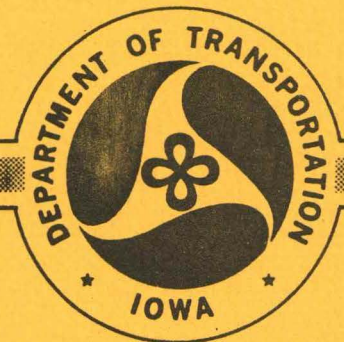


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A guide to land use planning and zoning in airport vicinities



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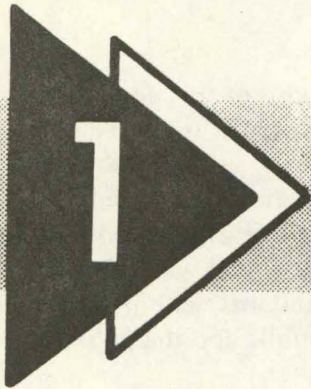
IOWA DEPARTMENT OF TRANSPORTATION
AERONAUTICS DIVISION 1979

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Introduction

Iowa Statute, Section 329.3, "Every municipality having an airport hazard area within its territorial limits may adopt, administer, and enforce in the manner and upon the conditions prescribed by this Chapter, zoning regulations for such airport hazard area, which regulations may divide such area into zones and, within such zones, specify the land uses permitted, and regulate and restrict, for the purpose of preventing airport hazards, the height to which structures and trees may be erected or permitted to grow."

In the past several years a tremendous number of problems associated with the land use around airports have been referred to state aviation agencies, throughout the United States. Iowa is no exception. These problems are generally associated with the obstructions to air navigation imposed by construction of a tall structure in the airport approach areas or the impact of aircraft noise on citizens residing near the airport.

With the growth in population trends, air transportation has become an economic necessity to most communities and will play an even greater part in Iowa's future. Herein lies the problem. The airport is an economic generator for the community, and has traditionally been placed away from the population center. Now Iowa's growth is expanding; residential development is drawing closer and closer to airport boundaries.

With the passage of Iowa Statute, Chapter 329, legislators foresaw the possible difficulties arising from airport operations. This enabling legislation has set forth the method for political subdivisions to protect the millions of dollars that have been invested in Iowa's public airports. Today, there are over 123 public owned airports in the state. Many of these airports have not been protected from encroachment, nor has the airspace surrounding the airport been protected.

The purpose of this document is to show a method and provide tools for developing a land use plan around Iowa's airports that will provide for the orderly growth of each public airport and the area surrounding the airport within jurisdiction of each zoning agency, and will safeguard the general welfare of the inhabitants within the vicinity of the airport, the flying public and the public in general.

Planning and Zoning Boundary

The first step in formulating the airport vicinity land use plan is definition of the geographical boundary affected. The definitions in Section 329.1, Iowa Statutes, define airport hazard area as,

"...any area of land or water upon which an airport hazard might be established if not prevented...."

Since this leaves the boundary definition to the municipality or municipalities adopting a zoning ordinance, some guidelines may be necessary.

Generally, Airport Zoning Agencies throughout the U.S.A. have used two factors as bases for defining zoning boundaries:

(1) Height zones to regulate tall structures as defined in Federal Aviation Regulations, Part 77.

(2) Noise affected zones as defined by use of noise measuring systems (see Chapter 3).

A model tall structure zoning ordinance has been developed by the Federal Aviation Administration for airspace protection against tall structure encroachment.

This document (FAA Advisory Circular No. 150/5190-3A) is based on Federal Aviation Regulation (FAR), Part 77. This model ordinance defines the imaginary surfaces, and, therefore, the land lying under these surfaces that must be zoned, and the maximum allowable height of structures in that zone.

FAR, Part 77, however, gives only direction as to land use for protection against encroachment of tall structures. Therefore, for land use plans dealing with noise affected areas, definition of noise contours in the airport vicinity must be made. The Iowa Department of Transportation, Aeronautics Division, will provide technical assistance in this effort.

The noise contours for a given airport or runway may be obtained from several methods. These methods are discussed in Chapter 3. However, these contours tell the decision-maker which geographic areas are affected by noise of aircraft operations, i.e.,

takeoffs, landings and taxi operations. There are some guidelines a decision-maker may use to determine what types of land uses and what areas are compatible with given noise levels. (See Figure 1)

Generally, three and one-half statute miles from the end of a runway will mark the extreme limit of land affected by aircraft noise. Therefore, the area to be considered for noise compatible land use restrictions will cover approximately 16 square miles.

Note that this area is separate from those areas to be zoned for tall structure control (see figure 2). Tall structure zones may extend 50,000 feet from the end of a runway, depending on the type of airport and instrument approach available to that runway.

The State of California has established guidelines of minimum planning areas defined as follows:

"..... a rectangle at least, but not limited to, the area around a runway(s) encompassed by lines drawn at a distance of 1 statute mile laterally, 2 statute miles longitudinally from the edges and the ends of a Class C runway; or 3 statute miles laterally and 5 statute miles longitudinally from the edges and ends of Class B runway; or 4 statute miles laterally and 6 statute miles longitudinally from the edges and ends of a general transport or Class A runway."(1)

Each decision to define planning and zoning boundaries should include an analysis of the land use techniques available, features of the land and existing land use around the airport. To force one technique into a developed area may not work. On the other hand, that may be the area that needs the technique the most. The point is that careful analysis of airport needs and the needs of the surrounding community must be made.

The Iowa Department of Transportation, Aeronautics Division, will help provide the technical assistance to any community in determination of noise contours and/or tall structure control boundaries.

(1) Airport Land Use Commission Proposed Standards, Letter of April 6, 1973, from Mr. Joseph R. Crotti, Director of the California Department of Aeronautics

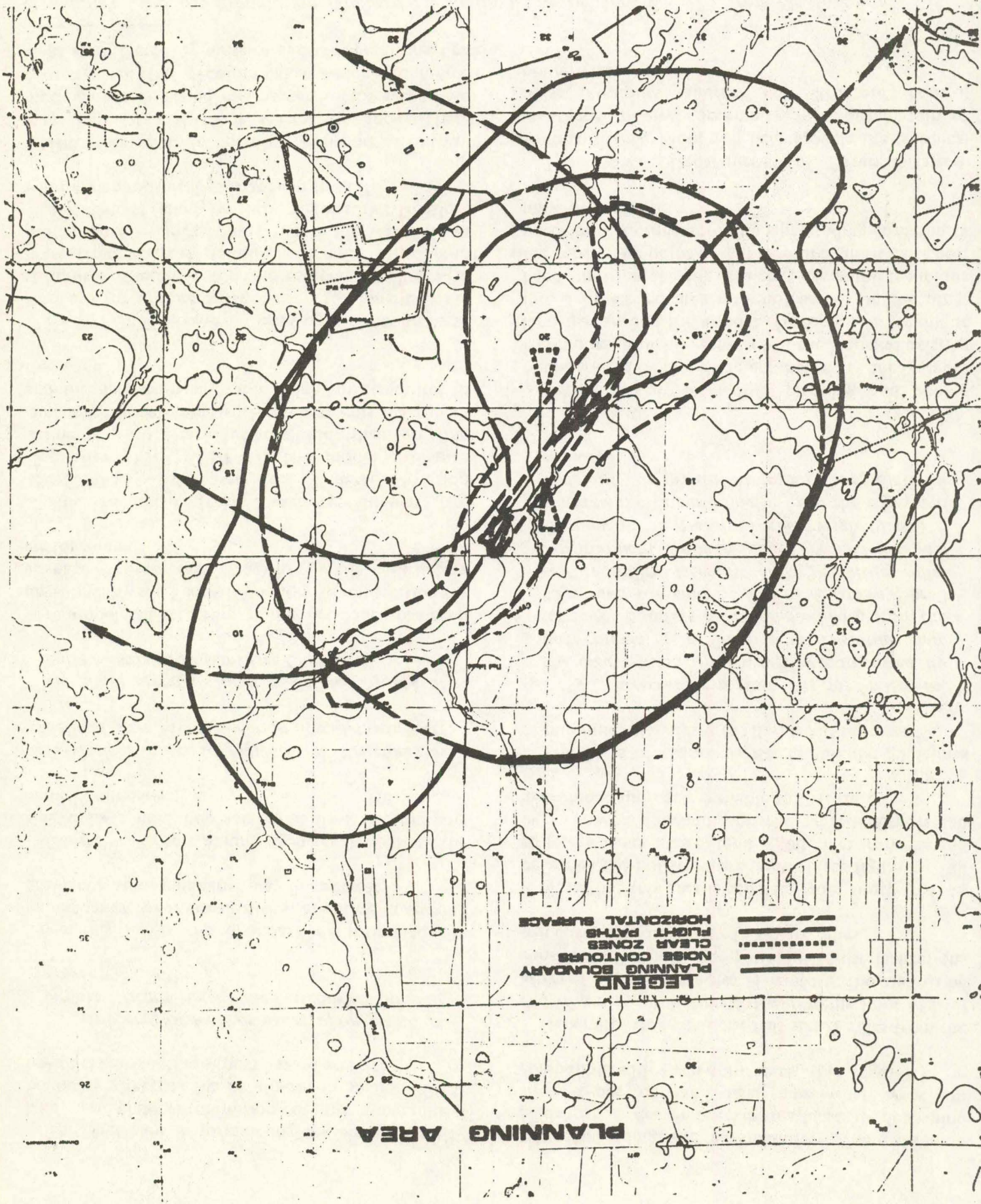
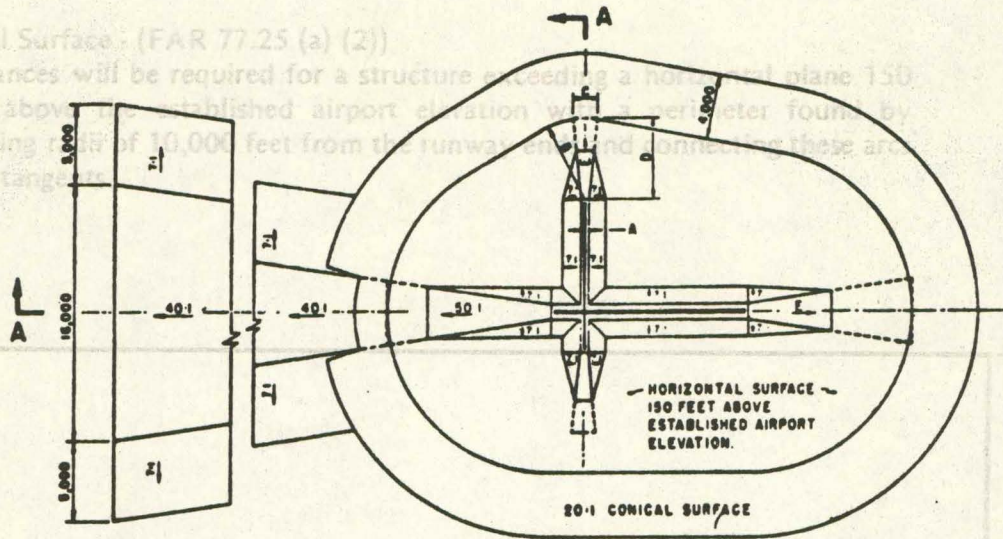


Figure 1

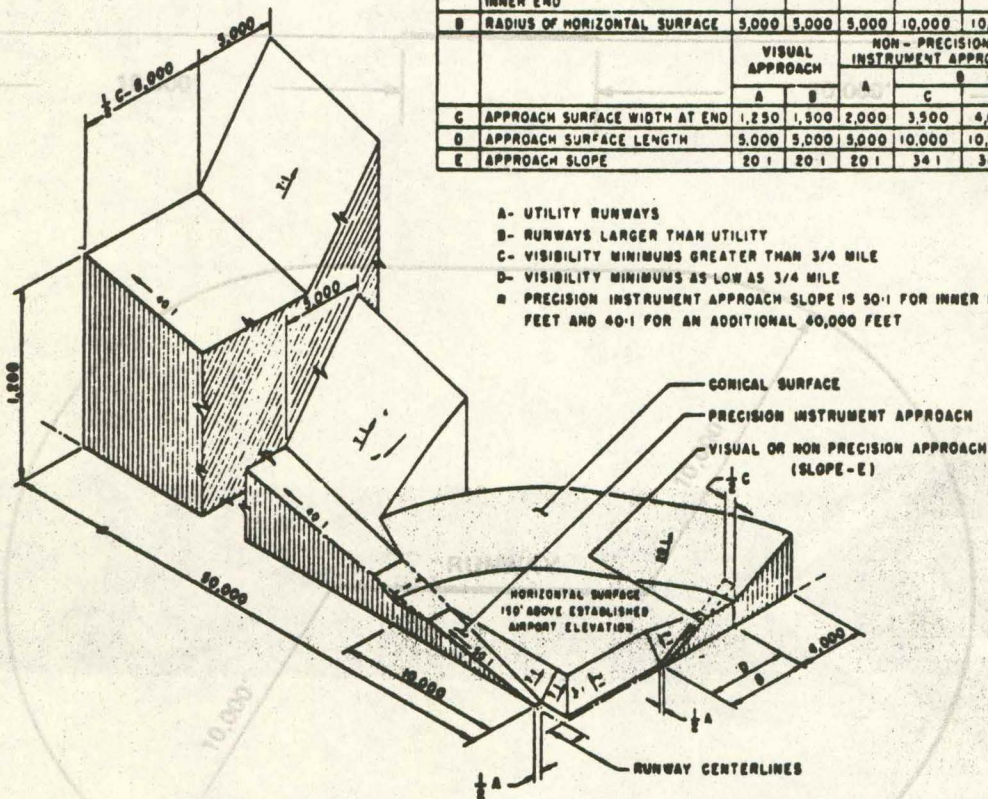
HORIZONTAL ZONE

Horizontal Surface: (FAR 77.25 (a) (2))

Variances will be required for a structure exceeding a horizontal plane 150 feet above established airport elevation with a perimeter four times the length of 10,000 feet from the runway centerline and extending these arcs with tangents.



DIM	ITEM	DIMENSIONAL STANDARDS (FEET)					
		VISUAL RUNWAY		NON-PRECISION INSTRUMENT RUNWAY		PRECISION INSTRUMENT RUNWAY	
		A	B	A	C	D	
A	WIDTH OF PRIMARY SURFACE AND APPROACH SURFACE WIDTH AT INNER END	250	500	500	500	1,000	1,000
B	RADIUS OF HORIZONTAL SURFACE	5,000	5,000	5,000	10,000	10,000	10,000
		VISUAL APPROACH		NON-PRECISION INSTRUMENT APPROACH		PRECISION INSTRUMENT APPROACH	
		A	B	A	C	D	
C	APPROACH SURFACE WIDTH AT END	1,250	1,500	2,000	3,500	4,000	16,000
D	APPROACH SURFACE LENGTH	5,000	5,000	5,000	10,000	10,000	•
E	APPROACH SLOPE	20:1	20:1	20:1	34:1	34:1	•



ISOMETRIC VIEW OF SECTION A-A

§ 77.25 CIVIL AIRPORT IMAGINARY SURFACES



The Tall Structure Problem

PRECISION APPROACH ZONE

The problems of electronic towers penetrating navigable airspace and tall buildings erected in airport approach paths have grown tremendously. Growth is good and proper for the public demands it. However, unplanned construction of this type will surely cause runways to be closed in the future or whole airports to be closed.

To protect navigable airspace from tall structure encroachment, the Federal Aviation Administration (FAA) promulgated Federal Aviation Regulation, Part 77. This regulation defines each of the areas around an airport that should be protected from tall structure penetration. The regulation specifies the height to which structures may be constructed without being a hazard to aircraft.

The FAA is quick to point out that they have no legal power to enforce this regulation and that local counties and municipalities should enact an ordinance to reflect the imaginary surfaces and their height limitations. On March 6, 1974, Mr. James E. Sheppard, Chief, Airports District Office, FAA, Miami, Florida, wrote:

"The FAA can evaluate proposed construction in the vicinity of airports to determine if structures would be a hazard to air navigation. However, we cannot prevent the construction of any objects. Airport environs can only be protected through such means as local ordinances and acquisition of property rights."(2)

The burden of defining obstacles to air navigation has been relieved by FAR, Part 77. This regulation nicely organizes the differing types of runways, approaches and conditions to provide a set of standards that may be included in an ordinance. It is a good point of departure, but it is not a complete solution to the problem of tall structures. The areas described in FAR, Part 77 are:

(1) *Horizontal Zone - land lying under a surface 150 feet above the airport elevation. The perimeter of this surface is described by swinging arcs of 5,000 feet or 10,000 feet radius*

(depending upon runway type) from the end of each runway and connecting the arcs with a tangent. (See Figure 3.)

(2) *Conical Zone - land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. (See Figure 4.)*

(3) *Approach Zone - land lying under a horizontal surface centered on the end of a runway extending from 5,000 feet to 50,000 feet from the end of the runway, depending on the use of the runway. This zone varies in height above the ground by a ratio from (20 to 1) to (50 to 1) with 0 feet allowable height at the runway and to an allowable height of 500 feet above airport elevation at 50,000 feet from the runway end. (See Figure 5.)*

(4) *Transitional Zone - land lying under a surface peripheral to the approach zone providing a trough effect to the area off the ends of each runway. (See Figure 6.)*

Other documents available for assistance in designing an ordinance for tall structure control:

(1) *United States Standard for Terminal Instrument Procedures, FAA Handbook 8260.3A, February 1970.*

(2) *Federal Aviation Administration Advisory Circular 70/7460-ID, Obstruction Lighting.*

(3) *Federal Aviation Administration Advisory Circular 150/5190-3A, FAA Model Zoning Ordinance, 19 September 1972.*

(4) *1972 National Airport System Plan Volume ACE Central Region, Department of Transportation, Federal Aviation Administration.*

(5) *Iowa State Airport System Plan, November 1972.*

(2) James E. Sheppard, Letter to Mr. John Wittunt, Myakka, Florida, March 6, 1974

Figure 3

HORIZONTAL ZONE

Horizontal Surface - (FAR 77.25 (a) (2))

Variations will be required for a structure exceeding a horizontal plane 150 feet above the established airport elevation with a perimeter found by drawing radii of 10,000 feet from the runway ends and connecting these arcs with tangents.

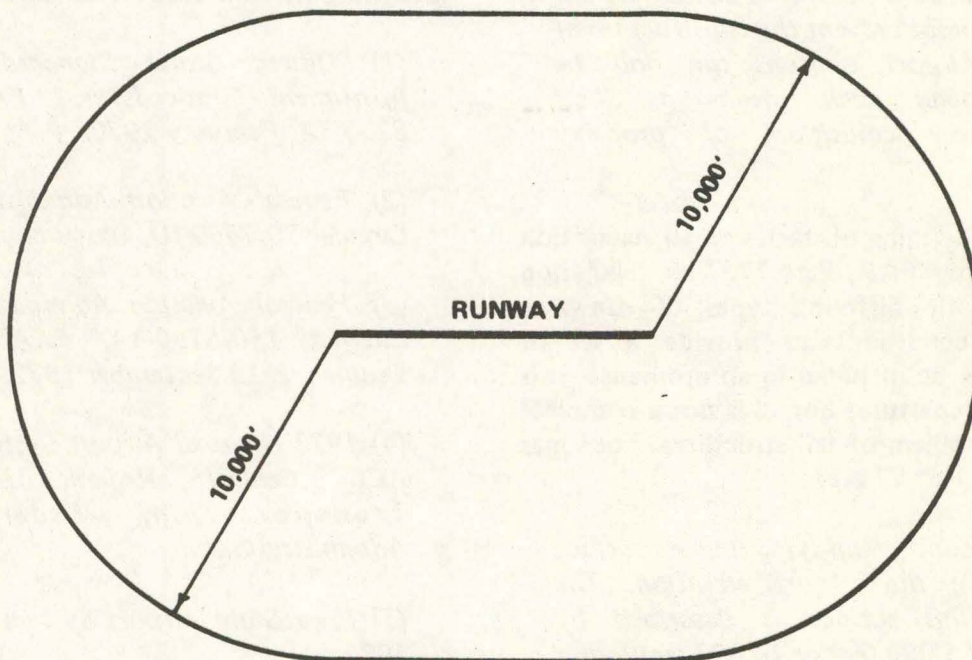
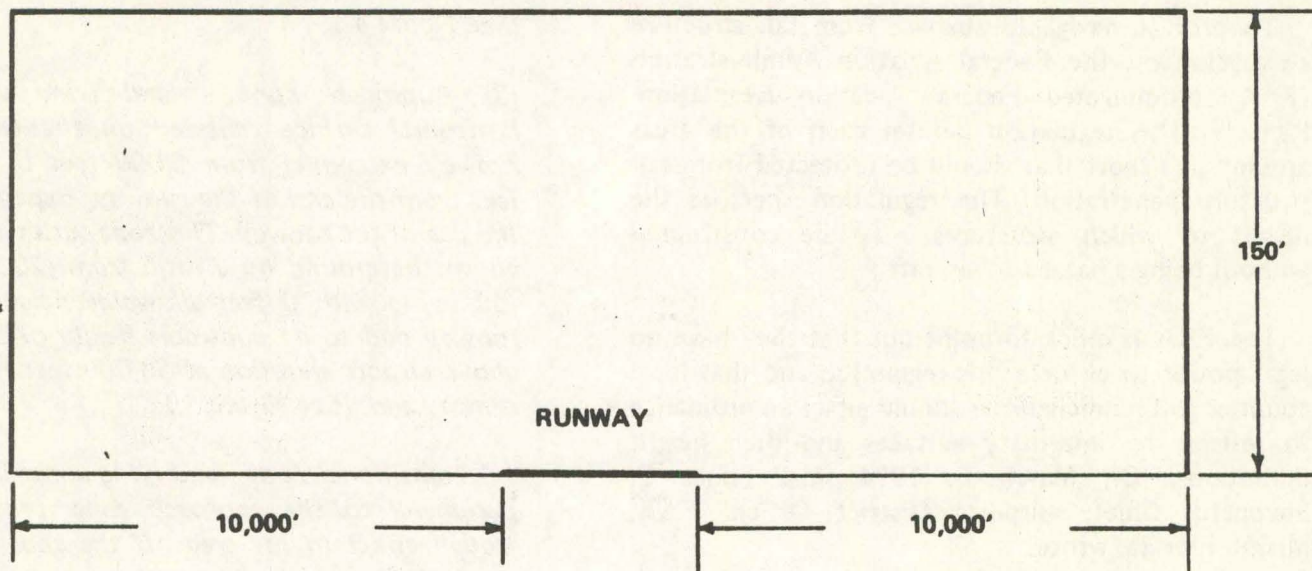


Figure 4

CONICAL ZONE

Conical Surface - (FAR 77.25 (b))

An area surrounding and with a perimeter parallel to the horizontal surface of width 4,000 feet. Variances will be required for structures exceeding 150 feet above airport elevation at the inner limit and rising gradually at a slope of 20 to 1 to 350 feet above airport elevation.

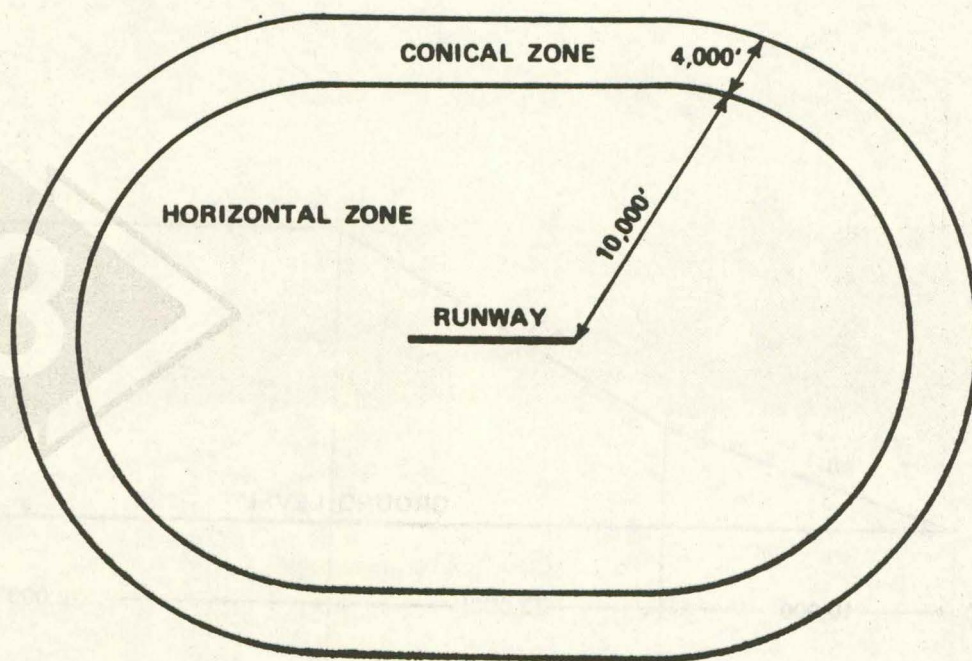
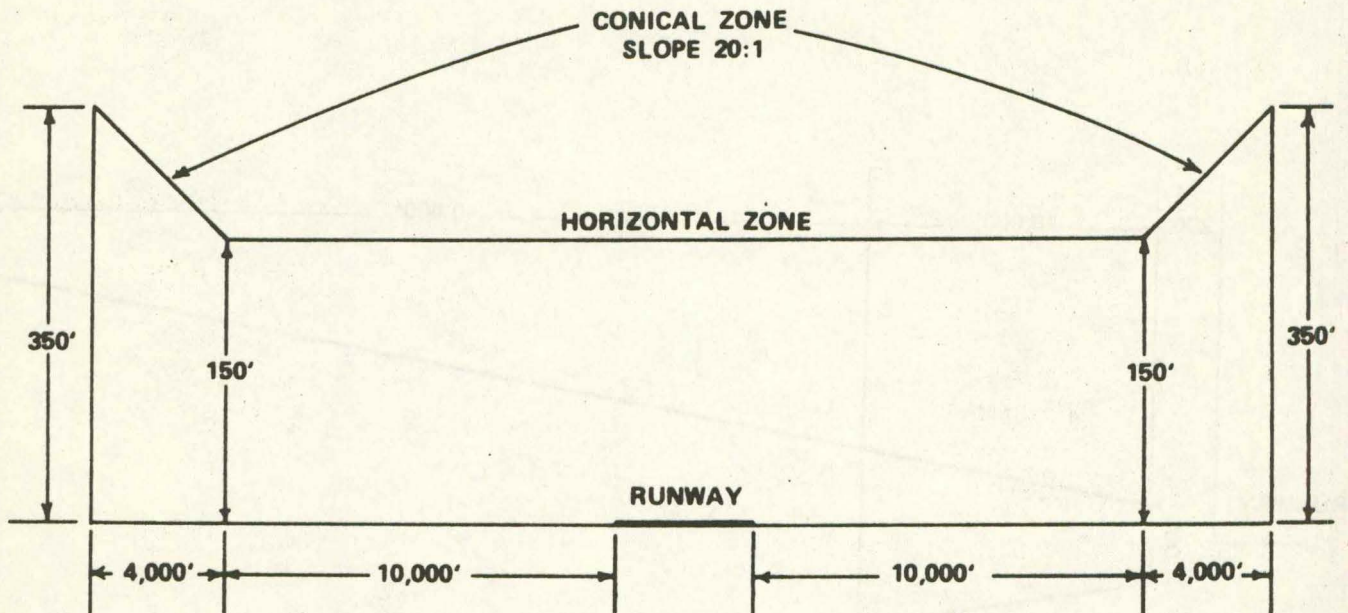


Figure 5

PRECISION APPROACH ZONE

For a precision approach or planned precision approach - (FAR 77.25 (d) (1) & (2)) within a trapezoid with bases of 1,000 feet and 16,000 feet and a length of 50,000 feet, variances will be required for structures exceeding a height of zero feet at a point two hundred feet from the runway and gradually rising at a slope of 50 to 1 for the 1st 10,000 feet in length and a slope of 40 to 1 for 12,000 feet length and then 500 feet AGL for 28,000 feet.

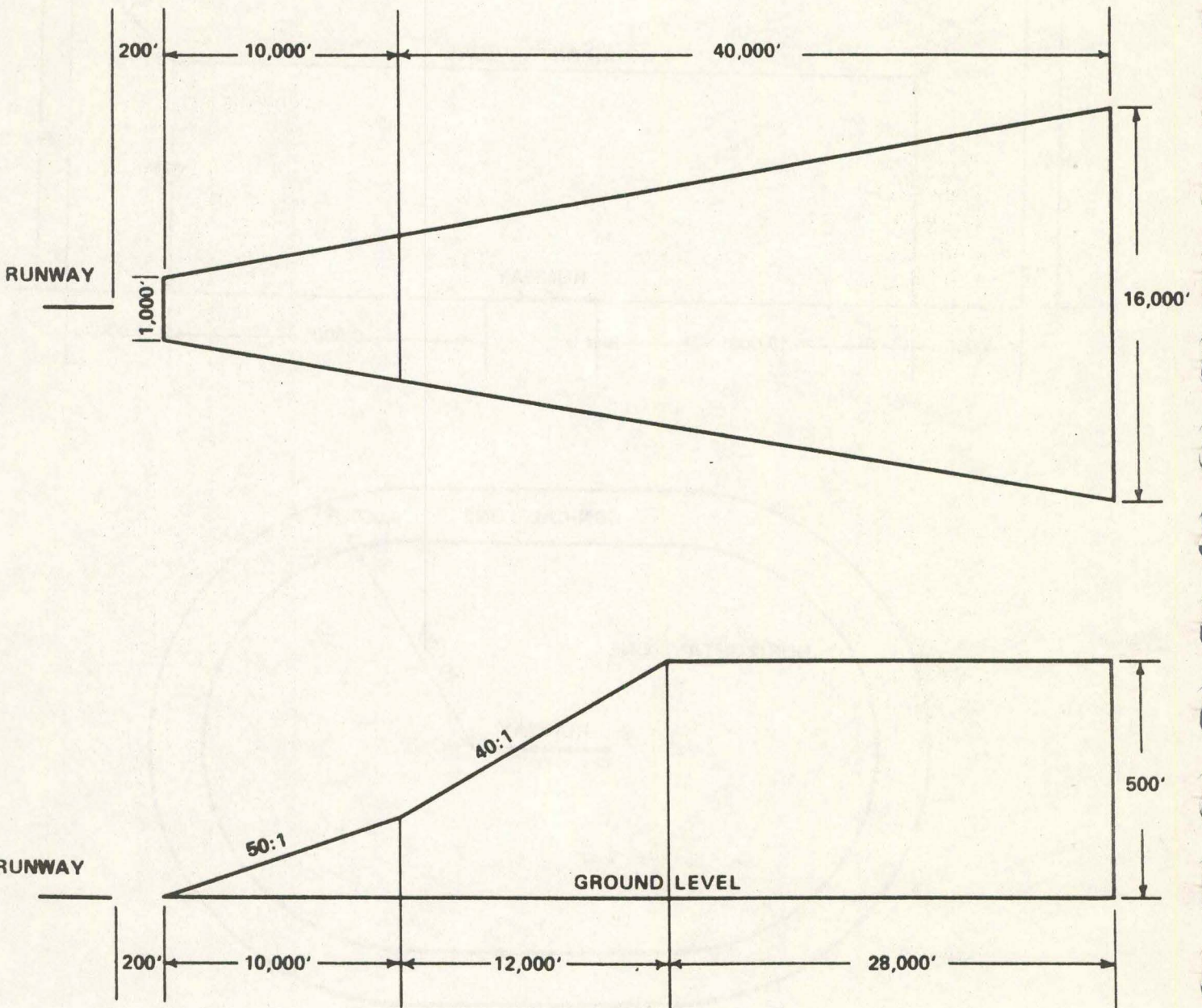
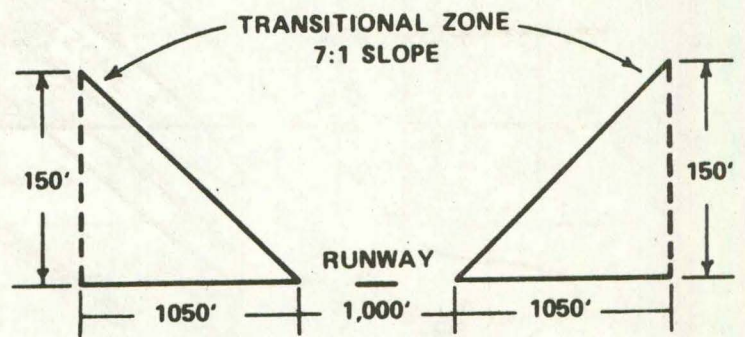
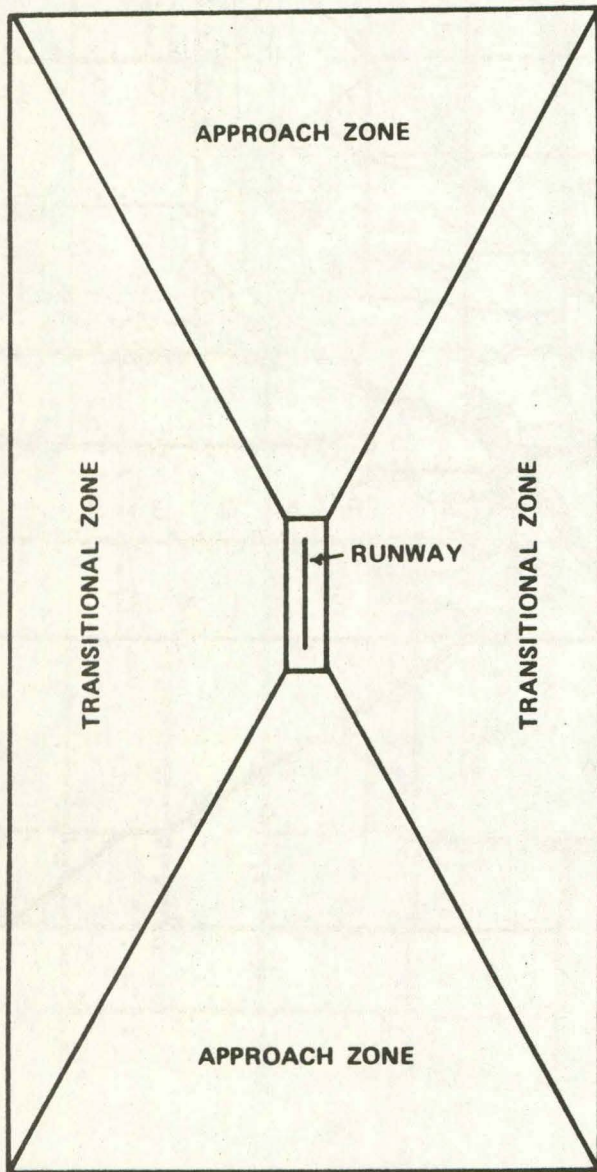


Figure 6

TRANSITIONAL ZONE

Transitional Surface - (FAR 77.25 (e))

These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the primary surface and the sides of the approach surfaces. Variances will be required for structures exceeding the 7 to 1 slope.





Noise Contours

Presently, there are four methods commonly accepted for measuring aircraft noise and developing contours to predict the impact of noise on the residents within those contours. In this chapter, each of these methods will be discussed, so that the decision-maker may be aware of the differences. However, the area impacted by any method only gives guidelines to the land that should be protected from residential buildup.

Many factors influence the direction and area noise will affect. Some of these variables are temperature, humidity, wind direction and velocity, and terrain features. The number of aircraft operations at the airport, the types of aircraft and the time of day all add to the problems of noise around airports.

Operations between 7 o'clock in the morning until 10 o'clock at night are considered normal operations. Operations after 10 o'clock at night and before 7 o'clock in the morning are considered nighttime operations and present most objections from residents living near the airport.

In addition to zoning and easement acquisition, noise abatement procedures should be and can be installed at the airport. These are procedures the pilot of the aircraft can perform to lessen noise exposure to residential areas by either climbing faster, power cutbacks or maneuvering to avoid overflight of residential areas.

The major consideration in land use planning is the noise which aircraft generate, both in the air and on the ground. A level of noise annoying, or offensive to one person might not necessarily be so to another. When evaluating noise, the individual takes into account many factors, primary ones being; intensity, duration, frequency of occurrence, level of background noise, and the activity in which the individual is engaged. It is the difference in annoyance levels of individuals that has brought problems to airport planners.

The four accepted methods of noise measurement around airports are:

(1) COMPOSITE NOISE RATING (CNR) - This measurement rating is a calculated quantity and cannot be directly measured by a measuring device. This method of noise measurement was developed by Bolt, Beranck and Newman, Inc. Generally, the method divides the airport vicinity into 3 zones that would be affected by noise. This method of noise prediction is accepted by the FAA and the Federal Housing and Urban Development Agency. The system is simple to compute and apply. Verification of contours is extremely difficult and expensive. (See Figure 7.)

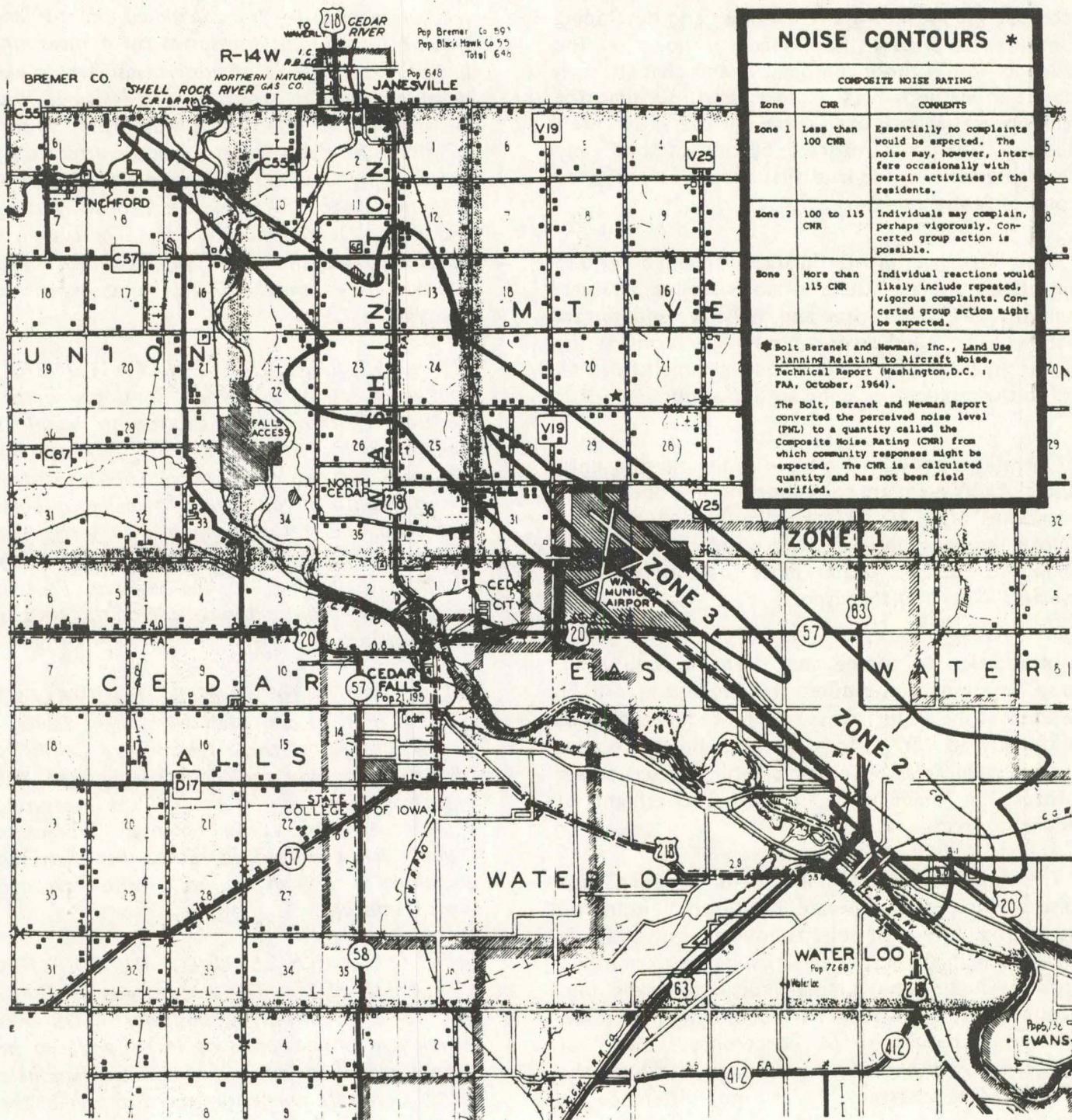
(2) NOISE EXPOSURE FORECAST (NEF) - This noise rating system was developed by the Federal Aviation Administration to handle a more complex airport than the CNR system. However, the two disadvantages of this system are: difficulty in application to smaller airports and requirement for computers to verify and predict contours. This system is extremely difficult to explain to the layman. FAA is moving away from extended use of this system. (See Figure 8).

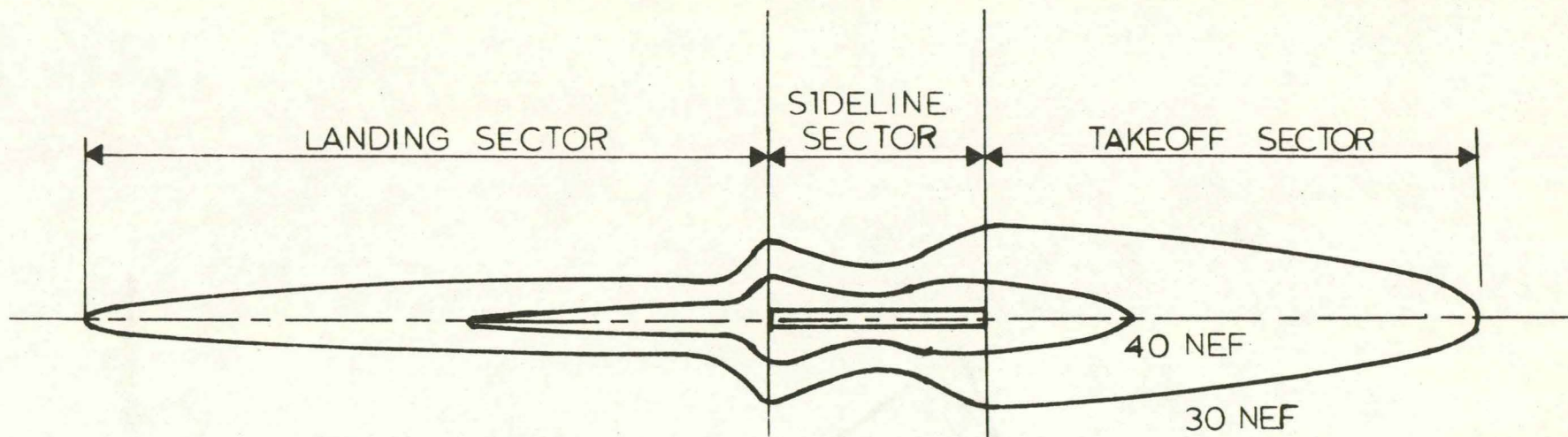
(3) COMMUNITY NOISE EQUIVALENT LEVEL (CNEL) and LDN (Day-Night Level) - The advantages of these systems are simplicity of verification and explanation to laymen. The big disadvantage is the cost of the measuring equipment. The Environmental Protection Agency has endorsed LDN, but has given no guidelines as to what is a healthy noise level and what is unhealthy.

(4) AIRCRAFT SOUND DESCRIPTION SYSTEM (ASDS) - This system was published by the FAA in 1973. Basically ASDS uses A-weighted sound pressure levels and can be simply measured by an inexpensive handheld meter. Contours can be forecasted to predict the number of seconds per day the noise level will exceed 85 dBA in 500 feet X 500 feet sections within the contour. As of July 1, 1974, the FAA requires ASDS contours for each airport requesting development funds. (See Figure 9).

Figure 7

BLACK HAWK COUNTY IOWA



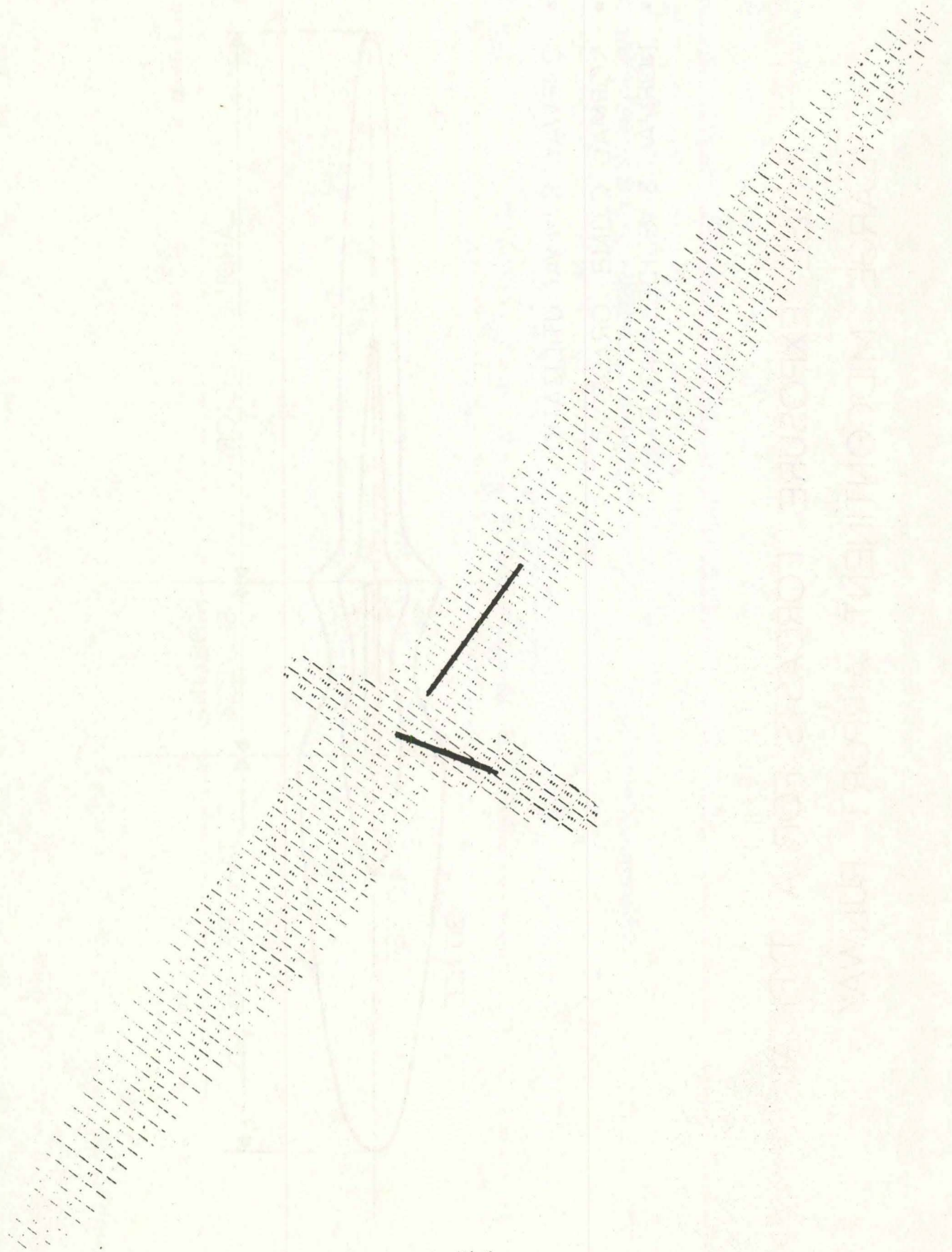


NEF

Figure 8

- ONEWAY RUNWAY UTILIZATION
- NORMAL CLIMB GRADIENT
- NORMAL 3 GLIDE ANGLE

NOISE EXPOSURE FORCASTS FOR A TYPICAL
LARGE MIDCONTINENT AIRPORT RUNWAY



ASDS
Figure 9



The Land Use Plan

Airport land use planning must draw heavily on Federal guidelines to determine uses that are compatible in and around the airport. The approach to be employed is one of delineating distinctive land use areas within the planning boundaries, and indicating additional restraints relative to conventional land use regulation, e.g., prohibiting certain places of public assembly within critical areas as a conditional use. In effect, the plan must entail additional land use restraints to general plans and zoning.

In some areas, such as the approach and climb extensions, noise and tall structure hazards are the primary considerations. In other areas only noise is considered to be the relevant factor. A suggested division of the planning area is as follows:

1. *Airport Building Areas - includes the terminal area, fixed base operator buildings, hangars, tie down areas, parking areas, cargo handling area, and further planned development area for airport facilities.*
2. *Other Airport Property - land owned by the county airport or city airport, but not in use, nor planned for use as building areas, runways or taxiways.*
3. *Approach and Climbout Extensions - that area under the approach and take off extensions as defined by the flight paths in use at the airport. This area warrants both safety and noise considerations.*
4. *Land adjacent to the airport between runway extensions (Multiple Runways) and adjacent to the runway extension (single runway) - that area to the side of the runways and approaches which has a definite noise impact.*
5. *Other areas between runway extensions and with noise impact - those areas with a lesser degree of safety and/or noise consideration.*
6. *Other land within the planning area - that area*

with only a slight noise problem envisioned over the next 20 years.

SEE FIGURE 10 & TABLE 1

The accompanying Airport Land Use Compatibility Listing keys to the land use areas on the following plan map to designate uses which are considered: (1) Incompatible in a particular area (marked with an X); (2) compatible in a particular area (marked with an O); (3) conditionally compatible (marked with a C) where a land use COULD, with some conditions attached, be made a compatible land use. Where a C designation is given to a land use it means that the Airport Zoning Board will examine the proposed use prior to approval with a view to determining appropriate conditions before allowing the use. The criteria that should be used by the Airport Zoning Board should include, but not be limited to, the location of the proposed use in relationship to the airport, the density of population generated by the proposed use, the noise zone in which the use is situated and the location in relationship to flight paths. For example, conditions which could be attached include:

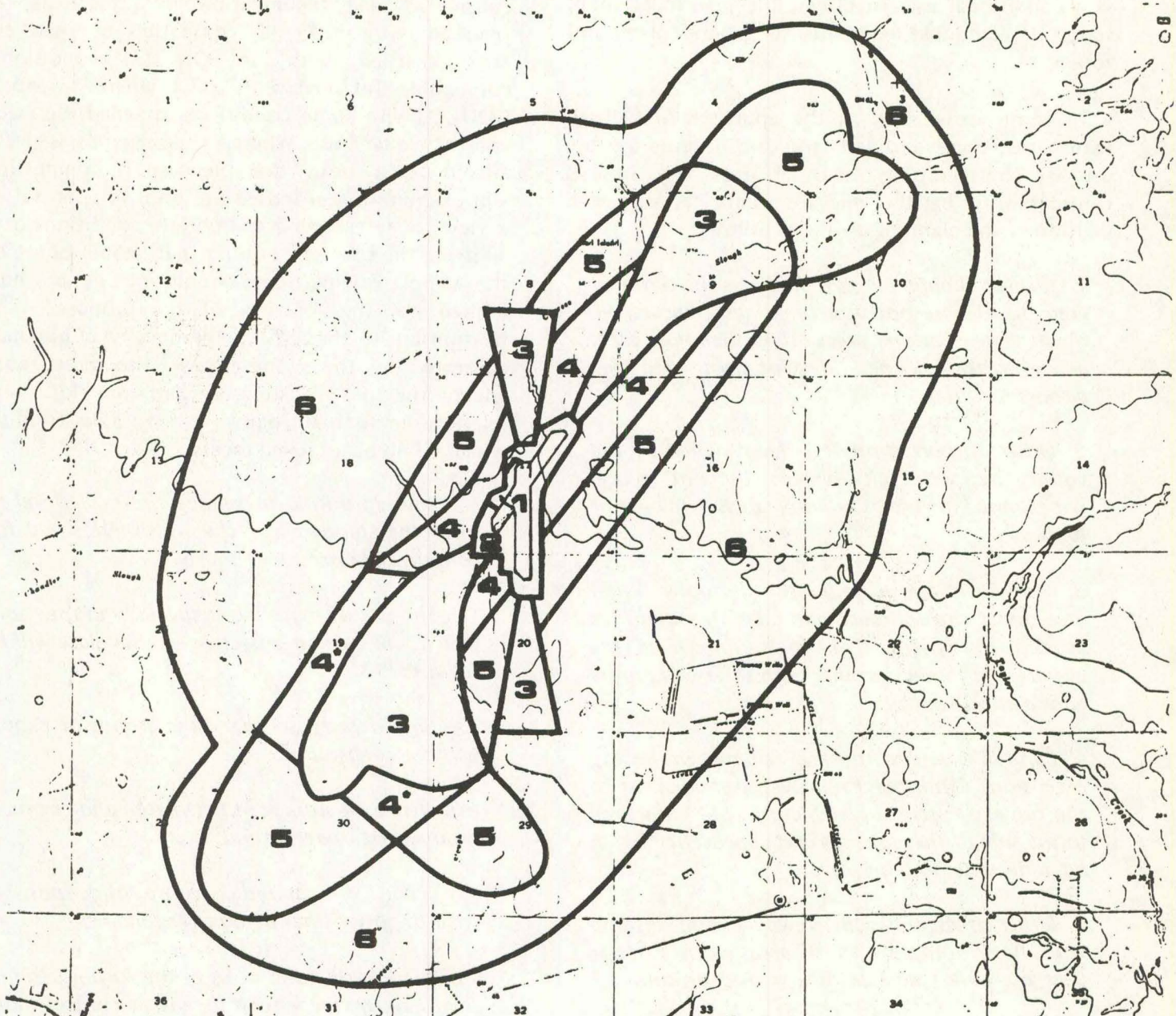
- (1) *Soundproofing to reduce the noise level to meet the standards of the Walsh-Healy Act for commercial or residential use.*
- (2) *The use of materials - especially in the roof - which will be non-reflective so that glare will be reduced.*
- (3) *Low density so that large groups of people will not congregate.*
- (4) *That bulk storage of petroleum and chemical products be underground.*
- (5) *That, if required because of a possible hazard, power lines be underground.*
- (6) *Such other conditions as the Airport Zoning Board deems necessary to ensure compatibility between the airport and the proposed land use.*

Figure 10

AIRPORT LAND USE PLAN

LAND USE AREAS

- 1-IN AIRPORT BUILDING AREAS
 - 2-ON OTHER AIRPORT PROPERTY
 - 3-UNDER APPROACH & CLIMBOUT EXTENSIONS
 - 4-LAND ADJACENT TO AIRPORT BETWEEN RUNWAY EXTENSIONS
 - 5-OTHER LAND BETWEEN RUNWAY EXTENSIONS
 - 6-OTHER LAND IN PLANNING AREA
- * AIRPORT LAND USE COMMISSION TO BE ADVISED OF PROPOSED DEVELOPMENT IN THIS AREA



26

Table 1

<u>USES</u>	<u>AREAS</u>					
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
<u>AGRICULTURAL USES</u>						
Truck & Specialty Crops	0	0	0	0	0	0
Field Crops	0	0	0	0	0	0
Pasture & Rangeland	0	0	0	0	0	0
Orchard & Vineyards	X	X	0	0	0	0
Dry Farm & Grain	0	0	0	0	0	0
Tree Farms, Landscape Nurseries & Greenhouses	0	0	0	0	0	0
Fish Farms	X	X	0	0	0	0
Feed Lots & Stockyards	X	X	0	0	0	0
Poultry Farms	X	X	C	C	0	0
Dairy Farms	X	X	0	0	0	0
<u>NATURAL USES</u>						
Forest Reserves	X	X	0	0	0	0
Fish & Game Reserves	X	X	0	0	0	0
Land Reserves & Open Space	0	0	0	0	0	0
Flood & Geological Hazard Areas	0	0	0	0	0	0
Waterways - Rivers, Creeks, Canals, Swamps, Bay, Lakes	0	0	0	0	0	0
<u>RESIDENTIAL & INSTITUTIONAL</u>						
Rural Residential - 5 acres or more	X	X	C	C	0	0
Suburban Residential - 5 acres or less	X	X	X	C	C	0
Single Family (6,000 Sq. Ft.)	X	X	X	C	C	0
Multi-Family	X	X	X	X	C	0
Mobile Home Parks	X	X	X	C	C	0
Schools, Colleges & Universities	X	X	X	X	X	X
Hospitals	C	C	X	X	X	0
Churches	X	X	X	X	C	0
<u>RECREATIONAL</u>						
Golf Courses	0	0	0	0	0	0
Parks	0	0	0	0	0	0
Playgrounds & Picnic Areas	0	0	0	0	0	0
Athletic Fields	X	X	X	C	C	0
Riding Stables & Trails	X	X	0	0	0	0
Marinas	0	0	0	0	0	0
Tennis Courts	0	0	0	0	0	0
Outdoor Theaters	X	X	X	X	C	0
Swimming Pools	0	0	0	0	0	0
Fairgrounds & Racetracks	X	X	X	X	C	0

Table 1 Cont.

<u>USES</u>	<u>AREAS</u>					
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
<u>COMMERCIAL USES</u>						
Aircraft Sales & Repairs	0	0	0	0	0	0
Flying Schools	C	C	C	C	C	0
Hotels & Motels	C	C	X	C	C	0
Shopping Centers	C	C	X	C	0	0
Banks	C	C	X	0	0	0
Gas Stations	C	C	X	0	0	0
Auto Storage and Parking	0	0	0	0	0	0
Office Buildings	C	C	C	C	0	0
Theaters & Auditoriums	X	X	X	C	C	0
Public Buildings	C	C	C	C	0	0
Taxi, Bus & Terminals	0	0	X	0	0	0
Memorial Parks	X	X	X	0	0	0
Pet Cemeteries	X	X	X	0	0	0
Restaurants & Food Take-outs	C	C	C	C	0	0
Retail Stores	C	C	C	C	0	0
Truck Terminals	0	0	0	0	0	0
Other Service Uses	C	C	C	C	0	0
<u>INDUSTRIAL</u>						
Research Laboratories	C	C	C	C	0	0
Warehouses	0	0	0	0	0	0
Aircraft Factories	0	0	C	0	0	0
Air Freight Terminals	0	0	0	0	0	0
Non-Air Related Manufacturing	C	C	C	0	0	0
Rail Sidings	0	0	0	0	0	0
Other Transportation Parks	0	0	0	0	0	0
<u>UTILITIES</u>						
Reservoirs	C	C	0	0	0	0
Water Treatment	C	C	0	0	0	0
Sewage Disposal	C	C	0	0	0	0
Petroleum and Chemical Products						
Bulk Storage	C	C	C	0	0	0
Electrical Plants	X	X	C	0	0	0
Power Lines	C	C	C	0	0	0
X - PROHIBITED	O - COMPATIBLE	C - CONDITIONALLY APPROVABLE				



The Airport Zoning Board

The administration of airport zoning regulations is specifically addressed in Iowa Statutes, Section 329.13. This Section provides for creation of a separate Airport Zoning Board, or allows an existing Agency to administer regulations adopted under Chapter 329. The only constraint placed on this Board or Agency is the prohibition of any member of the Airport Zoning Board sitting as a member of the Board of Adjustment. Therefore, all powers and the limits of geographical jurisdiction of the Board shall be established by the political subdivision creating the Airport Zoning Board.

It is possible, and even desirable, that the Airport Zoning Commission, established under Section 329.9, be appointed the Administrative Agency. The objective of establishing a special Board to look at airport zoning problems should be the creation of an Administrative Agency that will determine the unique zoning and land use problems of the airport, formulate a plan to deal with these problems and incorporate this plan into the community comprehensive plans.

The goals of the Airport Zoning Commission should be the creation of a long range master plan to reflect the anticipated growth of the airport during the next 20 years. This plan should deal with forecasted demand for facility expansion, additions to instrument approaches or other needs affecting land use, or airspace requirements. Of course, many public airports are presently working on Master Plans with a consultant, the Iowa Department of Transportation and the Federal Aviation Administration. The revelations of this Master Plan should provide tremendous insight into the needs to be addressed by the Airport Zoning Board or Commission. (Airport Master Plans qualify for State and Federal assistance.)

The sections of Master Plans dealing with off airport land use should include a comprehensive planning process to develop compatible land use and

airport utilization. The two major considerations in the land use plan are (1) encroachment of tall structures in the navigable airspace and (2) the noise generated by aircraft and its impact on the surrounding population.

After formulation of a plan to protect the airport, the Zoning Commission, with the aid of the planning professional and the City/County Attorney should write an ordinance (see Appendix B) to enumerate the points and intent of the land use plan. After adoption of this Ordinance by due process, the Airport Zoning Board should function by reviewing all proposals for development within the jurisdiction of that Board.

The policy of the Airport Zoning Board should reflect the concept of prevention of incompatible relationship between the airport and those living and working around the airport now and in the future. In those areas where the present land use is incompatible, the land use plan should deal with the process of change in the long range planning period to allow for compatible land use conversion. The land use plan and zoning policies should be compatible with county and city land use plans for the same planning period. Additionally, the plans and policies should be compatible with, and in promotion of, a multi-modal transportation plan. However, where discrepancies exist, the Board must recognize the unique problems generated by the airport and plan to solve those problems.

In those counties and cities where a planning and zoning board presently exists, there is no need to establish a separate Board for Airport Zoning. Iowa Statutes, Chapter 329, permits utilization of existing zoning boards, Commissions and Administrative Agencies. However, the Zoning Board must become aware of the unique problems of airport noise, land use and tall structures. The Iowa Department of Transportation, Aeronautics Division will provide technical assistance upon request.

appendix a

APPENDIX A

Iowa Code

Chapter 329

AIRPORT ZONING

Referred to in section 307.25

329.1 Definitions.

329.2 Airport hazards contrary to public interest.

329.3 Zoning regulations - powers granted.

329.4 Extra-territorial airport hazard areas.

329.9 Procedure for adopting zoning regulations - zoning commission.

329.10 Airport zoning requirements.

329.11 Variances.

329.12 Board of adjustment-creation-powers-duties.

329.5 Prevention of airport hazards.

329.6 Zoning powers.

329.7 Relation to comprehensive zoning regulations.

329.8 Conflicting regulations.

329.13 Administration of airport zoning regulations.

329.14 Enforcement and remedies.

329.15 Short title.

329.1 Definitions. The following words, terms, and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meaning herein given, unless otherwise specifically defined, or unless another intention clearly appears, or the context otherwise requires:

1. "Airport" means any area of land or water designed and set aside for the landing and take-off of aircraft and utilized, or to be utilized, in the interest of the public for such purposes.

2. "Airport hazard" means any structure or tree or use of land which would exceed the federal obstruction standards as contained in 14 code of federal regulations sections 77.21, 77.23 and 77.25 as revised March 4, 1972, and which obstruct the air space required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.

3. "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided by this chapter.

4. "municipality" means any county or city of this state.

5. "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

6. "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.

7. "Tree" means any object of natural growth.

8. "Obstruction" means any tangible, inanimate physical object, natural or artificial, protruding above the surface of the ground.

9. "Department" means the state department of transportation.

10. The singular shall include the plural, and the plural the singular. [C46, 50, 54, 58, 62, 66, 71, 73 section 329.1; 64GA, ch 1088 section 261; 65GA, ch 1180 section 160]

Amendment effective July 1, 1975

329.2 Airport hazards contrary to public interest. It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land and other persons in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question.

2. That it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented.

3. That this should be accomplished, to the extent legally possible, by proper exercise of the police power.

4. That the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which municipalities may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests therein. [C46,50,54,58,62,66,71,73,section 329.2]

See section 657.2(9)

329.3 Zoning regulations - powers granted. Every municipality having an airport hazard area within its territorial limits may adopt, administer, and enforce in the manner and upon the conditions prescribed by this chapter, zoning regulations for such airport hazard area, which regulations may divide such area into zones and, within such zones, specify the land uses permitted, and regulate and restrict, for the purpose of preventing airport hazards, the height to which structures and trees may be erected or permitted to grow. [C46,50,54,58,62,66,71,73, section 329.3]

Referred to in sections 329.4(2), 329.6

329.4 Extra-territorial airport hazard areas. When any airport hazard area appertaining to an airport owned or controlled by a municipality is located outside the territorial limits of said municipality:

1. **Ordinances or resolutions.** The municipality owning or controlling the airport, and the municipality within which the airport hazard area is located, may by duly adopted ordinance or resolution, as may be appropriate, adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question.

2. **Petition to district court.** If the municipality within which is located such airport hazard area has failed or refused, within sixty days after demand has been made upon it by any municipality owning or controlling the airport, to adopt reasonably adequate airport zoning regulations under section 329.3, or to join in adopting joint airport zoning regulations as authorized in subsection 1 of this section, the municipality owning or controlling the airport may, upon a resolution of necessity therefor duly adopted by its governing body, petition the district court of the county in which such airport hazard area or any part thereof is located, in the name of the municipality owning or controlling the affected airport, praying that zoning regulations be established for the airport hazard area in question.

3. **Petition-contents.** Such petition shall allege all essential facts showing the necessity for bringing such action, the relief sought including proposed zoning regulations, and the necessity therefor.

Referred to in section 329.6

4. **Parties.** The parties defendant in such action shall be the municipality in which such airport hazard area is located, and all persons having an apparent or contingent interest in the property located within such area, who may be joined in said action generally as a class.

Referred to in section 329.6

5. **Procedure.** The action shall be triable in equity and in accordance with general rules of civil procedure, except that such action shall have precedence over any other business of the court except criminal cases, and the court shall set said petition for hearing not less than sixty days nor more than one hundred twenty days from the date it is filed with the clerk of said court.

Referred to in section 329.6

6. **Notice.** The original notice in such action shall be served upon the municipality in which such airport hazard area is located, and in the same manner as original notice of any other action but not less than thirty days prior to the date set for trial; and upon all other defendants by the publication of said notice in some newspaper or newspapers of general circulation within the area described in the petition, or as near thereto as possible, which publication shall be in the same manner as provided for the publication of other original notices, provided, however, that the last publication thereof shall be not less than thirty days prior to the date set for trial.

Referred to in section 329.6

7. **Decree and modification.** Upon trial the court may enter decree establishing such zoning regulations as it shall find reasonable and necessary. The court having once taken jurisdiction of such matter shall retain continuing jurisdiction thereof for such subsequent modification as it may deem advisable, upon proper application of interested parties, and due showing made thereunder after such notice to possible adverse parties as the court shall prescribe.

Referred to in section 329.6

8. **Appeal.** Any person or municipality adversely affected or aggrieved by any findings of the court may appeal therefrom as in other civil actions.

Referred to in section 329.6

9. **Enforcement.** Following the entry of any final decree by the district court, and unless appeal has been taken therefrom, the zoning regulations established by such decree may be enforced, and violations thereof punished, as provided by section 329.14 [C46,50,54,58,62,66,71,73, section 329.4]

Referred to in section 329.6

329.5 **Prevention of airport hazards.** Any municipality owning or controlling an airport may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to said airport, in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter for any area whether within or without the territorial limits of said municipality. [C46,50,54,58,62,66,71,73, section 329.5]

See section 657.2(9)

329.6 **Zoning powers.** If any municipality owning or controlling an airport adjacent to which there is an airport hazard area shall fail or refuse, within sixty days after demand made upon it by the department, to adopt reasonably adequate airport zoning regulations under section 329.3, or to proceed as provided in section 329.4, the department may petition the district court of the county in which such airport hazard area, or any part thereof, is located, in the name of the state, praying that zoning regulations be established for the airport hazard area in question, and the provisions of section 329.4, subsections 3 to 9, shall apply to such actions provided, however, that such municipality shall be joined as a party defendant in any such action.

The department may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to any airport within the state, in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter. [C46,50,54,58,62,66,71,73, section 329.6; 65GA, ch 1180, section 161]

Amendment effective July 1, 1975

329.7 **Relation to comprehensive zoning regulations.** Any municipality which has adopted, or hereafter adopts, zoning ordinances under the provisions of chapter 414, is hereby empowered to incorporate therein such airport hazard area zoning regulations as are provided for by this chapter, and to administer and enforce the same as herein provided. [C46,50,54,58,62,66,71,73, section 329.7]

329.8 **Conflicting regulations.** In the event of any conflict between any airport zoning regulations adopted or established under this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. [C46,50,54,58,62,66,71,73, section 329.8]

329.9 **Procedure for adopting zoning regulations - zoning commission.** In adopting, amending, and repealing airport zoning regulations under this chapter the governing body of the municipality shall follow the procedure as provided in sections 414.4 and 414.6. Any action taken on the part of any county under this chapter shall be by resolution of the board of supervisors thereof and no such action shall be taken without a majority of the board of supervisors voting therefor and consenting thereto. The commission so appointed shall be

known as the airport zoning commission. The airport zoning commission shall consist of two members from each municipality selected by the governing body thereof and one additional member to act as chairman and to be selected by a majority vote of the members selected by the municipality. The terms of the members of the airport zoning commission shall be for six years excepting that when the board shall first be created, one of the members appointed by each municipality shall be appointed for a term of two years and one for a term of four years. Members may be removed for cause by the appointing authority upon written charges after public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected. [C46,50,54,58,62,66,71,73, section 329.9]

329.10 Airport zoning requirements.

1. All airport zoning regulations adopted under this chapter shall be reasonable and none shall impose any requirement or restriction which is not necessary to effectuate the purposes of this chapter.

2. No airport zoning regulations adopted under this chapter shall require the removal, lowering, or other change or alteration of any structure or tree, or interfere with any use, not conforming to the regulations when adopted or amended, except that they may require the owner thereof to permit the municipality at its own expense to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

3. All such regulations shall provide that no pre-existing nonconforming structure, tree, or use, shall be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when such airport zoning regulations or amendments thereto were adopted. [C46,50,54,58,62,66,71,73, section 329.10]

329.11 Variances. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under this chapter, may apply to the board of adjustment for a variance from the zoning regulations. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations and this chapter; provided, however, that any such variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this chapter, including the reservation of the right of the municipality, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard. [C46,50,54,58,62,66,71,73, section 329.11]

329.12 Board of adjustment-creation-powers-duties. The governing body of any municipality availing or seeking to avail itself of the powers by this chapter conferred shall, by ordinance or resolution duly adopted, provide for the appointment of a board of adjustment, as provided in section

414.7. Such board of adjustment shall have the same powers and duties, and its procedure, and appeals thereto and therefrom, in all respects shall be governed by and subject to the same provisions established in sections 414.9 to 414.19.

The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any regulations adopted pursuant to this chapter or to effect any variance therefrom.

The board of adjustment shall consist of two members from each municipality, selected by the governing body thereof, and one additional member to act as chairman and to be selected by a majority vote of the members selected by the municipality. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected. The terms of the members of the board of adjustment shall be for five years, excepting that when the board shall first be created, one of the members appointed by each municipality shall be appointed for a term of two years and one for a term of four years. [C46,50, 54, 58, 62, 66, 71, 73, section 329.12]

329.13 Administration of airport zoning regulations. All airport zoning regulations adopted under this chapter shall provide for the administration and enforcement of such regulations by an administrative agency (which may be an agency created by such regulations), or by any official, board, or other existing agency of the municipality adopting the regulations, or of one or both of the municipalities which participated therein, but in no case shall such administrative agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to this chapter shall not include any of the powers herein delegated to the board of adjustment. [C46,50,54,58,62,66, 71,73, section 329.13]

329.14 Enforcement and remedies. Each violation of this chapter or of any regulations, order, or rules promulgated pursuant to this chapter, shall constitute a misdemeanor, and the perpetrator thereof, upon conviction, shall be punished accordingly; and each day a violation continues to exist shall constitute a separate offense. [C46,50,54,58, 62,66,71,73, section 329.14]

Referred to in section 329.4(9)

329.15 Short title. This chapter shall be known and may be cited as the "Airport Zoning Act." [C46,50,54,58,62, 66,71,73, section 329.15]

Constitutionality, 51GA, ch 149, section 15

Omnibus repeal, 51GA, ch 149, section 16

appendix b

APPENDIX B

SAMPLE

AIRPORT TALL STRUCTURE ZONING ORDINANCE

An ordinance regulating and restricting the height of structures and objects of natural growth in the vicinity of the _____ Airport by creating the appropriate zones and establishing the boundaries thereof: defining certain terms used herein: referring to the _____ Airport height zoning map which is incorporated in and made a part of this ordinance: providing for enforcement: establishing an airport zoning board: establishing a board of adjustment: and imposing penalties.

This Ordinance is adopted pursuant to the authority conferred on the _____ (City Council/Board of County Supervisors) by Iowa Statutes, Section 329.3. It is hereby found that an airport hazard endangers the lives and property of users of _____ (City/County), and property or occupants of land in its vicinity. Accordingly, it is declared:

- (1) That the creation or establishment of an airport hazard is a public nuisance and an injury to the City/County served by _____ Airport.
- (2) That it is necessary in the interest of the public health, public safety, and general welfare that creation of airport hazards be prevented; and
- (3) That this should be accomplished, to the extent legally possible, by proper exercise of the police power; and
- (4) That the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the (City/County of) _____ may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests therein.

It Is Hereby Ordained By _____ (City Council/Board Of County Supervisors) as follows:

SECTION I: Short Title

This Ordinance shall be known and may be cited as " _____ Airport Height Zoning Ordinance."

SECTION II: Definitions

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

- (1) **Airport** - The _____ and the _____ Airport.
- (2) **Airport Elevation** - The highest point of an airport's usable landing area measured in feet above mean sea level.
- (3) **Airport Hazard** - Any structure or tree or use of land which would exceed the federal obstruction standards as contained in 14 code of federal regulations sections 77.21, 77.23 and 77.25 as revised March 4, 1972, and which obstruct the air space required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
- (4) **Airport Primary Surface** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

- (5) **Airspace Height** - For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (6) **Control Zone** - Airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of 5 statute miles in radius, with extensions where necessary to include instrument approach and departure paths.
- (7) **Decision Height** - The height at which a decision must be made, during an ILS instrument approach, to either continue the approach or to execute a missed approach.
- (8) **Heliport** - A designated landing area, other than an airport, used primarily for the operation and basing of rotorcraft.
- (9) **Heliport Primary Surface** - The area of the primary surface coincides size and shape with the designated landing and takeoff area of a heliport or helistop. This surface is a horizontal plane at the elevation of the established heliport or helistop elevation.
- (10) **Helistop** - A designated landing area other than an airport, used for the operating rotorcraft where no basing facilities are provided.
- (11) **Instrument Runway** - A runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.
- (12) **Minimum Descent Altitude** - The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.
- (13) **Minimum Enroute Altitude** - The altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.
- (14) **Minimum Obstruction Clearance Altitude** - The specified altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within 22 miles of a VOR.
- (15) **Runway** - A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- (16) **Stol Primary Surface** - An imaginary plane, 300 feet wide centered on the runway. Its length extends 100 feet beyond each runway end. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- (17) **Visual Runway** - A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

SECTION III: Airport Zones and Airspace Height Limitations

In order to carry out the provisions of this Section, there are hereby created and established certain zones which are depicted on the Airport Height Zoning Map. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Airport Height Zones

- A. **Horizontal Zone** - The land lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by:

- Visual Runway (1) Swinging arcs of 5,000 feet radii from the center of each end of the primary surface of runways 18 and 36, and connecting the adjacent arcs by lines tangent to those arcs.
- Instrument Runway (2) Swinging arcs of 10,000 feet radii from the center of each end of the primary surface of runways 9 and 27, and connecting the adjacent arcs by lines tangent to those arcs.

(NOTE: The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 feet arc is encompassed by tangents connecting two adjacent 10,000 feet arcs, the 5,000 feet arc shall be disregarded on the construction of the perimeter of the horizontal surface.)

No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the _____ Airport Height Zoning Map.

- B. **Conical Zone** - The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the _____ Airport Height Zoning Map.
- C. **Approach Zone** - The land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. (NOTE: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end)

- (1) The inner edge of the Approach Surface is:

- Visual Utility Runway (a) 250 feet wide for Runways 18 and 36.
- Visual Other Than Utility Runway and Non-precision Instrument Runway (b) 500 feet wide for Runways 04 and 22, Runways 31 and 13
- Precision Instrument Runway (c) 1,000 feet wide for Runways 9 and 27

- (2) The outer edge of the approach zone is:

- Visual Utility Runway (a) 1,250 feet for Runways 18 and 36.
- Visual Other Than Utility Runway (b) 1,500 feet for Runways 4 and 22.
- Non-Precision Instrument Runway (c) 3,500 feet for Runways 13 and 31.

Precision Instrument Runway (d) 16,000 feet for Runways 9 and 27.

(3) The Approach Zone extends for a horizontal distance of:

All Visual Runways (a) 5,000 feet at a slope of 20 to 1 for Runways 18, 36, 4 and 22.

Non-Precision Instrument Runways (b) 10,000 feet at a slope of 34 to 1 for Runways 13 and 31.

Precision Instrument Runways (c) 10,000 feet at a slope of 50 to 1, and then 12,000 feet at a slope of 40 to 1 and then restricted to 500 feet above airport elevation for 28,000 feet.

No structure shall exceed the approach surface to any runway, as depicted on the _____ Airport Height Zoning Map.

D. **Transitional Zone** - The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the Approach Surfaces. Transitional Surfaces for those portions of the precision Approach Surface which project through and beyond the limits of the Conical Surface, extend a distance of 5,000 feet measured horizontally from the edge of the Approach Surface and at right angles to the runway centerline. The Transitional Surface for the precision approach extends upward and outward at a slope of 7 to 1 until it intersects a plane 500 feet above the airport elevation, at which time it becomes a plane 500 feet above airport elevation.

No structure shall exceed the Transitional Surface, as depicted on the _____ Airport Height Zoning Map.

E. No structure shall be erected in _____ County that raises the published Minimum Descent Altitude or Decision Height for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum Obstruction Clearance Altitude or Minimum Enroute Altitude to be increased on any Federal Airway in _____ County.

2. Heliport Height Zones

A. **Heliports and Helistops Visual Only** - The areas described as an Approach Zone for a heliport with visual approaches is a trapezoidal area increasing in width from the coincident width of the primary surface to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface. Its centerline being the continuation of the centerline of the primary surface.

This area shall be clear of all obstructions above a glide path of 8 to 1 from the primary surface of each designated landing and takeoff area. The side slope in all other directions shall be clear of all obstructions above a glide path of 5 to 1 for a horizontal distance of 500 feet, as depicted on the _____ Heliport Height Zoning Map.

B. **Heliports with Instrument Approaches** - The area described as an Approach Zone for a Heliport with an instrument approach is a trapezoidal area increasing in width from the coincident width of the primary surface to a width of 3,400 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the primary surface.

This area shall be clear of all obstructions above a glide path of 15 to 1 from the primary surface of each designated instrument takeoff and landing area. The side slope in all other directions shall be

clear of all obstructions above a glide path of 5 to 1 for a horizontal distance of 500 feet, as depicted on the _____ Heliport Height Zoning Map.

SECTION IV: Use Restrictions

Notwithstanding any other provisions of Section III, no use may be made of land or water within (City/County) in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

- A. All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from _____ airport or in the vicinity thereof.
- B. No operations from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of _____ Airport.
- C. No operations from any use in _____ (City/County) shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

SECTION V: Lighting

- A. **NOTWITHSTANDING** the provisions of Section IV, the owner of any structure over 200 feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure, constructed after the effective date of this Ordinance and exceeding 949 feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments.
- A. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit _____ (City/County) at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

SECTION VI: Variances

Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this Ordinance, may apply to the Board of Adjustment for variance from such regulations. NO application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been submitted to the _____ Airport Manager or Aeronautics Director for his opinion as to the aeronautical effects of such a variance. If the _____ Airport Manager or Aeronautics Director does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

SECTION VII: Board of Adjustment

- A. There is hereby created a Board of Adjustment to have and exercise the following powers: (1) To hear and decide appeals from any order, requirement, decision, or determination made by the (Airport Zoning Board/Administrative Agency) in the enforcement of this Ordinance; (2) to hear and decide special exemptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.
- B. The Board of Adjustment shall consist of five (5) members appointed by the (City Council/Board of County Supervisors) and each shall serve for a term of five years and until his successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable by the appointing authority for cause, upon

written charges, after a public hearing.

(NOTE: For Board of Adjustments comprised of two or more municipalities, See Iowa Statutes, Section 329.12)

- C. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall immediately be filed in the Office of the City/County Clerk, and on due cause shown.
- D. The Board of Adjustment shall have the powers established in Iowa Statutes, Section 414.12.
- E. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variations of this Ordinance.

SECTION VIII: Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Iowa Statutes, Section 414.15.

SECTION IX: Administrative Agency

It shall be the duty of the _____ (County Building Inspector/County Zoning Administrator) to administer the regulations prescribed herein. Applications for permits and variances shall be made to the _____ (County Building Inspector/County Zoning Administrator) upon a form furnished by him. Applications required by this Ordinance to be submitted to the Administrative Agency shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the _____ (County Building Inspector/County Zoning Administrator).

SECTION X: Penalties

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor, and be punishable by a fine of not more than 500 dollars or imprisonment for not more than one year or both; and each day a violation continues to exist shall constitute a separate offense.

SECTION XI: Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION XII: Severability

If any provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION XIII: Effective Date

WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare, and an **EMERGENCY** is hereby declared to exist, this Ordinance shall be in full force and effect from and after its passage by the _____ (City Council/Board of County Supervisors) and publication and posting as required by law.

Adopted by the _____ (City Council/Board of County Supervisors) this ____ day of _____ 19__ .

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF THE HISTORY OF ARTS
1100 EAST 58TH STREET
CHICAGO, ILLINOIS 60637
TEL: 773-936-3300

APPENDIX

APPENDIX C

IOWA CODE

Chapter 358A

COUNTY ZONING COMMISSION

Referred to in Section 455B.79

- | | |
|--------------------------------|--|
| 358A.1 Where applicable. | 358A.14 Stay of proceedings. |
| 358A.2 Farms exempt . | 358A.15 Powers of board. |
| 358A.3 Powers. | 358A.16 Decision. |
| 358A.4 Areas and districts. | 358A.17 Vote required. |
| 358A.5 Objectives. | 358A.18 Petition to court. |
| 358A.6 Public hearings. | 358A.19 Review by court. |
| 358A.7 Changes and amendments. | 358A.20 Record advanced. |
| 358A.8 Commission appointed. | 358A.21 Trial to court. |
| 358A.9 Administrative officer. | 358A.22 Precedence. |
| 358A.10 Board of adjustment. | 358A.23 Restraining order. |
| 358A.11 Membership of board. | 358A.24 Conflict with other regulations. |
| 358A.12 Rules. | 358A.25 Plumbing code enforced. |
| 358A.13 Appeals to board. | 358A.26 Penalty. |

Section 358A.1, COUNTY ZONING COMMISSION

358A.1 Where applicable. The provisions of this chapter shall be applicable to any county of the state at the option of the board of supervisors of any such county. [C50, 54, 58, 62, 66, 71, 73, section 358A.1]

Referred to in sections 358A.3, 358A.25

358A.2 Farms exempt. No regulation or ordinance adopted under the provisions of this chapter shall be construed to apply to land, farm houses, farm barns, farm outbuildings or other buildings, structures, or erections which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used; provided, however, that such regulations or ordinances which relate to any structure, building dam, obstruction, deposit or excavation in or on the flood plains of any river or stream shall apply thereto. [C50, 54, 58, 62, 66, 71, 73, section 358A.2]

Referred to in sections 358A.3, 358A.25, 414.28

358A.3 Powers. Subject to the provisions of sections 358A.1 and 358A.2, the board of supervisors of any county is hereby empowered to regulate and restrict the height, number of structures, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and to regulate, restrict and prohibit the use for residential purposes of tents, trailers and portable or potentially portable structures; provided that such powers shall be exercised only with reference to land and structures located within the county but lying outside of the corporate limits of any city. The board of supervisors of any county may prescribe and charge a reasonable building permit fee, and upon receipt of an application containing all required information, in due form and properly executed, showing that the proposed structure will comply with all applicable regulations of the political subdivision in which it is to be located and upon payment of the required permit fee, the board of supervisors shall, within seven days, issue a permit to the applicant. [C50, 54, 58, 62,

66, 71, 73, section 358A.3; 65GA, ch 1087, section 32]
Amendment effective July 1, 1975

358A.4 Areas and districts. For any and all of said purposes the board of supervisors may divide the county, or any area or areas within the county, into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures or land. All such regulations and restrictions shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts. [C50, 54, 58, 62, 66, 71, 73, section 358A.4]

358A.5 Objectives. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the street or highway; to secure safety from fire, flood, panic, and other dangers; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

Such regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such county. [C50, 54, 58, 62, 66, 71, 73, section 358A.5]

358A.6 Public hearings. The board of supervisors shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented or changed. However, no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties

in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in a paper of general circulation in such county. Such notice shall state the location of the district affected by naming the township and section, and the boundaries of such district shall be expressed in terms of streets or roads wherever possible. [C50, 54, 58, 62, 66, 71, 73, section 358A.6]

Referred to in section 358A.7

358A.7 Changes and amendments. Such regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change signed by the owners of twenty percent or more either of the area included in such proposed change, or of the area immediately adjacent thereto and within five hundred feet of the boundaries thereof, such amendment shall not become effective except by the favorable vote of at least sixty percent of all of the members of the board of supervisors. The provisions of section 358A.6 relative to public hearings and official notice shall apply equally to all changes or amendments. [C50, 54, 58, 62, 66, 71, 73, section 358A.7]

358A.8 Commission appointed. In order to avail itself of the powers conferred by this chapter, the board of supervisors shall appoint a commission, a majority of whose members shall reside within the county but outside the corporate limits of any city, to be known as the county zoning commission, to recommend the boundaries of the various original districts, and appropriate regulations and restrictions to be enforced therein. Such commission shall, with due diligence, prepare a preliminary report and hold public hearings thereon before submitting its final report; and the board of supervisors shall not hold its public hearings or take action until it has received the final report of such commission. After the adoption of such regulations, restrictions, and boundaries of districts, the zoning commission may, from time to time, recommend to the board of supervisors amendments, supplements, changes or modifications. The zoning commission, with the approval of the board of supervisors, may contract with professional consultants, regional planning commissions, the Iowa development commission, or the federal government, for local planning assistance. [C50, 54, 58, section 358A.8; C62, 66, 71, 73, sections 358A.8, 373.21; 64GA, ch 1088, section 297; 65GA, ch 1087, section 32, ch 1210, section 1]

Home Rule Amendment effective July 1, 1975

358A.9 Administrative officer. The board of supervisors shall appoint an administrative officer authorized to enforce the resolutions or ordinances so adopted by the board of supervisors. Such administrative officer may be a person holding other public office in the county, or in a city or other governmental subdivision within the county, and the board of supervisors is authorized to pay to such officer out of the general fund such compensation as it shall deem fit. [C50, 54, 58, 62, 66, 71, 73, section 358A.9]

358A.10 Board of adjustment. The board of supervisors shall provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this chapter shall provide that the said board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinances or regulations in

harmony with its general purpose and intent and in accordance with the general or specific rules therein contained, and provide that any property owner aggrieved by the action of the board of supervisors in the adoption of such regulations and restrictions may petition the said board of adjustment direct to modify regulations and restrictions as applied to such property owners. [C50, 54, 58, 62, 66, 71, 73, section 358A.10]

358A.11 Membership of board. The board of adjustment shall consist of five members, a majority of whom shall reside within the county but outside the corporate limits of any city, each to be appointed for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. [C50, 54, 58, 62, 66, 71, 73, section 358A.11; 65GA, ch 1087, section 32, ch 1210, section 2]

Amendment effective July 1, 1975

358A.12 Rules. The board shall adopt rules in accordance with the provisions of any regulation or ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. [C50, 54, 58, 62, 66, 71, 73, section 358A.12]

358A.13 Appeals to board. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken. [C50, 54, 58, 62, 66, 71, 73, section 358A.13]

358A.14 Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. [C50, 54, 58, 62, 66, 71, 73, section 358A.14]

358A.15 Powers of board. The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.

2. To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

3. To authorize upon appeal, in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. [C50, 54, 58, 62, 66, 71, 73, section 358A.15]

358A.16 Decision. In exercising the above-mentioned powers such board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. [C50, 54, 58, 62, 66, 71, 73, section 358A.16]

358A.17 Vote required. The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. [C50, 54, 58, 62, 66, 71, 73, section 358A.17]

358A.18 Petition to court. Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board or bureau of the county, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. [C50, 54, 58, 62, 66, 71, 73, section 358A.18]

358A.19 Review by court. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. [C50, 54, 58, 62, 66, 71, 73, section 358A.19]

358A.20 Record advanced. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions hereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the

decision appealed from and shall be verified. [C50 54, 58, 62, 66, 71, 73, section 358A.20]

358A.21 Trial to court. If upon the hearing which shall be tried de novo it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from. [C50, 54, 58, 62, 66, 71, 73, section 358A.21]

358A.22 Precedence. All issues in any proceedings under the foregoing sections shall have preference over all other civil actions and proceedings. [C50, 54, 58, 62, 66, 71, 73, section 358A.22]

358A.23 Restraining order. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the board of supervisors, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. [C50, 54, 58, 62, 66, 71, 73, section 358A.23]

358A.24 Conflict with other regulations. Wherever the regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this chapter shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this chapter, the provisions of such statute or local ordinance or regulation shall govern. Wherever any regulation proposed or made under authority of this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the Iowa natural resources council shall be required to establish, amend, supplement, change, or modify such regulation or to grant any variation or exception therefrom. [C50,54,58,62,66,71,73, section 358A.24]

358A.25 Plumbing code enforced. Subject to the provisions of sections 358A.1 and 358A.2, the board of supervisors of any county is further authorized to adopt regulations to provide that every dwelling, whether now or hereafter erected

within the county but outside the corporate limits of any city which shall develop a private water supply or install a pressure water system or install sanitary house drains, shall comply with the recommendations of the state department of health on minimum requirements as set out in the state plumbing code* in regard to such development or installation. Any such regulation may be enforced in the same manner as any other regulation adopted under this chapter. [C50, 54, 58, 62, 66, 71, 73, section 358A.25; 65GA, ch 1087, section 32]

Amendment effective July 1, 1975

*See section 185.11(8) and Iowa Departmental Rules

358A.26 Penalty. In addition to any other remedy granted herein, the violation on any regulation, restriction or boundary adopted under this chapter or the occupancy or use of any structure erected, altered or maintained in violation of this chapter shall constitute a misdemeanor. Such occupancy or use shall be deemed a continuing violation and may be the subject of repeated prosecutions if so continued. Every person convicted of a misdemeanor, by reason of violations hereinabove set forth, shall be punished by a fine of not more than one hundred dollars or by imprisonment of not more than thirty days. [C50, 54, 58, 62, 66, 71, 73, section 358A.26]

appendix d

APPENDIX D

IOWA CODE

Chapter 414

MUNICIPAL ZONING

Referred to in section 329.7

Applicable to all cities

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|---|--|
| 414.1 Building restrictions-powers granted. | 414.13 Decision on appeal. |
| 414.2 Districts. | 414.14 Vote required. |
| 414.3 Basis of regulations. | 414.15 Petition for certiorari. |
| 414.4 Regulations and boundaries. | 414.16 Writ-restraining order. |
| 414.5 Changes-hearing-notice. | 414.17 Return. |
| 414.6 Zoning commission. | 414.18 Trial-judgment-costs. |
| 414.7 Board of adjustment. | 414.19 Preference in trial. |
| 414.8 Membership. | 414.20 Actions to correct violations. |
| 414.9 Rules-meetings-general procedure. | 41 4.21 Conflicting rules, ordinances, and statutes. |
| 414.10 Appeals. | 414.22 Repealed by 64 GA, ch 1088, section 312. |
| 414.11 Effect of appeal. | 414.23 Extending beyond city limits. |
| 414.12 Powers. | |

414.1 Building restrictions-powers granted. For the purpose of promoting the health, safety, morals, or the general welfare of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. [C24, 27, 31, 35, 39, section 6452; C46, 50, 54, 58, 62, 66, 71, 73, section 414.1; 65GA, ch 1087, section 32]

Amendment effective July 1, 1975

414.2 Districts. For any or all of said purposes the local legislative body, hereinafter referred to as the council, may divide the city into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations and restrictions shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts. [C24, 27, 31, 35, 39, section 6453; C46, 50, 54, 58, 62, 66, 71, 73, section 414.2; 65GA, ch 1087, section 32]

Amendment effective July 1, 1975

Certification of zoning district ordinance, section 380.11

414.3 Basis of regulations. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Such regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land

throughout such city. [C24, 27, 31, 35, 39, section 6454; C46, 50, 54, 58, 62, 66, 71, 73, section 414.3; 65GA, ch 1087 section 32]

Amendment effective July 1, 1975

414.4 Regulations and boundaries. The council of such city shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in a paper of general circulation in such city. [C24, 27, 31, 35, 39, section 6455; C46, 50, 54, 58, 62, 66, 71, 73, section 414.4; 65GA, ch 1087, section 32]

Referred to in sections 329.9, 414.5

Amendment effective July 1, 1975

414.5 Changes-hearing-notice. Such regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change signed by the owners of twenty percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed two hundred feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed two hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the council. The provisions of section 414.4 relative to public hearings and official notice shall apply equally to all changes or amendments. [C24, 27, 31, 35, 39, section 6456; C46, 50, 54, 58, 62, 66, 71, 73, section 414.5]

414.6 Zoning commission. In order to avail itself of the powers conferred by this chapter, the council shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts

and appropriate regulations and restrictions to be enforced therein. Where a city plan commission already exists, it may be appointed as the zoning commission. Such commission shall, with due diligence, prepare a preliminary report and hold public hearings thereon before submitting its final report; and such council shall not hold its public hearings or take action until it has received the final report of such commission. After the adoption of such regulations, restrictions, and boundaries of districts, the zoning commission may, from time to time, recommend to the council amendments; supplements, changes, or modifications. [C24, 27, 31, 35, 39, section 6457; C46, 50, 54, 58, 62, 66, 71, 73, section 414.6]

Referred to in section 329.9

414.7 Board of adjustment The council shall provide for the appointment of a board of adjustment and in the regulations and restrictions adopted pursuant to the authority of this chapter shall provide that the said board of adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent and in accordance with general or specific rules therein contained and provide that any property owner aggrieved by the action of the council in the adoption of such regulations and restrictions may petition the said board of adjustment direct to modify regulations and restrictions as applied to such property owners. [C24, 27, 31, 35, 39, section 6458; C46, 50, 54, 58, 62, 66, 71, 73, section 414.7]

40GA, ch 134, section 7, editorially divided

Referred to in section 329.12

414.8 Membership. The board of adjustment shall consist of five members each to be appointed for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. [C24, 27, 31, 35, 39, section 6459; C46, 50, 54, 58, 62, 66, 71, 73, section 414.8]

414.9 Rules-meetings-general procedure. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. [C24, 27, 31, 35, 39, section 6460; C46, 50, 54, 58, 62, 66, 71, 73, section 414.9]

Referred to in section 329.12

414.10 Appeals. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by

filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. [C24, 27, 31, 35, 39, section 6461; C46, 50, 54, 58, 62, 66, 71, 73, section 414.10]

Referred to in section 329.12

414.11 Effect of appeal. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. [C24, 27, 31, 35, 39, section 6462; C46, 50, 54, 58, 62, 66, 71, 73, section 414.11]

Referred to in section 329.12

414.12 Powers. The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.

2. To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. [C24, 27, 31, 35, 39, section 6463; C46, 50, 54, 62, 66, 71, 73, section 414.12]

Referred to in section 329.12

414.13 Decision on appeal. In exercising the above-mentioned powers such board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. [C24, 27, 31, 35, 39, section 6464; C46, 50, 54, 58, 62, 66, 71, 73; section 414.13]

Referred to in section 329.12

414.14 Vote required. The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. [C24, 27, 31, 35, 39, section 6465; C46, 50, 54, 58, 62, 66, 71, 73, section 414.14]

Referred to in section 329.12

414.15 Petition for certiorari. Any person or persons,

jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. [C24, 27, 31, 35, 39, section 6466; C46, 50, 54, 58, 62, 66, 71, 73, section 414.15]

Referred to in section 329.12

414.16 Writ-restraining order Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. [C24, 27, 31, 35, 39, section 6467; C46, 50, 54, 58, 62, 66, 71, 73, section 414.16]

Referred to in section 329.12

414.17 Return. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. [C24, 27, 31, 35, 39, section 6468; C46, 50, 54, 58, 62, 66, 71, 73, section 414.17]

Referred to in section 329.12

414.18 Trial-judgment-costs. If upon the hearing which shall be tried de novo it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from. [C24, 27, 31, 35, 39, section 6469; C46, 50, 54, 58, 62, 66, 71, 73, section 414.18]

Referred to in section 329.12

414.19 Preference in trial. All issues in any proceedings under the foregoing sections shall have preference over all other civil actions and proceedings. [C24, 27, 31, 35, 39, section 6470; C46, 50, 54, 58, 62, 66, 71, 73, section 414.19]

Referred to in section 329.12

414.20 Actions to correct violations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the council, in addition to other remedies, may institute any

appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. [C24, 27, 31, 35, 39, section 6471; C46, 50, 54, 58, 62, 66, 71, 73, section 414.20]

414.21 Conflicting rules, ordinances, and statutes. Wherever the regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this chapter shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this chapter, the provisions of such statute or local ordinance or regulation shall govern. Wherever any regulation proposed or made under authority of this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the Iowa natural resources council shall be required to establish, amend, supplement, change or modify such regulation or to grant any variation or exception therefrom. [C24, 27, 31, 35, 39, section 6472; C46, 50, 54, 58, 62, 66, 71, 73, section 414.21]

414.22 Repealed by 64 GA, ch 1088, section 312; effective July 1, 1975

414.23 Extending beyond city limits. The powers granted by this chapter may be extended by ordinance by any city to the unincorporated area up to two miles beyond the limits of such city, except for those areas within a county where a county zoning ordinance exists. The ordinance shall describe in general terms the area to be included. The exemption from regulation granted by section 358A.2 to property used for agricultural purposes shall apply to such unincorporated area. If the limits of any such city are at any place less than four miles distant from the limits of any other city which has extended or thereafter extends its zoning jurisdiction under this section, then at such time the powers herein granted shall extend to a line equidistant between the limits of said cities.

A municipality, during the time its zoning jurisdiction is extended under this section, shall increase the size of its planning and zoning commission and its board of adjustment each by two members. The additional members shall be residents of the area outside the city limits over which the zoning jurisdiction is extended. They shall be appointed by the board of supervisors of the county in which such extended area is located and for the same terms of office and have the same rights, privileges, and duties as other members of each of said bodies.

Property owners affected by such zoning regulations shall have the same rights of hearing, protest, and appeal as those within the municipality exercising this power.

Whenever a county in which this power is being exercised by a municipality adopts a county zoning ordinance the power

exercised by the municipality and the specific regulations and districts thereunder shall be terminated within three months of the establishment of the administrative authority for county zoning, or at such date as mutually agreed upon by the municipality and county. [C71, 73, section 414.23; 65GA, ch 1087, section 32, ch 1218, section 1]

Amendment effective July 1, 1975

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