

# BAKER MUNICIPAL AIRPORT

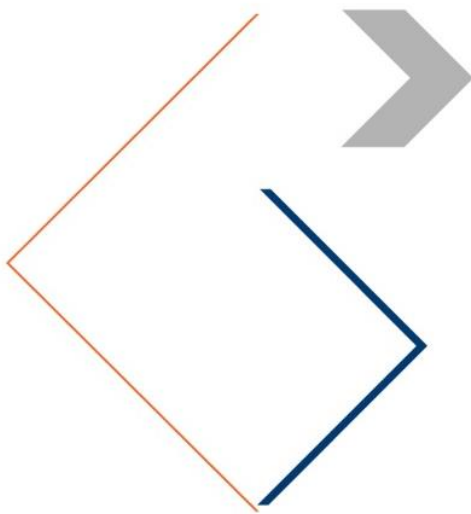
## *Airport Affected Area (AAA) Regulations*

**Prepared for:**

City of Baker, Fallon County, Baker Municipal Airport Commission  
BAKER, MT

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*KLJ Project No. 2513110*



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## SECTION I. GENERAL PROVISIONS

### A. Title

These regulations shall be known as the Baker Municipal Airport Affected Area (AAA) Regulations.

### B. Authority

Authorization for these regulations is found in the Airport Compatibility Act found in Title 67, Chapter 7, Montana Code Annotated (MCA) and attached to this document as Appendix A.

### C. Purpose and Intent

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

### D. Designation of Airport Affected Area

A hearing was held by Fallon County Commissioners on September 15, 2014 before the Airport Affected Area (AAA) was designated, after notice was published according to Section 7-1-2121, MCA. A draft of these regulations was addressed at that hearing and public comment was taken and considered.

The Airport Affected Area for the Baker Municipal Airport is shown in Appendix B on the Airport Affected Area Drawings (AAA Drawings). The AAA encompasses the entire 14 CFR Part 77 surfaces which are shown on the AAA Drawings. The Airport Affected Drawings also identify existing airport hazards and natural terrain penetrations that penetrate Part 77 surfaces.

The AAA Drawings are on file with the Fallon County Clerk and the Baker Municipal Airport.

## E. Jurisdiction

The AAA for the Baker Municipal Airport is located partially within the jurisdictional area of Fallon County Commissioners and the Baker City Council. By a resolution of each governing body, a copy of which is attached to these regulations, Fallon County oversees all planning matters and as such has created a joint airport affected area board; this board shall administer and enforce these regulations.

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

### B. Specifically

1. **“Aeronautical areas”** are those areas of the airport property shown on maps for existing and future aviation needs such as runways, hangars, aprons, taxi lanes, etc.
2. **“Airport”** is the Baker Municipal Airport.
3. **“Airport Affected Area (AAA)”** is the land and space above the ground surface of an airport in the proximity of the airport, the use of which may be affected by the airport’s existence, and includes zones which are delineated areas on the ground which lie beneath the horizontal surface, the conical surface, the primary surface, the approach surfaces and the transitional surface as described in 14 CFR, Part 77 and in these regulations. The AAA for the Baker Municipal Airport is 14,200 feet from the thresholds of Runway 13 and Runway 31 and 14,000 feet on each side of each runway.
4. **“Airport Appeals Board”** A board consisting of five (5) members appointed by the Fallon County Commissioners.
5. **“Airport Authority”** is the Baker Municipal Airport Commission.

6. **“Airport Elevation”** is the highest point on the Airport’s established runways measured in feet above mean sea level (MSL) and based on the North American Vertical Datum of 1988 (NAVD 88). The elevation of the Baker Municipal Airport is 2,985 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.

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. **“Enforcement Officer”** is that person designated by the governing body of the owner of the airport to serve as the governing body’s representative to issue permits and variances under these regulations and to administer the regulations. The County planner is currently the enforcement officer.

11. **“FAA”** is the Federal Aviation Administration.

12. **“Governing Body”** is the Baker Municipal Airport Commission.

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

14. **“Non-aeronautical areas”** are those areas of the airport property, outside of the aeronautical areas, which might be suitable for uses other than aeronautical uses such as office space for governmental entities.

15. **“Nonconforming Use”** is a structure, tree or use that legally exists at the time these regulations become effective, but does not conform to the height restrictions of the Zone in which it is located or the use allowed in the Area in which it is located.



16. **“Runway”** is the defined and prepared surface of an airport, suitable for landing or taking off by aircraft, as well as planned extensions documented on the AAA Drawing. The existing type, dimensions and orientation of Runway 13-31 at the Baker Municipal Airport is: 5,904 feet long, 75 feet wide; asphalt surface; and rated for aircraft weight less than 22,500 pounds. The FAA approved ALP shows a future runway length of 7,200 feet by 75 feet wide with an asphalt surface and rated for aircraft weight less than 22,500 pounds.

17. **“Structure”** is an object ten feet (10') 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.

18. **“Surfaces”** are 14 CFR, Part 77.19 civil airport imaginary surfaces for existing and planned development of the Airport as documented on the AAA Drawing. These surfaces are located above and in relation to a runway or runways. Types of surfaces include Approach Surfaces, Conical Surface, Horizontal Surface, Primary Surface and Transitional Surface.<sup>1</sup>

19. **“Terrain penetration”** is any natural land surface that penetrates into any of the civil airport imaginary surfaces as defined in 14 CFR, Part 77.19.

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

21. **“Tree”** is any vegetation or other naturally growing object greater than ten feet (10') above the ground.

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

23. **“Vicinity Sketch”** is an 8 ½" x 11", non-reduced copy of a portion of a 7.5 minute USGS Quadrangle Map showing the location of a proposed structure, tree or land use, and identifies the ground elevation at the proposed location. The Vicinity Sketch includes 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.

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

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<sup>1</sup> The primary surface is typically owned by the airport, is regulated by the Airport Board in accordance with existing FAA regulations in order to preserve the eligibility for federal funding and should not need protection by these regulations.

## SECTION III. ADMINISTRATION

### A. Appointment of Enforcement Officer

The County Planner for the Fallon County shall be known as the “AAA Enforcement Officer” and shall serve as the Baker Municipal Airport Commission’s representative to issue permits and variances under these regulations and to administer the regulations in conjunction with the Airport Authority. The County Planner will submit completed permit packages to the Airport Manager for his review. The Airport Manager will have 10 business days to review and provide comments back to the County Planner.

### B. Fees for Permits and Variances

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

1. Basic permit: \$100 plus standard hourly rate for planner review
2. Conditional permit: \$100 for a conditional use permit plus standard hourly rate for planner review
3. Permit with a variance: \$200 for a variance request plus standard hourly rate for planner review

### C. Permit Procedure

The purpose of the permitting process is to allow the Enforcement Officer to monitor the height of structures or trees and the uses in the AAA and to advise those members of the public who wish to change or add structures, trees or uses that legal restrictions may apply to that activity, in order to protect the public health, safety and general welfare as well as to 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. All permits shall be reviewed by the Enforcement Officer, who is responsible for providing a memorandum as needed to the Baker Municipal Airport Commission for all permit activity (approved and denied permits) within the AAA.

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

- a. If the construction of a new structure in the AAA is planned that will be taller than 35 feet.
- b. If the construction of a new structure will penetrate any of the surfaces shown on the AAA Zone Drawing.
- c. If existing structures greater than 35-feet in height located in the AAA are substantially altered, repaired or replaced, or which increases their existing perimeter, height or use.



- d. If residential development is proposed on property located underneath the Runway 31 Approach Surface.

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

- a. Obtain an application for a permit from the Enforcement Officer.
- b. Submit to the Enforcement Office the fee, the completed application, a drawing with enough detail to determine height of the structure above ground level and a vicinity sketch which shows the location of the structure within the AAA, in relation to property or section lines. The location information of the structure shall include latitude, longitude, height and ground elevation (NAVD 88).
- c. A Notice of Proposed Construction or Alteration (FAA Form 7460-1<sup>3</sup>) shall be submitted with the application for a permit if required under 14 CFR Part 77.9.

Federal Regulation Title 14 Part 77 establishes standards and notification requirements for objects affecting navigable airspace. Notification allows the FAA to identify potential aeronautical hazards in advance thus preventing or minimizing the adverse impacts to the safe and efficient use of navigable airspace. Any person/organization who intends to sponsor any of the following construction or alterations must notify the Administrator of the FAA:

1. Any construction or alteration exceeding 200' above ground level.
2. Any construction or alteration within 20,000' of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with at least one runway more than 3,200'.

Persons failing to comply with the provisions of FAR Part 77 are subject to Civil Penalty under Section 902 of the Federal Aviation Act of 1958, as amended and pursuant to 49 U.S.C. Section 46301(a).

- d. The requested permit may be discussed with the Baker Municipal Airport Commission prior to making a decision about whether or not to grant the permit.<sup>4</sup>

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<sup>2</sup> For a permit to be issued, it must be clear to the Enforcement Officer that the proposed structure will not penetrate any of the surfaces. If there is any question, a variance and completion of FAA Form 7460-1 is appropriate.

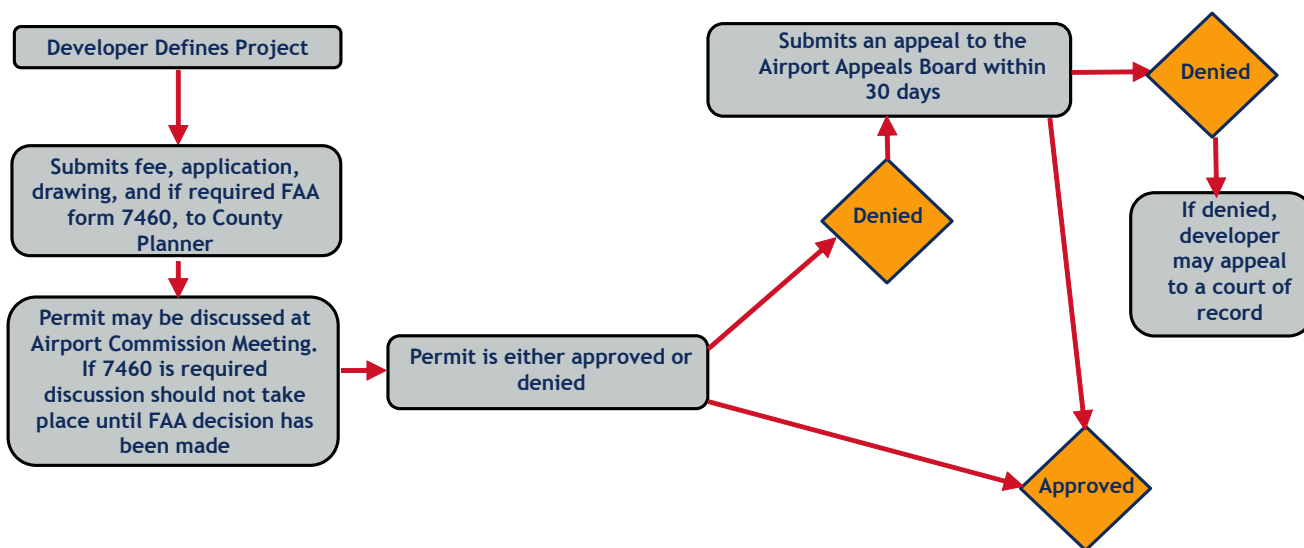
<sup>3</sup> FAA 7460 requirements are found at this link--- <https://oeaaa.faa.gov/oeaaa>

<sup>4</sup> If the discussion takes place with the Baker Municipal Airport Commission, it must occur at a properly noticed meeting, at which public comment is allowed. If a structure may require FAA notification by Form 7460-1, consultation with the FAA is recommended.

e. After consulting with the Baker Municipal Airport Commission, the Enforcement Officer shall grant, grant with conditions or deny the requested permit in writing, explaining the decision.

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

## AAA Permit Structure Process



### 3. Procedure for Obtaining an AAA Use Permit

- a. Obtain an application for a permit from the Enforcement Officer.
- b. Submit to the Enforcement Officer the fee,<sup>5</sup> the application and a description of the existing use and proposed use of the land or structure, explaining why that

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<sup>5</sup> The fee for a basic permit differs from one for a conditional use. In all likelihood the Enforcement Officer can process a permit for a permitted use without involving the Baker Municipal Airport Commission, but may want input from the Baker Municipal Airport Commission for a conditional use. This may require a staff report to the Baker Municipal Airport Commission and will require more time.



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

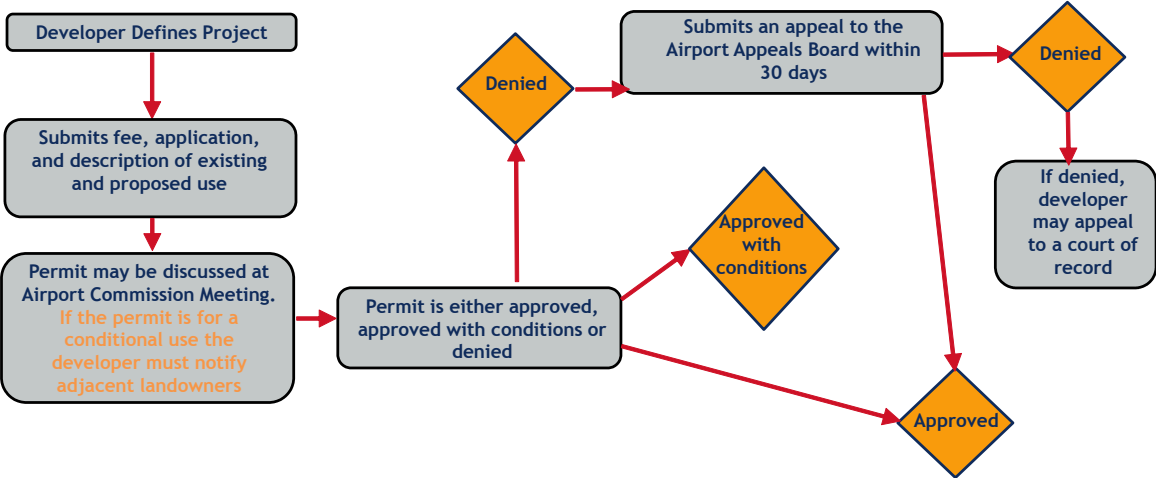
c. The requested permit may be discussed with the Baker Municipal Airport Commission prior to making a decision about whether or not to grant the permit. The meeting at which the discussion occurs must be properly noticed and public comment about the proposed use must be allowed at the meeting of the Baker Municipal Airport Commission.

d. If the requested permit is for a conditional use, the person requesting the permit shall notify the adjacent landowner(s) of the request by mail at least ten (10) days before the meeting. The discussion of the requested permit with the Baker Municipal Airport Commission must be set forth as an agenda item in the notice for the meeting of the Baker Municipal Airport Commission and public comment allowed.

e. After consulting with the Baker Municipal Airport Commission taking into consideration any public comment, the Enforcement Officer shall grant, grant with conditions or deny the requested permit in writing, explaining the decision.

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

## AAA Permit Use Process



#### 4. *Criteria for Granting Permits*

- a. Permits will not be granted for structures or uses that will exceed the height limitations of zones set forth in these regulations or for uses which are not in accordance with these regulations, unless a variance has been granted pursuant to the procedure in *Section III.D* below.
- b. Any permit may require the owner of the structure or use in question to allow the Baker Municipal Airport Commission, 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 use.
- c. Permits will not be granted for structures or uses which result in obstructions to surfaces, or to allow a change in a nonconforming use despite its existence on the date the AAA was designated and these regulations were adopted.

#### D. Variances

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

#### *2. Circumstances for Granting a Variance*

##### a. Two considerations

##### 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 Enforcement Officer and Baker Municipal Airport Commission 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 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 use to pay for the installation, operation and maintenance of lights and markers necessary to warn pilots of the presence of an AAA obstruction or use. The Baker Municipal Airport Commission 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 Enforcement Officer and a FAA Form 7460-1.

ii. Submit to the Enforcement Officer the fee, the completed application, a drawing with enough detail to determine the overall height of the structure or tree above ground level and a vicinity sketch which shows the location of the structure or use within the AAA, in relation to property or section lines. The location information of the structure shall include latitude, longitude (NAD 83), height and ground elevation (NAVD 88). In addition explain in detail why literal application or enforcement of these regulations would result in substantial practical difficulty or unnecessary hardship. The application must address, to the best of the applicant's ability, why granting the variance will not create an immediate hazard to persons or property in the vicinity of the airport as well as assurance that the normal and anticipated normal airport operations will not be likely to cause damage to any proposed structure(s).

A Notice of Proposed Construction or Alternation (FAA Form 7460-1) shall be submitted if required by 14 CFR Part 77.9. The Form 7460-1 must be filled out, a copy provided to the Enforcement Officer, and submitted to the FAA. (An accuracy statement has been included below; this statement helps the FAA in determining impacts to airspace.)

The following Obstacle Accuracy Codes are applied in accordance with FAA Order 8260.19F, Appendix 3.

HORIZONTAL	VERTICAL
Code Tolerance	Code Tolerance
1 +20 ft (6 m)	A +3 ft (1 m)
2 +50 ft (15 m)	B +10 ft (3 m)
3 +100 ft (30 m)	C +20 ft (6 m)
4 +250 ft (75 m)	D +50 ft (15 m)
5 +500 ft (150 m)	E +125 ft (38 m)
6 +1,000 ft (300 m)	F +250 ft (75 m)
7 +1/2 NM (900 m)	G +500 ft (150 m)
8 +1 NM (1800 m)	H +1,000 ft (300 m)
9 Unknown	I Unknown

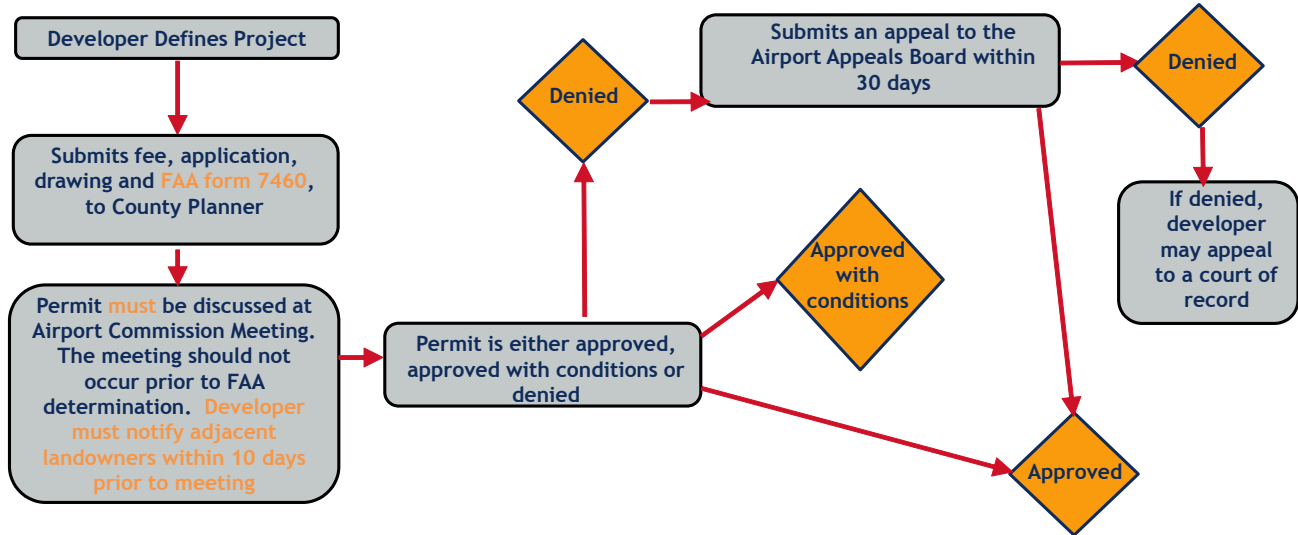
iii. The requested variance must be addressed by the Baker Municipal Airport Commission prior to the Enforcement Officer making a decision about whether or not to grant the variance. The person requesting the variance shall notify the adjacent landowner(s) of the request by mail at least 10 days before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

iv. After consulting with the Baker Municipal Airport Commission and taking into consideration any public comment and the FAA determination pursuant to FAA Form 7460-1, the Enforcement Officer shall either grant, grant with conditions or deny the requested variance in writing, explaining the decision.

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



# AAA Permit Structure Process with Variance



## b. Criteria for granting an AAA Obstruction Variance

- i. The requested variance will not be scheduled for discussion by the Baker Municipal Airport Commission 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 from normal airport operations would not be likely to cause damage to the proposed structure(s).<sup>6</sup> Whether or not the FAA determines there is a hazard to air navigation, FAA recommended mitigation must be a condition of granting the variance.

<sup>6</sup> Only the FAA has the ability to determine whether an obstruction is a hazard to air navigation, based on an evaluation described in FAA AC 70/7460-2k or current version.



## 5. AAA Use Variance

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

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

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

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

iv. After consulting with the Baker Municipal Airport Commission and taking into consideration any public comment, the Enforcement Officer shall grant, grant with conditions or deny the requested variance in writing, explaining the decision.

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

### 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 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

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

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

## G. Penalty<sup>7</sup>

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

## H. Injunction

The Governing Body 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.

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

## I. Immunity

### *1. Generally*

After the designation of an AAA, a person may not recover damages from a local government, an airport board, 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 board, 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, Governing Body designated an AAA for the Baker Municipal Airport in accordance with Section 67-7-201 of the Montana Code Annotated (MCA). The AAA includes the land surrounding the runways and the space or surfaces above that land. Height restrictions for zones and land use restrictions in specified areas found in these regulations are meant to be reasonable and are designed to promote the health, safety and general welfare of airport users and persons and property in the vicinity of the airport, taking into consideration the character of the flying operations conducted or expected to be conducted at the Airport, the nature of the terrain, future development of the airport, and FAA recommendations for aeronautical surfaces necessary for safe flying operations. In addition, these regulations protect the Airport and its operations from uses which may infringe on airport operations and result in liability to the Airport.

### B. Zones

#### *1. Explanation of Zones*

Zones are established by these regulations to reasonably regulate the height of structures and trees around the airport. The term “zones” as used in these regulations and as shown on the AAA Drawings 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 Baker Municipal Airport are shown on the AAA Zone Drawing contained in Appendix A.

#### *2. Height Restrictions in Zones<sup>8</sup>*

Restricting the height of structures or trees in certain zones protects the health, safety and welfare of the users of the airport as well as persons and property in the vicinity of the airport. 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 thirty-five (35) feet above the surface of the land except in the approach or transitional zones unless it would exceed any height restriction of the AAA zones (See Airport Zone Map).

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<sup>8</sup> The proponent of a structure is required to notify the Administrator of the FAA if any construction or alteration will result in a structure more than 200 feet in height above the ground level at its site, or within 20,000 ft. of the airport and exceeds a 100:1 surface from any point on the runway. Additional information on notification requirements is available at <https://oeaaa.faa.gov>.

In order to comply with federal requirements and those found in Section 67-7-203 (1), MCA, the Baker Municipal Airport hereby adopts the following height restrictions for the following zones:

**a. Approach Zone and Surface**

The Nonprecision Instrument (NPI) approach zone exists at each end of the runway, beginning at 200 feet from the end of each runway, centered on the extended runway centerline, with an initial width of 500 feet, widening thereafter uniformly to a width of 3,500 feet at a distance of 10,000 feet beyond the end of the primary surface. The approach surface slopes 34 feet outward for each foot upward for a horizontal distance of 10,000 feet.

**b. Primary Zone and Primary Surface**

The NPI primary zone is 500 wide, centered on the runway, plus extends 200 feet beyond the end of each paved runway. The primary surface is immediately above the primary zone.

**c. Transitional Zone and Surface**

The NPI transitional zone is immediately below the transitional surface. The transitional surface is perpendicular to the runway centerline and its extension. It begins at the outer periphery of the approach surface and the primary surface and extends upward at a slope of 7 feet horizontally for each foot vertically from the sides of these two surfaces until it intersects the horizontal and conical surfaces.

**d. Horizontal Zone and Surface**

The horizontal zone lies beneath the horizontal surface, which is a plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone shown on the AAA Drawing and as established by 14 CFR, Part 77.19 (a). The horizontal zone does not include the approach and transitional zones.

**e. Conical Zone and Surface**

The conical zone begins at the periphery of the horizontal zone and lies below the conical surface. A conical surface slopes 20 feet outward for each foot upward beginning at the boundary of the horizontal zone, for a horizontal distance of 4,000 feet. The conical surface begins at 150 feet above the airport elevation.



## C. Areas

Areas are designated in the AAA to address the concern the FAA and the Airport have about compatible uses of land around the Airport.<sup>9</sup>

### *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 Boundary Area**

This area, as shown on the AAA Map, encompasses that land owned by Baker Municipal Airport Commission 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 150/5300-13A, "Airport Design." The Runway Protection Area for the runway at the Baker Municipal Airport is shown on the AAA Area Drawing contained in Appendix B.

#### **c. Limited Development Area<sup>10</sup>**

These are areas outside the Airport Boundary Area, Airport Critical Area, and Runway Protection Area, but within the AAA.

### *2. Land Use in Areas*

The term "area" or "areas" as used in these regulations and as shown on the AAA Drawings may differ from the zones set forth in *Section IV.B*. Regulation of land uses in these areas around the airport serves to protect the health and safety of the users of the airport. Well-

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<sup>9</sup> **Compatible Land Use.** It (airport owner) will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

<sup>10</sup> Land use in this limited area should be restricted to uses that are not noise sensitive; those that do not promote public assembly or residents; those that do not have distracting lights, glare, smoke, provide electronic interference and those that are not bird attractants. The height restrictions depend upon the overlap of the zones.

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.

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 requirements apply.

**a. Airport Boundary Area**

The airport property at the Baker Municipal Airport is designated on the AAA Area Drawing as such.<sup>11</sup>To the extent it has been acquired with Federal grant funds it is subject to any use restrictions required by the grant assurances. Residential use on airport property will not be allowed.

**i. Permitted uses**

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

**(bb).** Aircraft operational facilities including, but not limited to, instrument landing systems, visual navigational aids and related equipment, communication facilities, weather service offices and equipment

**(cc).** Hangars and buildings 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

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<sup>11</sup> The boundaries of the airport property are fact specific and land use in this area depends upon the size of the property.

**(dd).** Terminal buildings that may house offices of airline companies and other businesses and concessionaires

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

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

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

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

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

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

**(kk).** Below-ground utilities and services

## **ii. Conditional Uses**

Conditions may be placed on the uses listed below and may include a time-frame for conducting the use, a temporary or annual permit renewal, height and building footprint restrictions, operational hours, layout of structures and design/materials (non-reflective siding, capped lights, etc.)

**(aa).** Light commercial development

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

**(cc).** Outdoor baseball/softball facilities and other public or private recreational uses, provided such use does not result in a concentration of people during times of peak airport use or have lighting that may distract pilots.

**(dd).** Driver education test track

(ee). Export facilities

(ff). Automobile racing facilities

(gg). Firearm and sport shooting ranges

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

(ii). Businesses not located in the terminal building, and those uses that are sanctioned by the Baker Municipal Airport Commission as non-aeronautical uses allowed by the FAA, but have not already been mentioned

**ii. Prohibited Uses**

(aa). Ponds, lagoons or similar uses that attract wildlife

**b. Runway Protection Area**

The Runway Protection Area for the runway at the Baker Municipal Airport is shown on the AAA Area Drawing contained in Appendix B. The Runway Protection Areas are 500' X 700' X 1,000' trapezoids located 200 feet beyond the runway ends.

**i. Permitted Uses**

(aa). Agriculture consisting of grazing and growing of crops other than trees and those crops that serve as a wildlife attractant

(bb). Below-ground utilities

(cc). Livestock located outside the Airport wildlife fence

**ii. Conditional/Prohibited Uses**

All other uses not listed in *SECTION IV.C.2.b.i* shall be considered prohibited.

**c. Limited Development Areas**

These are areas outside the Airport Boundary Area and Runway Protection Area, but within the AAA.

**i. Conditional Uses**

Conditions may be placed on the uses listed below and may include a time-frame for conducting the use, a temporary or annual permit renewal, height and building footprint restrictions, operational hours, layout of structures





and design/material recommendations (non-reflective siding, capped lights, etc.)

**(aa).** Power lines, provided their height does not exceed the height limitations for the overlapping zone

**(bb).** Residential use will be allowed within the Limited Development Area Boundary provided it is outside of the Runway 31 Approach Zone (see AAA Drawings). Residential use within the Runway 31 Approach Zone will be allowed if the development is low density (maximum of 4 dwellings unit per acre) and the residences do not penetrate the approach surface elevation. A permit is required for residential development within the Runway 31 Approach Zone.

**(cc).** Mining, quarrying, or other extraction activity, including the processing or refining of ore or other raw materials provided that activity does not result in ponding of water which will attract birds or involve equipment which exceeds the height limitations for an overlapping zone

**(dd).** Golf course with limited water hazards and ways to restrict birds from migrating to the golf course

**(ee).** Water supply and treatment facility, provided the facility is not a bird attractant. Solid waste and wastewater treatment sewage lagoons will not be allowed within 10,000 feet of the airport.



## 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.

### A. Documentation of uses and structures

The Enforcement Officer shall document, to the best of the Officer's ability and within a reasonable time after adoption of these regulations, those existing uses of land and the existence of structures found in the AAA, with an estimate of the height of structures that are obstructions to airspace or airport safety.

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

### C. Maintaining nonconforming trees

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

### D. Marking nonconforming structures or trees

If the Governing Body 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 prior to the adoption of this ordinance for that use or platted for that use, the residential use may continue, but existing owners must be notified by the Enforcement Officer that the lots are within an 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.

**APPENDIX A: TITLE 67. AERONAUTICS**



# Montana Code Annotated 2013

## Part 1. General Provisions

**67-7-101. Short title.** This chapter may be cited as the "Airport Compatibility Act".

**67-7-102. Legislative finding and purpose.** The legislature finds that tall trees and structures and certain types of development located in the vicinity of airports endanger the lives and property of users of the airport and of occupants of land in its vicinity. The legislature also finds that the location of tall trees and structures and certain types of development near airports reduces the area available for landing, taking off, and maneuvering aircraft and increases the likelihood of legal action against a local government for noise nuisance, thus destroying the utility of the airports and the public investment in them. It is the purpose of this chapter to promote the public health, safety, and general welfare by the delineation of an airport affected area and by the development of compatible noise, height, and land use regulations to control airport hazards. The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and in which political subdivisions may acquire land or property interests.

**67-7-103. Definitions.** (1) Except as provided in subsection (2)(b), the definitions in [67-1-101](#) apply to this chapter.

(2) In this chapter, the following definitions also apply:

(a) "Airport affected area" means 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, including the areas described in 14 CFR, part 77.

(b) "Governing body" means a city commission, town council, county commission, or the commissioners of a municipal or regional airport authority.

## Part 2. Designation and Regulation of Airport Affected Areas

**67-7-201. Designation of airport affected area -- regulations required -- maps and descriptions required -- public hearing required -- effect of designation.** (1) Subject to the provisions of subsection (5), a governing body of a political subdivision that owns or controls an NPIAS airport or that has an airport affected area for an NPIAS airport within its territorial limits or a joint board established pursuant to [67-7-202](#) shall, by ordinance or resolution, exercising its police power:

(a) designate an airport affected area within 1 year of April 19, 2005;

(b) concurrently adopt regulations for the airport affected area that comply with [67-7-203](#); and

(c) administer and enforce the regulations that are adopted.

(2) A governing body of a political subdivision that owns or controls a non-NPIAS airport or that has an airport affected area for a non-NPIAS airport within its territorial limits or a joint board established pursuant to [67-7-202](#) may, by ordinance or resolution, exercising its police power, designate an airport affected area. If the governing body or joint board makes the designation, it shall concurrently adopt

regulations for the airport affected area that may comply with [67-7-203](#) and shall administer and enforce the regulations.

(3) The airport affected area may not be less than 10,000 feet from the thresholds of each runway or less than 1 mile wide on each side of each runway unless evaluations for a specific runway show that the accident data justifies a lesser area. A greater area may be regulated as an airport affected area if:

(a) studies have been conducted in accordance with 14 CFR, part 150, maps of the area have been prepared, and a program has been approved by the federal aviation administration; or

(b) the governing body intends to protect imaginary surfaces as provided in 14 CFR, part 77.

(4) The designation must be accompanied by maps and legal descriptions of the airport affected area. The maps must be filed with the clerk and recorder of each affected county and with the clerk of each affected city or town.

(5) (a) Before a governing body designates an airport affected area and adopts or amends regulations governing the airport affected area, the governing body shall hold at least one public hearing.

(b) The notice of the public hearing must be published as provided in [7-1-2121](#) if the governing body is a county commission or the commissioners of a regional airport authority and as provided in [7-1-4127](#) if the governing body is a city commission, a town council, or the commissioners of a municipal airport authority.

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

**67-7-202. Joint airport affected area regulation board authorized -- may adopt regulations.** (1) If an airport affected area is located outside of the jurisdictional area of the governing body of the political subdivision that owns or controls the airport, the governing body of the political subdivision that owns or controls the airport and the governing body of the political subdivision within which the airport affected area is located may by ordinance or resolution create a joint airport affected area regulation board.

(2) The joint board may adopt, administer, and enforce airport affected area regulations, as provided in [67-7-201](#), subject to the provisions of [67-7-203](#).

(3) The joint board must have two members appointed by the governing body of each political subdivision participating in its creation, and a presiding officer must be elected by a majority of the members appointed. The members of the joint board who are appointed shall select an additional at-large member who resides in the county in which the airport is located.

(4) If, in the judgment of the governing body of the political subdivision that owns or controls an airport, the governing body of the political subdivision that contains the airport affected area has failed to adopt or enforce reasonably adequate airport affected area regulations for the airport affected area and if the governing body of the political subdivision that contains the airport affected area has refused to join in creating a joint board under this section, the governing body of the political subdivision that owns or controls the airport may adopt, administer, and enforce airport affected area regulations for the airport affected area. The regulations adopted by the governing body of the political subdivision that owns or controls the airport prevail if a conflict arises between regulations adopted by that governing body and the governing body of the political subdivision that contains the airport affected area.

**67-7-203. Airport affected area regulations -- contents.** (1) Subject to the provisions of [67-7-209](#), regulations adopted for the airport affected area must be reasonable, be designed to promote the

public health, safety, and general welfare, and, for an NPIAS airport, at a minimum, give consideration to:

- (a) the safety of airport users and persons and property in the vicinity of the airport;
- (b) the character of the flying operations conducted or expected to be conducted at the airport;
- (c) the nature of the terrain;
- (d) the future development of the airport; and
- (e) federal aviation administration recommendations for the aeronautical surfaces necessary for safe flying operations.

(2) Airport affected area regulations may:

(a) designate the airport or airports that are subject to the regulations, with a description of existing and future runways and approaches;

(b) define the terms used in the regulations based on the definitions provided in Title 67 and 14 CFR, part 77;

(c) describe the airport affected area by referencing maps and describing existing airport hazards and natural terrain that intrude into the airport affected area;

(d) designate and describe zones within the airport affected area, along with the height limitations for structures and trees within each zone, considering local conditions and needs, as well as the notice requirements and obstructions standards provided in 14 CFR, part 77;

(e) show the contours for decibel levels of 65 YDNL or greater on the maps that designate an airport affected area, if a study has been conducted pursuant to 14 CFR, part 150, and require that information to be considered by anyone who builds within the airport affected area;

(f) specify permitted and conditional uses within each zone of the airport affected area by addressing:

(i) incompatible land uses, such as uses for residences, schools, hospitals, day-care centers, or other concentrations of people indoors or outdoors;

(ii) the land uses that are considered incompatible with certain noise levels, as provided in 14 CFR, part 150;

(iii) bird attractants such as solid waste disposal sites and lagoons;

(iv) sources of electromagnetic radiation that may interfere with electronic navigational aids;

(v) lights other than navigational aids that glare upward or shine on or in the direction of the airport; and

(vi) the national transportation safety board's accident investigation data in the vicinity of airports and specific accident data for a particular airport, if that information is available;

(g) define nonconforming uses, measures to be taken to mitigate the nonconforming uses, and the expiration of the uses in accordance with this chapter;

(h) provide for an inventory of existing land uses, structures, and trees within the airport affected area;

(i) expand on the permit system provided pursuant to [67-7-212](#) for changes to existing land uses, including changes that affect structures or trees, and for new land uses, structures, or trees;

(j) subject to the provisions of [67-7-303](#), provide a variance procedure from the literal application of the regulations, including the conditions for granting a variance; and

(k) establish or designate local boards, commissions, or agents to administer and adjudicate interpretations of the regulations.

**67-7-204. State lands.** When an airport affected area lies partially or entirely on state-owned lands, the department of natural resources and conservation shall administer the affected lands in conformance with the airport affected area regulations adopted by the local governing body.

**67-7-205 through 67-7-207 reserved.**

**67-7-208. Procedure for developing or amending regulations -- assistance from existing boards or zoning commissions.** (1) In adopting, amending, and repealing airport affected area regulations under this chapter, a governing body or a joint airport affected area regulation board may request the assistance of existing planning boards or zoning commissions.

(2) If a political subdivision does not have an existing planning board or zoning commission to assist with recommendations for airport affected area regulations, the governing body may:

(a) request that an existing airport board recommend the boundaries of the airport affected area and the various zones to be established and the regulations that will govern the airport affected area; or

(b) act without assistance of an airport board, planning board, or zoning commission.

(3) If a governing body or joint airport affected area regulation board uses a separate airport board, planning board, or zoning commission to assist the governing body or joint board in designating the airport affected area and establishing regulations to govern the airport affected area, the airport board, planning board, or zoning commission shall make a preliminary report and hold public hearings on the report before submitting its final report to the governing body or joint board. The governing body or joint board may not hold a public hearing or take action on the regulations until it has received the final report from the airport board, planning board, or zoning commission.

**67-7-209. Prior nonconforming uses.** (1) All regulations adopted under this chapter must be reasonable and may not require the removal or alteration of any structure or tree or require cessation or alteration of a use that is lawfully in existence when the regulations become effective. Those structures, trees, or uses must be treated as prior nonconforming structures, trees, or uses that may remain or continue, but regulations may prohibit their expansion or their reconstruction or replacement following destruction or substantial damage. For the purposes of this section, "substantial damage" has occurred when 80% or more of a structure or tree is deteriorated or decayed or has been torn down or destroyed.

(2) The regulations may require that trees in place at the time that the regulations take effect be maintained by the political subdivision, at its expense, at heights attained at that time.

(3) The regulations may require the owner of structures or trees to permit the political subdivision, at its expense, to install, operate, and maintain the lights and markers necessary to warn pilots of the presence of an airport hazard.

(4) Land in existing residential subdivisions or platted for residential subdivision at the time that regulations are adopted may continue to be used for residential purposes, subject to notification provided to property owners that the lots are within an adopted airport affected area.

**67-7-210. Acquisition of property rights when regulations not sufficient.** The political subdivision within which a property or nonconforming use is located or the political subdivision owning the airport or served by the airport may acquire, by purchase, grant, or condemnation pursuant to Title 70, chapter 30, an air right, aviation easement, or other estate or interest in the property or nonconforming



structure or use that is necessary to effectuate the purposes of this chapter. The governing body of the political subdivision may acquire an interest when:

- (1) it is desirable to remove, lower, or otherwise terminate a nonconforming structure or use;
- (2) the necessary approach protection cannot, because of constitutional limitations, be provided by airport affected area regulations under this chapter; or
- (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport affected area regulations.

**67-7-211. Regulations relative to zoning ordinances.** (1) Subject to the provisions of subsections (2) and (3), if a governing body has adopted a zoning ordinance or resolution, any regulations adopted under this chapter may be made a part of the zoning ordinance or resolution and may be administered and enforced in connection with it.

(2) The zoning ordinance or resolution may not limit the effectiveness or scope of the regulations adopted pursuant to this chapter.

(3) When a conflict exists between the regulations adopted pursuant to this chapter and any zoning ordinances or resolutions applicable to the same area that the regulations are intended to govern, the more stringent limitation or requirement prevails.

**67-7-212. Permit system.** (1) The regulations adopted pursuant to this chapter must provide for a permit system for erecting new structures or trees, changing uses of land or structures, and substantially altering, repairing, or replacing existing structures or replacing existing trees within the airport affected area.

(2) A permit may not be granted that would allow the establishment of an airport hazard or that would allow a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the designation of the airport affected area and the regulations adopted to protect the airport affected area.

(3) A permit granted pursuant to this chapter may require the owner of a structure or tree to allow the governing body, at the owner's expense, to install, operate, and maintain the lights and markers necessary to warn pilots of the presence of an airport hazard.

### **Part 3. Enforcement and Variances**

**67-7-301. Enforcement.** The governing body or its designated agent or agency is responsible for enforcing the regulations adopted pursuant to this chapter. The regulations must provide for an enforcement officer and an appeal process from the decision of the enforcement officer, who may be an existing employee of the local government.

**67-7-302. Appeals.** (1) The governing body that designated the airport affected area shall act as an airport appeals board or appoint an airport appeals board that functions in the same manner as a board of adjustment provided for in Title 76, chapter 2. If the governing body appoints an airport appeals board, the board must have at least three members.

(2) The provisions of [76-2-223](#) and [76-2-225](#) through [76-2-228](#) apply to the governing body of a county or an airport appeals board appointed by that governing body and the provisions of [76-2-323](#) and [76-2-325](#) through [76-2-328](#) apply to the governing body of a municipality or an airport appeals board appointed by that governing body when considering grievances relating to regulations, variances,

or permits.

(3) If a governing body has appointed a board of adjustment under the provisions of [76-2-221](#) through [76-2-228](#) or [76-2-321](#) through [76-2-328](#), the governing body may designate the members of that board as the airport appeals board, in which case the terms of the members for the purposes of this chapter are concurrent with their terms as members of the board of adjustment.

**67-7-303. Variance.** (1) A person intending to erect or increase the height of a structure, permit the growth of a tree, or use property in a manner that is not in accordance with the requirements of the regulations adopted pursuant to this chapter may apply to the governing body or an enforcement officer appointed for this purpose by the governing body for a variance from the regulations.

(2) If an enforcement officer has been appointed by the governing body, the decision of the officer is final unless it is appealed to either the governing body or the airport appeals board, if one exists.

(3) A variance must be granted when a literal application or enforcement of the regulations would result in substantial practical difficulty or unnecessary hardship and when the variance would not be contrary to the public interest.

(4) A variance must be granted for a nonconforming use when there is no immediate hazard to safe flying operations 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.

(5) A variance granted under this section may require the owner of a structure or tree to allow the political subdivision, at the owner's expense, to install, operate, and maintain the lights and markers necessary to warn pilots of the presence of an airport hazard.

(6) A person who builds a structure pursuant to a variance from the airport affected area regulations or who takes or buys property in an airport affected area for which a variance has been granted is on notice that the airport existed before the variance was granted and that normal and anticipated normal operations of the airport will result in noise, vibrations, and fumes being projected over the property. A person 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, vibrations, and fumes from normal and anticipated normal airport operations.

**67-7-304. Penalty.** A person who violates the provisions of this chapter or the regulations adopted under [67-7-203](#) is subject to a civil penalty and a criminal penalty. The civil penalty is a fine of \$100 for each day that the violation is not remedied after the governing body has given notification of the violation and held a hearing on the violation. The criminal penalty is a fine of \$500, pursuant to [45-2-104](#).

**67-7-305. Injunction.** A local governing body may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this chapter or the regulations adopted pursuant to this chapter.

**History:** En. Sec. 19, Ch. 300, L. 2005.

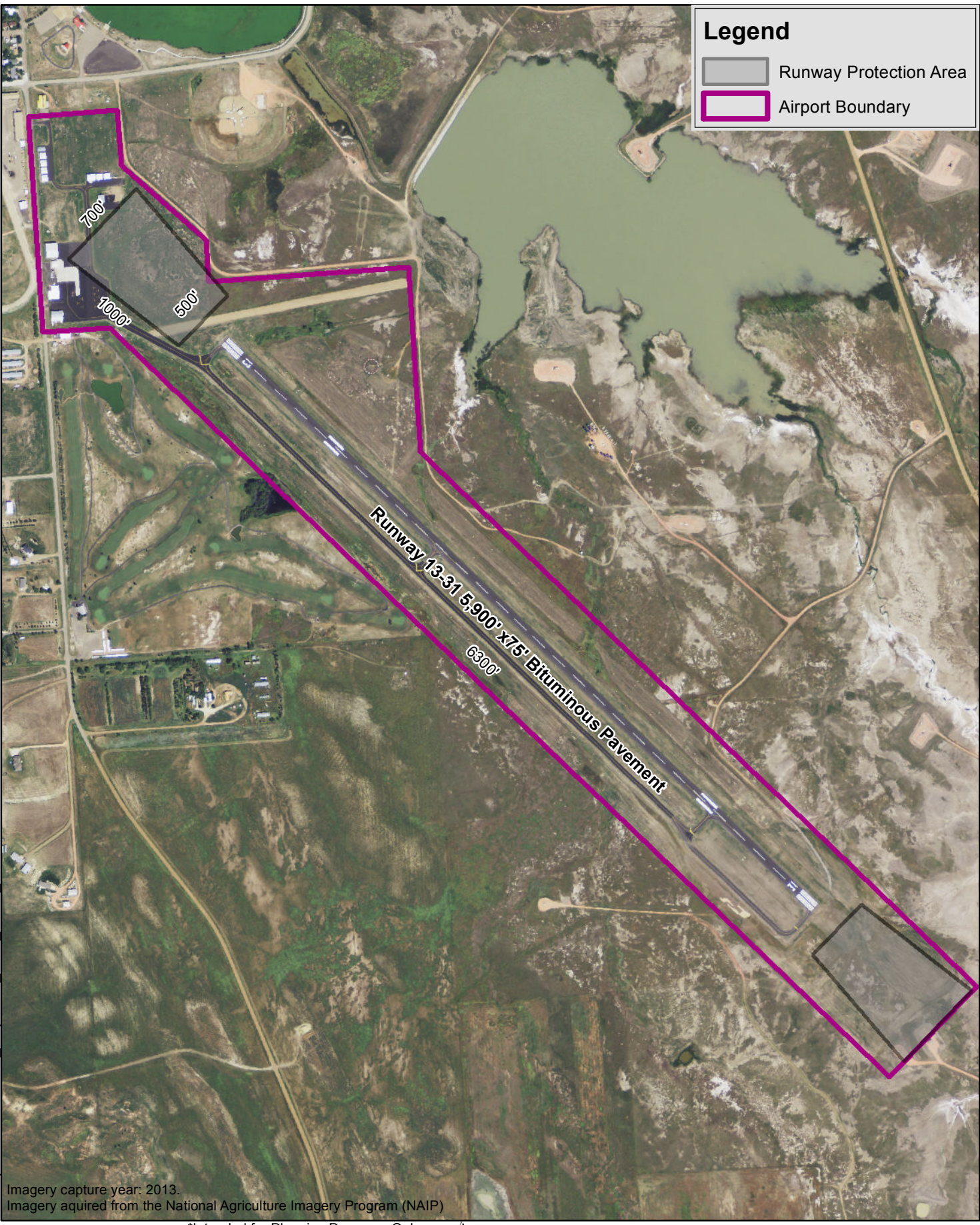
## APPENDIX B: AIRPORT AFFECTED AREA DRAWINGS





**Legend**

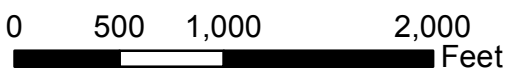
- Runway Protection Area
- Airport Boundary



J:\temp\TimG\25131101\_Map\AAA\_Area\_Aerial\_Letter.mxd TLG 5/7/2014

Imagery capture year: 2013.  
Imagery aquired from the National Agriculture Imagery Program (NAIP)

\*Intended for Planning Purposes Only



**Baker Municipal Airport  
Airport Affected Area Map  
Sheet 1**

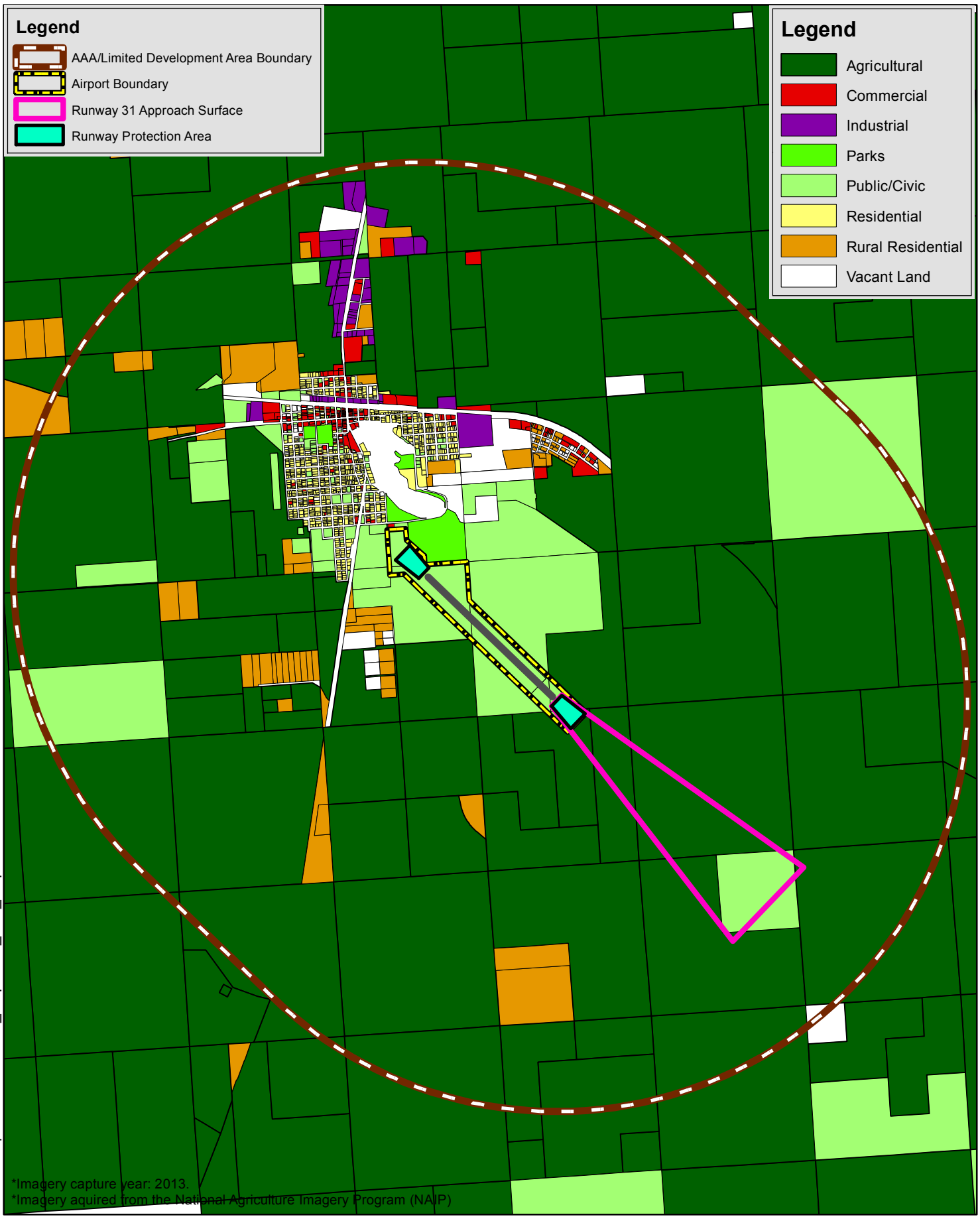


**Legend**

- AAA/Limited Development Area Boundary
- Airport Boundary
- Runway 31 Approach Surface
- Runway Protection Area

**Legend**

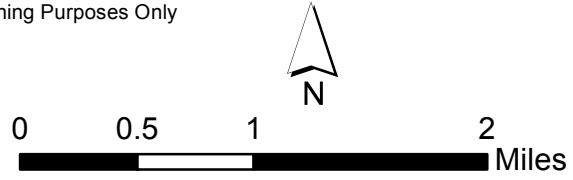
- Agricultural
- Commercial
- Industrial
- Parks
- Public/Civic
- Residential
- Rural Residential
- Vacant Land



J:\temp\TimG\2513110\_Map\_Land\_Use\_Map.mxd TLG 5/7/2014

\*Imagery capture year: 2013.  
 \*Imagery aquired from the National Agriculture Imagery Program (NAIP)

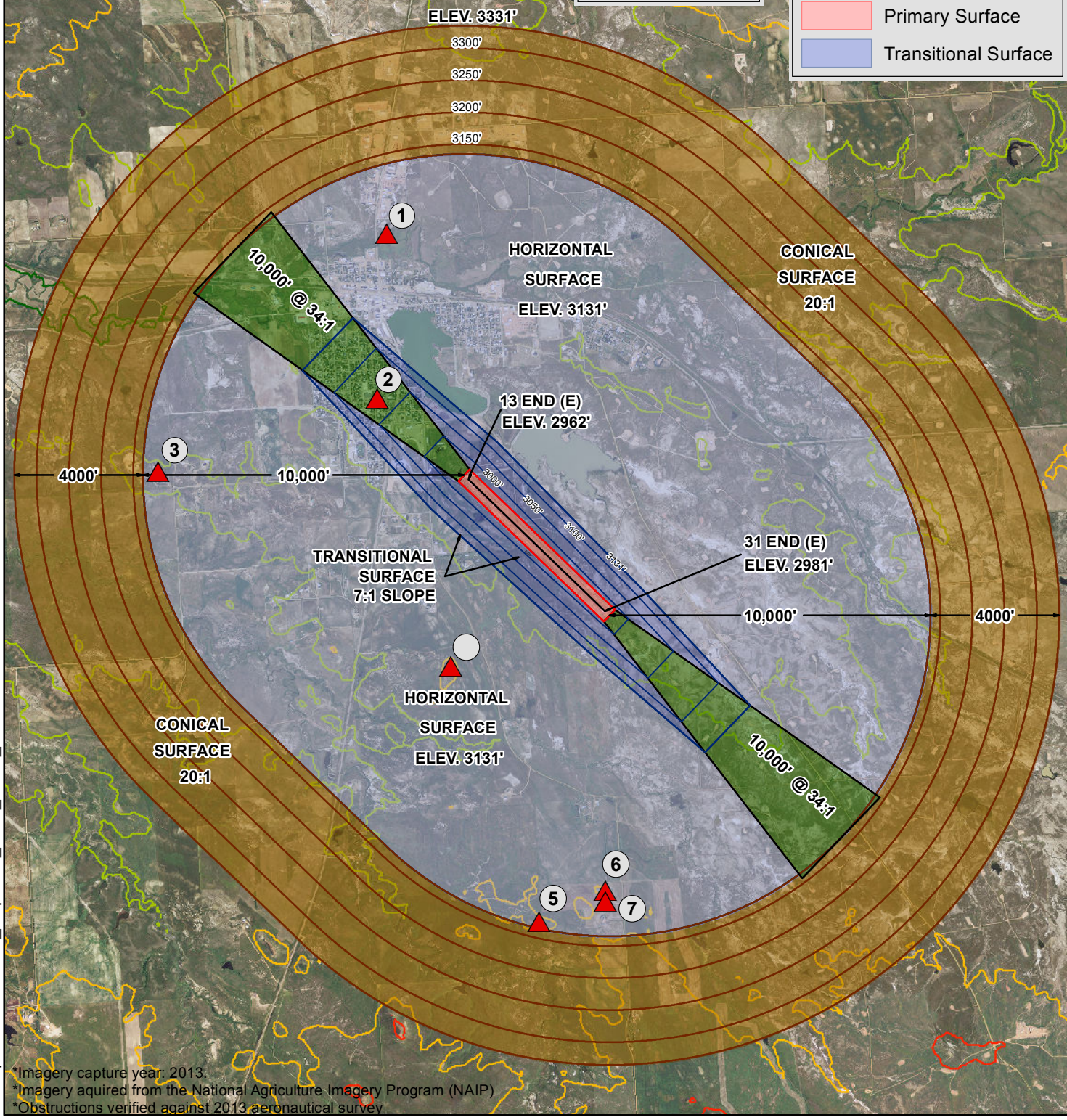
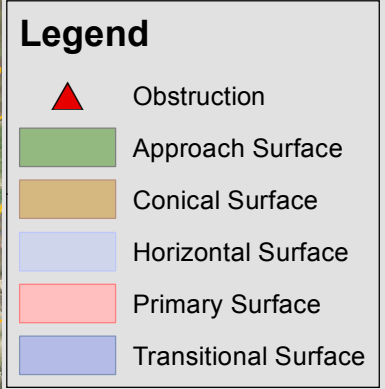
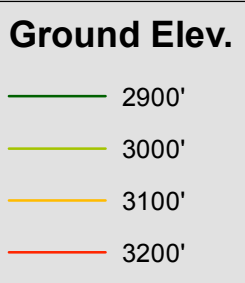
\*Intended for Planning Purposes Only



**Baker Municipal Airport  
 Airport Affected Area Map  
 Sheet 2**



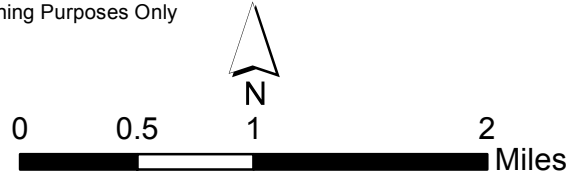
<u>OBSTRUCTION TYPE</u>	<u>ELEV.</u>	<u>PEN.</u>
1. Radio Tower	3172'	41'
2. Radio Tower	3069'	1'
3. Radio Tower	3182'	51'
4. Ground	3156'	25'
5. Ground	3147'	16'
6. Power Pole	3136'	5'
7. Power Pole	3138'	7'



J:\temp\TimG\251\3110\_Map\AAA\_Zone\_Aerial\_Letter.mxd TLG 5/5/2014

\*Imagery capture year: 2013.  
 \*Imagery acquired from the National Agriculture Imagery Program (NAIP)  
 \*Obstructions verified against 2013 aeronautical survey

\*Intended for Planning Purposes Only



**Baker Municipal Airport  
 Airport Affected Area  
 Height Zone Map**



**APPENDIX C: CITY OF BAKER AND FALLON COUNTY PLANNING  
RESOLUTIONS**



## **ORDINANCE NO 362**

### **AN ORDINANCE ADOPTING THE AIRPORT AFFECTED AREA (AAA) REGULATIONS FOR BAKER MUNICIPAL AIRPORT.**

The City of Baker Council held a public hearing at 10 West Fallon Ave, on September 17, 2014 at 8:00 p.m.

WHEREAS, the Baker Municipal Airport Commission is a joint board between Fallon County and the City of Baker of which both jurisdictions are owners of the real property described as Baker Municipal Airport;

WHEREAS, Baker Municipal Airport Commission has requested that the City of Baker and Fallon County adopt the Airport Affected Area (AAA) Regulations for Baker Municipal Airport;

WHEREAS, authorization for these regulations is in the Airport Compatibility Act found in Title 67, Chapter 7, Montana Code Annotated;

WHEREAS, notice was published and a public hearing for the City of Baker was held at 8:00 pm, at 10 West Fallon Ave on September 17, 2014;

WHEREAS, the public issued no comments at the public hearing;

WHEREAS, the Airport Commission followed criteria contained in the model regulations put forth by the Montana Association of Counties;

WHEREAS, The City of Baker believes that it would be in the best interest of the City and Airport to approve and adopt the AAA Regulations.

NOW THEREFORE, the City of Baker Council hereby adopts Ordinance 362, Baker Municipal Airport, Airport Affected Area Regulations:

BE IT RESOLVED, by the City of Baker Council that Baker Municipal Airport, Airport Affected Area Regulations are approved and the regulations shall be in effect 30 days following final adoption and are incorporated into the City of Baker Ordinances herein by this reference.

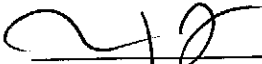


Presented to the City Council for first reading on November 19, 2014.  
Presented to the City Council for second reading on December 3, 2014.

Adopted by the City Council and Approved by the Mayor this 3rd day of  
December 2014.

Clayton Hornung  
Clayton Hornung, Mayor

ATTEST:

  
Signature

Kevin J. Dukart  
Printed Name

Clerk Treasurer  
Title

Resolution 11-5-2014  
ORDINANCE NO. 14.103

AN ORDINANCE ADOPTING THE AIRPORT AFFECTED AREA (AAA)  
REGULATIONS FOR BAKER MUNICIPAL AIRPORT.

The Fallon County Commission held a public hearing at Fallon County Court House in the Commissioners Suite on September 15, 2014 at 2:00 p.m.

WHEREAS, the Baker Municipal Airport Commission is a joint board between Fallon County and the City of Baker of which both jurisdictions are owners of the real property described as Baker Municipal Airport;

WHEREAS, Baker Municipal Airport Commission has requested that the City of Baker and Fallon County adopt the Airport Affected Area (AAA) Regulations for Baker Municipal Airport;

WHEREAS, authorization for these regulations is in the Airport Compatibility Act found in Title 67, Chapter 7, Montana Code Annotated;

WHEREAS, notice was published and a public hearing for Fallon County was held at 2:00 pm, at Fallon County Court House in the Commissioners Suite on September 15, 2014;

WHEREAS, the public issued no comments at the public hearing;

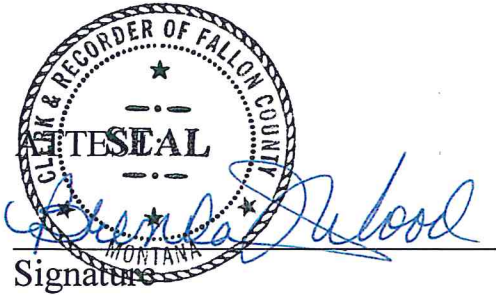
WHEREAS, the Airport Commission followed criteria contained in the model regulations put forth by the Montana Association of Counties;

WHEREAS, Fallon County believes that it would be in the best interest of the County and Airport to approve and adopt the AAA Regulations.

NOW THEREFORE, the Fallon County Commission hereby adopts Ordinance 14.103, Baker Municipal Airport, Airport Affected Area Regulations:

BE IT RESOLVED, by the County Commission of Fallon County that Baker Municipal Airport, Airport Affected Area Regulations is approved and the regulations are in effect from this date forward and are incorporated into the Fallon County Ordinances herein by this reference.

PASSED, APPROVED and ADOPTED by the Fallon County Commission  
this 5<sup>th</sup> day of November, 2014.



Signature

BRENDA J. WOOD  
Printed Name

CLERK & RECORDER  
Title

Deb Ranum  
Deb Ranum, Chairperson  
Fallon County Commission