</sup> The information in this addendum is intended to be a menu which the local jurisdiction can use to include in the AAA regulations, in any combination it wishes. This information is highly technical and **requires an airport engineer** to customize it for a particular airport.

<sup>80</sup> See 14 CFR, Part 77.25 (d)(1)(vi) and (2)(iii).

<sup>81</sup> If the runway is not paved the primary zone and surface end at each end of the runway. If the runway is paved, the primary zone and surface extend 200 feet beyond the end of the runway.

<sup>82</sup> See 14 CFR, Part 77.25 (c)(3)(iii).

<sup>83</sup> See 14 CFR, Part 77.25 (3).

from the edge of the approach surface and at 90 degree angles to the extended runway centerline.<sup>84</sup>

#### **4. Horizontal Zone and Horizontal Surface**

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 approach and transitional zones.

#### **5. Conical Zone and Conical Surface**

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.<sup>85</sup> The conical surface begins at 150 feet above the airport elevation.

### **B. Nonprecision Instrument Runway Zones and Surfaces [greater than 3/4 mile approach visibility minimums]**

#### **1. Approach Zone and Approach Surface**

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.<sup>86</sup>

#### **2. Primary Zone and Primary Surface**

The NPI primary zone is 500 feet wide, centered on the runway, extending 200 feet from each end of each [paved] (*see* Footnote 3) runway.<sup>87</sup> The primary surface is immediately above the primary zone.

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<sup>84</sup> See 14 CFR, Part 77.25 (e).

<sup>85</sup> See 14 CFR, Part 77.25 (b).

<sup>86</sup> See 14 CFR, Part 77.25 (d)(1)(iv) and (2)(ii).

<sup>87</sup> See 14 CFR, Part 77.25 (c)(3)(ii).

### **3. Transitional Zone and Transitional Surface**

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.<sup>88</sup>

### **4. Horizontal Zone and Horizontal Surface**

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 approach and transitional zones.

### **5. Conical Zone and Conical Surface**

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.<sup>89</sup> The conical surface begins at 150 feet above the airport elevation.

## **C. Utility Nonprecision Instrument Runway Zones and Surfaces**

### **1. Approach Zone and Approach Surface**

The UNPI 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 2,000 feet at a distance of 5,000 feet beyond the end of the primary zone. The approach surface slopes 20 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extends to a horizontal distance 5,000 feet.<sup>90</sup>

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<sup>88</sup> See FN 5.

<sup>89</sup> See FN 7.

<sup>90</sup> See 14 CFR, Part 77.25 (d)(1)(iii) and (2)(i).

## **2. Primary Zone and Primary Surface**

The UNPI primary zone is 500 wide, centered on the runway, plus 200 feet from each end of each [paved] (*see* Footnote 3) runway.<sup>91</sup> The primary surface is immediately above the primary zone.

## **3. Transitional Zone and Transitional Surface**

The UNPI 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.<sup>92</sup>

## **4. Horizontal Zone and Horizontal Surface**

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 approach and transitional zones.

## **5. Conical Zone and Conical Surface**

The conical zone commences at the periphery of the horizontal zone and lies below the conical surface. A conical surface slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone, for a horizontal distance of 4,000 feet.<sup>93</sup> The surface begins at 150 feet above the airport elevation.

# **D. Utility Visual Runway Zones and Surfaces**

## **1. Approach Zone and Approach Surface**

The UV 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 250 feet, widening thereafter uniformly to a width of 1,250 feet at a distance of 5,000 feet beyond the end of the primary surface.

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<sup>91</sup> *See* 14 CFR, Part 77.25 (c)(2).

<sup>92</sup> *See* FN 5.

<sup>93</sup> *See* FN 7.

The approach surface slopes 20 feet outward for each foot upward, for a horizontal distance of 5,000 feet.<sup>94</sup>

## **2. Primary Zone and Primary Surface**

The UV primary zone is 250 feet wide, centered on the runway, plus 200 feet from each end of each [paved] (*see* Footnote 3) runway.<sup>95</sup> The primary surface is immediately above the primary zone.

## **3. Transitional Zone and Transitional Surface**

The UV 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.<sup>96</sup>

## **4. Horizontal Zone and Horizontal Surface**

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 14 CFR, Part 77.25 (a). The horizontal zone does not include the approach and transitional zones.

## **5. Conical Zone and Conical Surface**

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.<sup>97</sup> The surface begins at 150 feet above the airport elevation.

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<sup>94</sup> *See* 14 CFR, Part 77.25 (d)(1)(i).

<sup>95</sup> *See* 14 CFR, Part 77.25 (c)(i).

<sup>96</sup> *See* FN 5.

<sup>97</sup> *See* FN 7.

## **E. Non-Utility Visual Approach Runway**

### **1. Approach Zone and Approach Surface**

The NUV 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 1,500 feet at a distance of 5,000 feet beyond the end of the primary surface. The approach surface slopes 20 feet outward for each foot upward, for a horizontal distance of 5,000 feet.<sup>98</sup>

### **2. Primary Zone and Primary Surface**

The NUV primary zone is 500 feet wide, plus 200 feet from each end of each [paved] (*see* Footnote 3) runway.<sup>99</sup> The primary surface is immediately above the primary zone.

### **3. Transitional Zone and Transitional Surface**

The NUV 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.<sup>100</sup>

### **4. Horizontal Zone and Horizontal Surface**

The horizontal zone lies beneath the horizontal surface, which is a horizontal 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 14 CFR, Part 77.25 (a). The horizontal zone does not include the approach and transitional zones.

### **5. Conical Zone and Conical Surface**

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

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<sup>98</sup> *See* 14 CFR, Part 77.25 (d)(1)(ii).

<sup>99</sup> *See* 14 CFR, Part 77.25 (c)(3)(i).

<sup>100</sup> *See* FN 5.

distance of 4,000 feet.<sup>101</sup> The surface begins at 150 feet above the airport elevation.

## **F. Turf Visual Runway Zones and Surfaces**

### **1. Approach Zone and Approach Surface**

The TVR approach zone exists at each end of the runway, beginning at the end of the runway, centered on the extended runway centerline, with an initial width of 250 feet, widening thereafter uniformly to a width of 1,500 feet at a distance of 5,000 feet beyond the end of the primary surface. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 to 1 for all utility and visual runways.<sup>102</sup>

### **2. Primary Zone and Primary Surface**

The TVR primary zone is 500 feet wide, centered on the runway, ending at the end of the runway (see Footnote 3).<sup>103</sup> The primary surface is immediately above the primary zone.

### **3. Transitional Zone and Transitional Surface**

The TVR 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.<sup>104</sup>

### **4. Horizontal Zone and Horizontal Surface**

The horizontal zone lies beneath the horizontal surface, which is a horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zones shown on the AAA Drawing and as established by 14 CFR, Part 77.25 (a). The horizontal zone does not include the approach and transitional zones.

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<sup>101</sup> See FN 7.

<sup>102</sup> See 14 CFR, Part 77.25 (d)(1)(ii).

<sup>103</sup> See 14 CFR, Part 77.25 (c)(3)(i).

<sup>104</sup> See FN 5.

## 5. Conical Zone and Conical Surface

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 surface begins at 150 feet above the airport elevation.<sup>105</sup>

## Section II. Recommended Height Restrictions for Zones<sup>106</sup>

**Generally**, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone in excess of the height limitation established for the zone. These height limitations are based on the related imaginary surface. Under limited circumstances a variance may be granted.

### A. Approach Zone [Use whichever applies.]

Trees or structures in this zone shall not exceed the height limitation set forth for the following runway(s) unless a variance has been obtained pursuant to these regulations.

#### 1. Precision Instrument Runway [or NPI runway with 3/4-mile or less approach visibility minimums]

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 Section I.

#### 2. Nonprecision Instrument Runway [greater than 3/4 mile approach visibility minimums]

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 Section I.

#### 3. Utility Nonprecision Instrument Runway

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 Section I.

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<sup>105</sup> See FN 7.

<sup>106</sup> The Airport will have to work with its airport engineer to develop heights in zones that can be administered by the Enforcement Officer, as airport engineers typically use elevations that are above mean sea level (NAVD88).

**4. Utility and Non-Utility Visual Runway**

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 Section I.

**5. Turf Visual Runway**

This zone is shown on the AAA Drawing. It extends outward and upward beginning at the end of the runway, in accordance with the description of this zone in Section I.

**B. Primary Zone [Use whichever applies]**

The height limitation in this zone is very restrictive.

**1. Paved Runway**

The primary zone includes the runway and extends 200 feet out from the end of each runway.

**2. Unpaved Runway**

The primary zone for an unpaved runway is the runway itself.

**C. Transitional Zone [Applies to all airports]**

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.

**D. Horizontal Zone [Applies to all airports]**

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.

**E. Conical Zone [Applies to all airports]**

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.

# **MODEL AAA\* REGULATIONS**

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**\* Airport Affected Area as defined in Title 67, Chapter 7, Montana Code Annotated**