

# Sanders County Airport Affected Area Regulations

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Adopted 12/15/2010

By Sanders County Commissioners

Land Services Department



\* **Airport Affected Area as defined in Title 67, Chapter 7, Montana Code Annotated  
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## **SANDERS COUNTY AIRPORT AFFECTED AREA REGULATIONS**

### **Resolution No. 2010-37**

#### **Section I. General Provisions**

##### **A. Title**

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

##### **B. Authority**

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

##### **C. Purpose and Intent**

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

##### **D. Designation of Airport Affected Area**

Hearings were held by Sanders County Commissioners on June 2 in Hot Springs and June 3 in Thompson Falls and in Plains before the Airport Affected Areas (AAA) were designated, after notice was published according to Section 7-1-2121, MCA/Section 7-1-4127, MCA. A draft of these regulations was addressed at that hearing and public comment was taken and considered.

The Airport Affected Area for each airport is shown on the attached sheets designated "Airport Affected Area Drawing ("AAA Drawing")." The AAA encompasses the entire 14 CFR, Part 77 surfaces, which are shown on the "Airport Airspace Drawing." The Airport Airspace Drawing also identifies existing airport hazards and natural terrain penetrations that intrude into the Part 77 surfaces. The legal description of the AAA is found on attachment "A" for **Plains**, attachment "B" for **Thompson Falls** and attachment "C" for **Hot Springs**. The AAA Drawings are on file with the Sanders County Clerk and Recorder.

**E. Jurisdiction**

The AAA for the Plains, Thompson Falls and Hot Springs Airport are located within the jurisdictional area of Sanders County Commissioners.

**F. Severability**

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

**Section II. Definitions**

**A. Generally**

Definitions which generally apply to Title 67 and to these regulations are found in Section 67-1-101, MCA (2005). In addition, definitions specific to the Airport Compatibility Act are found in Section 67-7-103, MCA (2005). The Airport Compatibility Act allows definitions from 14 CFR, Part 77 to apply to these regulations as well. The following definitions apply to these regulations. If there is a conflict in interpretation between Title 67 or 14 CFR, Part 77 and these regulations, the more restrictive applies.

**B. Specifically**

1. **“Administrative Officer”** is that person designated by the Sanders County Commissioners to serve as the governing body’s representative to grant, grant with conditions, or deny permits and variances under these regulations and to administer the regulations. The Land Services Director shall be the Administrative Officer.
2. **“Airport”** includes the Plains, Thompson Falls and Hot Springs Airports.
3. **“Airport Affected Area (AAA)”** is the land and space above the ground surface of an airport in the proximity of the airport, the use of which may be affected by the airport’s existence, and includes areas with land use restrictions, and zones with height restrictions lying beneath the horizontal surface, the conical surface, the primary surface(s), the approach surfaces and the transitional surface as described in 14 CFR, Part 77 and in these regulations. A description is provided on Sheet A of AAA Drawings, Attachment A, B & C.

The AAA perimeter for **Plains** Airport is described by swinging 9,000 radius arcs from points on the extended Runway 13-31 centerline, 200 feet beyond each runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plan grid coordinates for these two

centerpoints are N: 1,223,381.058 E: 631,673.436 and N: 1,219,194.848 E: 634,498.013.

The AAA perimeter for **Thompson Falls** Airport is described by swinging 9,000 radius arcs from points on the extended **future** Runway 7-25 centerline, 200 feet beyond each **future** runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plan grid coordinates for these two centerpoints are N: 1,264,397.259 E: 540,877.081 and N: 1,264,062.394 E: 545,966.075

The AAA perimeter for the **Hot Springs** Airports is described by swinging 9,000 radius arcs from points on the extended Runway 6-24 centerline, 200 feet beyond each runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plan grid coordinates for these two centerpoints are N: 1,267,351.293 E: 707,008.267 and N: 1,267,768.523 E: 710,969.827

4. The “**Airport Appeals Board**” is made up of the Sanders County Commissioners.
5. “**Airport Board**” is the **Plains and Thompson Falls Airport Boards**.
6. “**Airport Elevation**” is the highest point on the Airport’s established runways measured in feet above mean sea level (MSL) and based on the North American Vertical Datum of 1988 (NAVD 88). The elevation of **Plains** Airport is 2,467.0 feet. The elevation of the **Thompson Falls** Airport is 2,466.7 feet. The elevation of the **Hot Springs** Airport is 2,766.9 feet.
7. “**Airport Layout Plan (ALP)**” is a graphic depiction of existing conditions and future proposed development. An ALP typically consists of several drawings, each intended to depict specific information about the airport, and an ALP report explaining the reasoning behind, and important features of, the ALP.
8. “**Areas**” consist of land within certain boundaries shown on the AAA Drawing and designate where various land uses are permitted.
9. “**Electromagnetic Effect**” is any interference or impediment to the transmission or quality of navigation or communication signals to or from aircraft, meteorological equipment, navigation equipment, communications equipment, or air traffic control facilities caused by a power source, radio frequency transmitter, or an object or surface that emits, reflects or re-radiates an electromagnetic signal or electrical pulse.
10. “**FAA**” is the Federal Aviation Administration.
11. “**Governing Body**” is the Sanders County Commission.

**12. “Height”** is the vertical difference in feet between the highest point of a structure or tree and the ground elevation, coinciding with its location shown on the Vicinity Sketch.

**13. “Nonconforming Use”** is any preexisting structure, tree or other object of natural growth or use of land that is lawfully in existence when these regulations become effective, but does not conform to the height or use provisions of these regulations.

**14. “Runway”** is the defined and prepared surface of an airport, suitable for landing or taking off by aircraft, as well as planned extensions documented on the AAA Drawing.

The **Plains** Airport runway 13-31 is a 75-foot wide paved runway with end monuments at approximately 47°28'42.89"N, 114°54'46.31"W and 47°28'06.71"N, 114°54'04.68"W.

The **Thompson Falls** Airport runway 7-25 is a 75-foot wide paved runway. The Runway 25 end monument is at approximately 47°34'24.76"N, 115°16'19.73"W. The Runway 7 end monument is at approximately 47°34'24.42"N, 115°17'20.99"W, with projected extension to 47°34'24.38"N, 115°17'28.28"W.

The **Hot Springs** Airport runway 6-24 is a 45-foot wide asphalt treated runway with end monuments at approximately 47°36'53.99"N, 114°36'20.50"W and 47°36'47.99"N, 114°37'12.08"W.

**15. “Structure”** is an object **fifty feet (50')** or taller, constructed or installed by a person, including but not limited to buildings, towers (cell or otherwise), radio antennae, cranes, smoke stacks, earth formations, and overhead transmission lines.

**16. “Surfaces”** are 14 CFR, Part 77.25 civil airport imaginary surfaces for existing and planned development of the Airports as documented on the AAA Drawings. These surfaces are located above and in relation to a runway or runways. Types of surfaces include Approach Surfaces, Conical Surface, Horizontal Surface, Primary Surface and Transitional Surface.

**17. “Terrain penetration”** is any natural land surface that penetrates into any of the civil airport imaginary surfaces as defined in 14 CFR, Part 77.25.

**18. “Threshold”** is the beginning of the portion of a runway that is available for landing.

**19. “Tree”** is any vegetation or other naturally growing object greater than



fifty feet (50') above the ground.

**20. “Utility Non-Precision Instrument Runway”** is a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less, having or planned to have an authorized instrument approach procedure providing course guidance without vertical path guidance. At **Plains Airport**, Runway 13-31 is a utility non-precision instrument runway with anticipated 1-mile approach visibility minimum. At **Thompson Falls Airport**, Runway 7-25 is a utility non-precision instrument runway with anticipated 1-mile approach visibility minimum.

**21. “Utility Visual Runway”** is a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less, 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. At **Hot Springs Airport**, Runway 6-24 is a utility visual runway with no anticipated instrument approach.

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

**23. “Vicinity Sketch”** is an 8 ½" x 11", non-reduced copy of a portion of a 7.5 minute USGS Quadrangle Map showing the location of a proposed structure, tree or land use, and identify the ground elevation at the proposed location. The Vicinity Sketch must include the name of the USGS map copied, the Township and Range of the area shown, and the horizontal and vertical data upon which the map is based (typically found in the lower right-hand corner).

**24. “Zones”** are the projection of the Part 77 three-dimensional surfaces onto the ground within which certain height restrictions apply.

### **Section III. Administration**

#### **A. Appointment of Administrative Officer**

The Land Services Director or designee, who shall be appointed as the “Administrative Officer,” shall serve as the person authorized to grant, grant with conditions or deny permits and variances under these regulations and to administer the regulations.

#### **B. Fees for Permits and Variances**

An administrative fee shall be assessed for processing permits and variances in accordance with the fee schedule, Attachment D.

## **C. Permit Procedure**

The purpose of the permitting process is to allow the Administrative Officer to monitor the height of structures or trees and the uses in the AAA and to advise those members of the public who wish to change or add structures, trees or uses there are legal restrictions on that activity, in order to protect the public health, safety and general welfare as well as protect the current flying operations at the airport and those expected in the future. A permit must be obtained before the changes or additions are made.

### **1. When a Permit is Required**

- a. If the erection of a new structure in the AAA is planned
- b. If new trees are planted in the AAA which are expected to grow taller than fifty feet (50') in height
- c. If existing structures in the AAA are substantially altered, repaired or replaced, which increases their existing perimeter, height or use
- d. If existing trees in the AAA are replaced with trees which are expected to grow taller than fifty feet (50') in height
- e. If uses of land or structures are changed

### **2. Procedure for Obtaining an AAA Structure Permit**

- a. Obtain an application for a permit from the Administrative Officer.
- b. Submit to the **Sanders County Land Services Office** the fee, the completed application, a drawing with enough detail to determine height of the structure above ground level and a vicinity sketch which shows the location of the structure within the AAA, in relation to property or section lines.
- c. After review the Administrative Officer shall either grant, grant with conditions or deny the requested permit in writing, explaining the decision.
- d. The decision by the Administrative Officer may be appealed to the Airport Appeals Board, pursuant to Section 67-7-302, MCA (2005).

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

- a. Obtain an application for a permit from the Administrative Officer.
- b. Submit the application and a description of the planned tree,

including species and expected height at maturity, existing height relative to the ground and a location on a vicinity sketch of the tree within the AAA to the Administrative Officer.

c. After review the Administrative Officer shall either grant, grant with conditions or deny the requested permit in writing, explaining the decision.

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

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

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

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

c. The Administrative Officer shall hold an advertised public meeting to receive any public comment on the request. If the requested permit is for a conditional use, the person requesting the permit shall notify the adjacent landowner(s) of the request by mail at least 10 days before the meeting. This notice must include the date, time and place of the meeting.

d. After review and taking into consideration any public comment, the Administrative Officer shall grant, grant with conditions or deny the requested permit in writing, explaining the decision.

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

**5. Criteria for Granting Permits**

a. Permits will not be granted for structures or trees that will exceed the height limitations of zones set forth in these regulations or for uses which are not in accordance with these regulations, unless a variance has been granted pursuant to the procedure in Section D below.

b. Any permit may require the owner of the structure or tree in question to allow the Airport Board, at the owner's expense, to install, operate and maintain the lights and markers necessary to warn pilots of the presence of

that structure or tree.

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

**D. Variances**

**1. When necessary--**A person who seeks to erect or increase the height of a structure, or permit the growth of a tree in excess of the height limitations in these regulations, or use property in a manner that is not a permitted or is conditional use, must seek a variance from these regulations.

**2. Circumstances for Granting a Variance**

**a. Two considerations**

**i. Substantial practical difficulty or unnecessary hardship**

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

**ii. Public interest**

A variance is not contrary to the public interest when it is determined, after review by the County and after consultation with the FAA, that there is no immediate hazard to air navigation or to persons and property in the vicinity of the airport and when the noise or vibrations from normal and anticipated normal airport operations would not be likely to cause damage to structures. Public interest considerations include hours of operation and the annoyance to the intended users of the structures.

**b. Conditions for a variance**

Conditions may be imposed for granting the variance, including, but not limited to, a requirement the owner of a structure or tree pay for the installation, operation and maintenance of lights and markers necessary to warn pilots of the presence of an AAA obstruction. The County may install the lights or markers. If it is impractical to mark a tree, the marking will not be required.

**3. Notice to Applicant**

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

**4. AAA Obstruction Variance**

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

- i.** Obtain an application for a variance from the Administrative Officer and a FAA Form 7460-1.
- ii.** Submit to the Administrative Officer the fee, the completed application, a drawing with enough detail to determine the overall height of the structure or tree above ground level and a vicinity sketch which shows the location of the structure or tree within the AAA, in relation to property or section lines. In addition explain in detail why literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship. The application must address, to the best of the applicant's ability, why granting the variance will not create a immediate hazard to persons or property in the vicinity of the airport as well as assurance that the normal and anticipated normal airport operations will not be likely to cause damage to any proposed structure(s). The Form 7460-1 must be filled out, a copy provided to the Administrative Officer, and submitted to the FAA.
- iii.** The Administrative Officer shall hold an advertised public meeting to receive any public comment on the request. The person requesting the variance shall notify the adjacent landowner(s) of the request by mail at least 10 days before the meeting. This notice must include the date, time and place of the meeting.
- iv.** After taking into consideration any public comment and the FAA determination [Form 7460], the Administrative Officer shall grant, grant with conditions or deny the requested variance in writing, explaining the decision.
- v.** The decision of the Administrative Office may be appealed to the Airport Appeals Board pursuant to Section 67-7-303 (2), MCA.

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

- i.** The requested variance will not be scheduled for review

until the FAA has made a determination, pursuant to Form 7460-1, whether or not there is a hazard to air navigation.

**ii.** A variance must be granted when the applicant demonstrates a literal application or enforcement of the regulations would result in substantial practical difficulty or unnecessary hardship, when the variance would not be contrary to the public interest and when the noise or vibrations from normal and anticipated normal airport operations would not be likely to cause damage to the proposed structure(s). Whether or not the FAA determinations there is a hazard to air navigation, FAA recommended mitigation must be a condition of granting the variance.

## **5. AAA Use Variance**

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

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

**ii.** Submit to the Administrative Officer the fee and the completed application with a description of the existing use and proposed use of the land or structure, and explain in detail why that proposed use should be allowed by variance. In addition, submit a vicinity sketch which shows the location of the proposed use within the AAA, in relation to property or section lines. Also explain in detail why literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship. The application must address, to the best of the applicant's ability, why granting the variance will not create an immediate hazard to air navigation or to persons or property in the vicinity of the airport as well as assurance that the normal and anticipated normal airport operations will not be likely to cause damage to any proposed structure(s), as well as steps which will be taken to mitigate the effects of normal airport operations.

**iii.** The Administrative Officer shall hold an advertised public meeting to receive any public comment on the request. The person requesting the variance shall notify the adjacent landowner(s) of the request by mail at least 10 days before the meeting. This notice must include the date, time and place of the meeting.

**iv.** After review and taking into consideration any public comment, the Administrative Officer shall grant, grant with conditions or deny the requested variance in writing, explaining the

decision.

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

**b. Criteria for granting an AAA Use Variance**

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

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

**E. Appeals**

1. An appeal from a decision by the Administrative Office must be submitted, in writing, to the Airport Appeals Board, within thirty (30) days of the written decision by the Administrative Officer. Appeals may be filed by the applicant, by any aggrieved person or taxpayer and must state, with specificity, the basis of the appeal. An unsuccessful appellant may appeal further to a court of record.

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

**F. Enforcement**

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

**G. Penalty**

If a person, who violates the provisions of these regulations, does not correct a violation, after notification pursuant to Section F above, that person is subject to a civil penalty and a criminal penalty. The civil penalty is a fine of \$100 for each day that the violation is not remedied after the Administrative Officer has determined there is a

violation for which a fine should be assessed against the violator, has given its own written notice of the violation to the violator, has held a hearing on the violation and has provided a written determination to the violator that there is a violation.

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

## **H. Injunction**

The Sanders County Commissioners may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of Title 67, Chapter 7 or of these regulations.

## **I. Immunity**

### **1. Generally**

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

### **2. After granting a variance**

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

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

### **A. Introduction**

Utilizing its police power, the **Sanders County Commission**, designated an AAA for the **Plains, Thompson Falls and Hot Springs** Airports in accordance with Section 67-7-201, MCA (2005). The AAA's include the land surrounding the runways and the space or surfaces above that land.

Height restrictions for zones and land use restrictions in specified areas found in these regulations are meant to be reasonable and are designed to promote the health, safety and general welfare of airport users and persons and property in the vicinity of the airport, taking into consideration the character of the flying operations conducted or expected to be conducted at the Airport, the nature of the terrain, future development of the airport, and FAA recommendations for aeronautical surfaces necessary for safe flying



operations. In addition, these regulations protect the Airport and its operations from uses that may infringe on airport operations and result in liability to the Airport.

**B. Zones**

**1. Explanation of Zones**

Zones are established by these regulations to reasonably regulate the height of structures and trees around the airport. The term “zones” as used in these regulations and as shown on the AAA Drawing refers to those areas on the ground and above the ground in which the height of structures and trees is regulated to protect the public health, safety and general welfare. The zones for **Plains** Airport, **Thompson Falls** Airport, and **Hot Springs** Airport are shown on respective Sheet B’s of the AAA Drawings, Attachments A, B & C.

**a. Primary Zones**

Primary zones are hereby established as the area extending equidistantly on either side of each runway centerline with total width:

- i.** For utility visual runways, 250 feet.
- ii.** For utility non-precision instrument runways, 500 feet.

For the length of such runway plus 200 feet on each end. It is assumed that the Thompson Falls Airport’s Runway 7 will be protected for an additional 500-foot to the west of the threshold in existence as of the adoption of this ordinance.

**b. Horizontal Zone**

A horizontal zone is hereby established as the area within a perimeter established by swinging arcs from points 200 feet beyond the planned ends of the runways on the extended runway centerline, then connecting the adjacent arcs by lines tangent to those arcs. When an arc is encompassed by tangents connecting two adjacent arcs, the arc encompassed must be disregarded in delineating the perimeter of the horizontal surface. The radius of each arc is:

- i.** For utility visual runways, 5000 feet.
- ii.** For utility non-precision instrument runways, 5,000 feet.

The horizontal zone does not include the primary, approach, and transition zones.

**c. Conical Zone**

A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a distance of 4000 feet. The conical zone does not include the approach and transition zones.

**d. Utility Non-precision Instrument Approach Zone**

A utility non-precision instrument (NPI) approach zone is established at each end of non-precision instrument (NPI) runways. Each NPI approach zone shall have a width of 500 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 2,000 feet at a distance of 5,200 feet beyond each end of the runway with its centerline being the continuation of the centerline of the runway.

**e. Visual Approach to a Utility Non-precision Instrument Approach Zone**

A visual approach to a utility non-precision instrument (NIP) runway zone is established at an end of non-precision instrument (NIP) runway where the terrain does not allow for an instrument approach procedure. Each Visual Approach to a Utility NPI runway zone shall have a width of 500 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 1250 feet at a distance of 5,200 feet beyond the end of the runway with its centerline being the continuation of the centerline of the runway.

**f. Utility Visual Approach Zone**

A utility visual approach zone is established at each end of the utility visual runway. Each utility visual approach zone shall have a width of 250 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 1,250 feet at a distance of 5,200 feet beyond each end of the runway, with its center line being the continuation of the centerline of the runway.

**g. Transition Zones**

Transition zones are hereby established adjacent to each approach zone and symmetrically located on each side of primary zones having variable widths as shown on Sheet B, Airport Airspace Zones.

**2. Height Restrictions in Zones**

Restricting the height of structures or trees in certain zones protects the health, safety and welfare of the users of the airport as well as persons and property in the vicinity of the airport. *Nothing in these regulations should be construed to prohibit the construction of any structure or the growth or maintenance of any tree to a height (a) equal to or below the airport elevation; or (b) up to **fifty feet (50')** above the surface of the land.* When an area is covered by more than one conflicting height limitation, the more restrictive shall prevail. In order to comply with federal requirements and those found in Section 67-7-203 (1), MCA, Sanders County hereby adopts the following height restrictions for the following zones:

**a. Primary Zone**

- i.** Objects greater than 3 inches above grade shall be allowed only when constructed on low impact resistant supports with the frangible point no higher than 3 inches above grade.
- ii.** Objects that need to be located in this area because of their function shall be constructed at the lowest practical height.

**b. Horizontal Zone**

150 feet above the airport elevation.

**c. Conical Zone**

150 feet above the airport elevation plus 1 foot in height for each 20 feet of horizontal distance measured from and normal to the periphery of the horizontal zone.

**d. Utility Non-precision Instrument Approach Zone**

For each runway end, the elevation of the threshold centerline plus 1 foot in height for each 20 feet measured perpendicularly from the end of the primary zone, extending 5,000 feet.

**e. Visual Approach to a Utility Non-precision Instrument Approach Zone**

For the runway end, the elevation of the threshold centerline plus 1 foot in height for each 20 feet measured perpendicularly from the end of the primary zone, extending 5,000 feet.

**f. Utility Visual Approach Zone**

For each runway end, the elevation of the threshold centerline plus

1 foot in height for each 20 feet measured perpendicularly from the end of the primary zone, extending 5,000 feet.

**g. Transition Zones**

Begin at an elevation equal to the elevation of the nearest point on the runway centerline, and extend outward and upward at right angles to the runway centerline or extended runway centerline, increasing 1 foot in height for each 7 feet from the sides of the primary zone and from the sides of all approach zones.

**C. Areas**

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

**1. Explanation of Areas within the AAA**

These regulations describe both zones and areas, which overlap. If there is a conflict between allowable heights and allowable uses, the more stringent interpretation applies.

**a. Airport Property Area**

This area, as shown on the AAA Drawing, encompasses that land owned, under easement, or right-of-way deed by Sanders County and designated for airport use. The Airport is required to comply with FAA regulations and grant assurances within its own boundaries to remain eligible for federal funding assistance, including maximizing the use of non-aeronautical areas in order to provide revenue to the Airport.

**b. Runway Protection Area**

This area is the land delineated on the ground below the runway protection zones as defined by FAA Advisory Circular 150/5300-13, "Airport Design." The Runway Protection Areas for the runway(s) at **Plains** Airport and the **Thompson Falls** and **Hot Springs** Airports are shown on the AAA Drawings.

**c. Runway Area of Influence**

This area is the land delineated on the ground below the runway protection zones as defined by FAA Advisory Circular 150/5300-13, "Airport Design" but extending off the airport property.

**d. Airport Critical Area**

An area encompassing the primary zone, approach zone, and transitional zone along an elevation line that is fifty feet above the airport elevation. Airport Critical Area is based on ultimate airport size and approach zones.

e. **Limited Development Area**

These are areas within the AAA perimeter.

**2. Land Use in Areas / Use Restrictions**

Regulation of land uses in these areas around the airport serves to protect the health and safety of the users of the airport. Well-established accident data indicate land uses, which concentrate people, should be avoided. Land use regulations protect persons and property in the vicinity of the airport from airport-related effects such as high-probability accident areas, noise, fumes, vibrations, light or any other effects from normal and anticipated normal airport operations.

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

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

a. **Airport Property Area**

The airport property at **Plains** Airport, **Thompson Falls** and **Hot Springs** Airports are designated on the AAA Drawings as such. To the extent it has been acquired with Federal grant funds it is subject to any use restrictions required by the grant assurances. Free-standing residential structures on airport land will not be allowed.

i. **Permitted Uses**

(aa). Aircraft runways, taxiways, ramps and parking areas and fuel storage facilities

(bb). Aircraft operational facilities including, but not

limited to, instrument landing systems, visual navigational aids and related equipment, communication facilities, weather service offices and equipment

**(cc).** Hangars and building which may be used for the storage or maintenance of aircraft, for airport snow removal, sweeping and other maintenance equipment and other aviation-related or ancillary activities

**(dd).** Offices and facilities for airport management, air charter, air taxi, crop spraying, aircraft sales or rentals and air cargo processing facilities in non-aeronautical areas

**(ee).** Agriculture (other than forestry, livestock farms or other use which might create a wildlife attractant on or near the Airport), golf courses (excluding club houses), tourism information centers and museums

**(ff).** Flight schools, flying clubs and other schools or training facilities relating to aviation or air-related transportation

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

**(hh).** Aircraft maintenance, manufacturing and testing facilities

**(ii).** Offices and facilities of federal, state and local government entities

**ii. Conditional Uses**

**(aa).** Light commercial development

**(bb).** Industrial development provided it does not create large areas of standing water, or generate smoke or steam which may reduce visibility at the airport

**b. Airport Runway Protection Area**

**i. Permitted Uses**

**(aa).** Agriculture

**(bb).** Livestock outside the Airport's wildlife fence

**ii. Conditional Uses**

(aa). Roadways, automobile parking areas, and railroads that satisfy height restrictions

**iii. Prohibited Uses**

(aa). Residences

(bb). Educational centers (including all types of primary and secondary schools, pre-schools, child care facilities)

(cc). Hospitals, medical inpatient treatment facilities, nursing/convalescent home facility

(dd). Places of Worship

(ee). Places of public assembly, not previously listed

(ff). Fuel handling and storage facilities

**c. Runway Area of Influence**

**i. Permitted Uses**

(aa). Agriculture (other than forestry or livestock)

(bb). Livestock outside the Airport's Wildlife fence

(cc). Roadways, automobile parking areas, and railroads that satisfy height restrictions

**ii. Conditional Uses**

(aa). Outbuildings, shops, sheds and storage, buildings

(bb). Expansion of existing structures

**iii. Prohibited Uses**

(aa). Residences

(bb). Educational centers (including all types of primary and secondary schools, pre-schools, child care facilities)

(cc). Hospitals, medical inpatient treatment facilities, nursing/convalescent home facilities

(dd). Places of Worship

(ee). Places of public assembly not previously listed

(ff). Fuel handling and storage facilities

**d. Limited Development Areas**

**i. Prohibited Uses**

(aa). Any use that would have an electromagnetic effect that may interfere with electronic navigational aids, lights other than navigational aids that glare upward, shine on or in the direction of the airport that would hinder aircraft operations and bird attractants such as solid waste disposal sites, lagoons and certain types of agriculture.

**Section V. Nonconforming Uses**

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

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

The Administrative Officer shall document, to the best of the Officer's ability and within a reasonable time after adoption of these regulations, those existing uses of land and the existence of structures or trees found in the approach and transitional zones of the AAA, with an estimate of the height of structures or trees.

**1. Nonconforming uses of land**

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

**2. Nonconforming structures or trees**



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

**B. Substantial damage to a nonconforming use**

“Substantial damage” occurs when 80% or more of a structure or tree is deteriorated or decayed or when that structure or tree has been torn down or destroyed. The Administrative Officer has the authority to determine substantial damage. A substantially damaged structure or tree, which is nonconforming, may not be reconstructed or replaced without first obtaining variance under the provisions of these regulations and then obtaining a permit.

**C. Maintaining nonconforming trees**

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

**D. Marking nonconforming trees or structures**

If the County elects to install, operate and maintain, at its own expense, lights and markers necessary to warn pilots of a nonconforming use. The owners of those structures or trees shall allow this activity.

**E. Residential land uses**

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

**Section VI. Amendment of Regulations**

These regulations may be amended by following the same procedure for adoption as set forth in Section 67-7-201 (5), MCA. If appropriate, other boards or commissions may be involved.

**Section VII. Additional Provisions**

**A. Acquisition of property rights**

A political subdivision within which a property or nonconforming use is located,

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

**B. Relationship of AAA regulations to zoning ordinances**

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

**Attachments**

**A.....Plains AAA Legal Description**

The AAA perimeter for **Plains** Airport is described by swinging 9,000 radius arcs from points on the extended Runway 13-31 centerline, 200 feet beyond each runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plan grid coordinates for these two centerpoints are N: 1,223,381.058 E: 631,673.436 and N: 1,219,194.848 E: 634,498.013.

**AAA Drawing Sheets A, B & C for Plains**

**B.....Thompson Falls AAA Legal Description**

The AAA perimeter for **Thompson Falls** Airport is described by swinging 9,000 radius arcs from points on the extended future Runway 7-25 centerline, 200 feet beyond each future runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plan grid coordinates for these two centerpoints are N: 1,264,397.259 E: 540,877.081 and N: 1,264,062.394 E: 545,966.075

**AAA Drawing Sheets A, B & C for Thompson Falls**

**C.....Hot Springs AAA Legal Description**

The AAA perimeter for the **Hot Springs** Airports is described by swinging 9,000 radius arcs from points on the extended Runway 6-24 centerline, 200 feet beyond each runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plan grid coordinates for these two centerpoints are N: 1,267,351.293 E: 707,008.267 and N: 1,267,768.523 E: 710,969.827

**AAA Drawing Sheets A, B & C for Hot Springs**

**D.....Fees for Permits and Variances**

Administrative fees shall be assessed for processing permits and variances as follows:

- |                            |       |
|----------------------------|-------|
| 1. Informational permit:   | \$ 0  |
| 2. Basic permit:           | \$ 25 |
| 3. Conditional use permit: | \$ 50 |
| 4. Variance request:       | \$ 50 |