CHAPTER 12
AIRPORT ZONE

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12-1. PURPOSE

A. It is the purpose of the Jerome County Airport Zoning Ordinance to restrict the height of structures and objects of natural growth, and otherwise regulate the use of property, in the vicinity of the Jerome County and Hazelton Airports (the Airports) by: creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; define certain terms used herein; reference the Airports' FAR Part 77 Airspace Drawing and Airport Land Use Zone Map, which are incorporated in and made a part of this Chapter; provide for enforcement; and impose penalties.

B. It is hereby found that an aviation hazard endangers the lives and the property of users of the Airports, as well as the property and the occupants of land in the vicinity of the Airports. An aviation hazard reduces the size of the area available for landing, takeoff and maneuvering of aircraft, and thus diminishes or impairs the utility of the Airports and the public investment therein.

C. Accordingly, it is declared that:

1. The Airports fulfill an essential community purpose; and
2. The creation or establishment of an aviation hazard is a public nuisance and will injure the region served by the Airports; and
3. The encroachment of noise sensitive or other incompatible land uses within the areas identified herein endangers the health, safety, and welfare of the owners, occupants, or users of the land; and
4. It is necessary in the interest of the public health, safety, and general welfare that the creation of aviation hazards be prevented; and

5. Joint cooperation between all governing boards having jurisdiction within or adjoining the Airports' hazard areas is encouraged as a mechanism to prevent aviation hazards; and
6. These aviation hazards should be prevented, to the extent legally possible.

12-2. AUTHORITY

The Board adopts the provisions found in this Chapter pursuant to the provisions and authority conferred by Article 12, Section 2, of the Idaho State Constitution, and Title 21, Chapter 5, Airport Zoning Act, and Title 67, Chapter 65, Local Land Use Planning, of the Idaho Code.

12-3. SHORT TITLE

This Chapter shall be known as the "Jerome County–Airport Overlay Zoning Ordinance."

12-4. DEFINITIONS

The following terms shall have the following meanings in regard to this Chapter:

AIRPORT

Any runway, area, or other facility used publicly and/or commercially for the landing and taking-off of aircraft, including all accessory taxiways, aircraft storage and tie down areas, hangars, and other necessary buildings.

AIRPORT ELEVATION

The highest point of an airport's usable landing area measured in feet from mean sea level.

APPROACH SURFACE

A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 12-7.02 of this Chapter. The outer width of an approach/departure surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end as identified on the airport's approved Airport Layout Plan.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES

These zones are set forth in Section 12-5 of this Chapter.

AVIATION HAZARD

An obstruction or hazard to air navigation that includes any new or existing structure, object of natural growth, use of land, or modification thereto, which endangers the lives and property of users of an airport, or of occupants of land in its vicinity, and that reduces the size of the area available for landing, taking off and maneuvering of aircraft, or penetrates an imaginary surface, and has an adverse effect on the safe and efficient utilization of the navigable airspace.

COMMERCIAL USES

Commercial uses include community retail, wholesale, service, office and limited manufacturing businesses. For purposes of this Chapter, High Intensity commercial uses such as large retail box stores (i.e. Wal-Mart, Home Depot, Costco, etc.) are not acceptable

commercial uses in all airport land use zones. Refer to the Airport Land Use Overlay Zone Map.

CONICAL SURFACE
A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

CRITICAL ZONES
An extended area off the runway end used to enhance the protection of people and property on the ground.

FAA
The Federal Aviation Administration.

FAIR DISCLOSURE STATEMENT
A notification to prospective buyers of property near the Airport's that they may be exposed to potentially impactive levels of aircraft overflight. These statements in no way abrogate an individual's right to take later action against the airport, but rather give buyers a fair warning.

FEDERAL AVIATION REGULATION (FAR) PART 77
Code of Federal Regulations 14 CFR Part 77 commonly referred to as FAR Part 77. This FAR defines the regulations applicable to objects which may affect navigable airspace.

HEIGHT
For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE
A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the Horizontal Zone.

LARGER THAN UTILITY RUNWAY
A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

LIGHT INDUSTRIAL USES
Light industrial uses include a wide range of manufacturing and related establishments, research, supplies and sales businesses. For purposes of this Ordinance, light industrial uses shall be free of hazardous or objectionable elements such as obstructions, dust, smoke or glare that result in an Aviation Hazard.

NAVIGABLE AIRSPACE
Any airspace where heavier-than-air craft can operate. Specifically per Federal Aviation Regulations (FAR), navigable airspace includes airspace at and above the minimum safe flight level, including airspace needed for safe takeoff and landing.

NONPRECISION INSTRUMENT RUNWAY
A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned. It also means a runway for which a nonprecision approach system is planned and is so indicated on an approved Airport Layout Plan.

OBSTRUCTION
Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 12-7 of this Chapter.

PERSON
An individual, corporation, joint venture, limited partnership, partnership, firm, syndicate, association, trustee, or other similar entity or organization.

PRECISION INSTRUMENT RUNWAY
A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Precision Approach Radar (PAR) or a Global Positioning System (GPS). It also means a runway for which a precision approach system is planned and is so indicated on an approved Airport Layout Plan.

PRIMARY SURFACE
A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 12-5 of this Chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY
A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE
~~Anything constructed or erected and which is attached, directly or indirectly, to a fixed location on the ground. Structures include, but are not limited to, buildings, modular homes, mobile homes, walls, fences, signs and billboards. For purposes of this Ordinance, the term "structure" shall be expanded to include, in addition to the foregoing, overhead electrical transmission lines or power poles, and their appurtenances, towers, cranes and smokestacks.~~
Something built or constructed for the purpose of serving a lasting use, such as buildings, walls, fences, signs, etc., for purposes of this chapter, the term "structure" shall be expanded to include, in addition to the foregoing, overhead electrical transmission lines or power poles, and their appurtenances, towers, cranes and smokestacks.

TRANSITIONAL SURFACES
These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces as defined in FAR Part 77 to a point where they

intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

TREE
A perennial woody plant having at least one main trunk and produces a more or less distinct and less elevated crown with many branches.

UTILITY RUNWAY
A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY
A runway intended solely for the operation of aircraft using visual approach procedures.

12-5. AIRPORT ZONES

There are two distinct sets of zones addressed in this Chapter. The first set involves federally defined airspace zones, established by the FAA and recognized by Jerome County. Unless otherwise identified, these shall hereinafter be referenced as "Federal Airspace Zones." The second set of zones in this Chapter involves County created land use overlay zones, the purposes of which are to add protection to the recognized Federal Airspace Zones. Unless otherwise identified, these shall hereinafter be referenced as "Airport or County Land Use Overlay Zones."

12-5.01 FEDERAL AIRSPACE ZONES

Various Federal Airspace Zones have been defined by the FAA per FAR Part 77, the following of which are recognized by Jerome County as being active around the Airports. These recognized zones and their FAA descriptions are:

NONPRECISION INSTRUMENT RUNWAY APPROACH ZONE (LARGER THAN UTILITY RUNWAY)
The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. The centerline is the continuation of the centerline of the runway.

VISUAL RUNWAY APPROACH ZONE (UTILITY AIRCRAFT)
The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach surface expands uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. The centerline of the approach zone is a continuation of the centerline of the runway.

TRANSITIONAL ZONE
The transitional zone is the area beneath the transitional surface.

HORIZONTAL ZONE
The horizontal zone is established by swinging arcs of 5,000 or 10,000 feet radii from the center of each end of the primary surface of the primary runway and connecting the adjacent

arcs by drawing lines tangent to those arcs. The horizontal zone does not include either the approach or the transitional zone.

CONICAL ZONE
The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward for a horizontal distance of 4,000 feet.

12-5.02 COUNTY LAND USE OVERLAY ZONES

The controlled area of the Airports shall be divided into several Land Use Overlay Zones known and described as follows:

RUNWAY PROTECTION ZONE (RPZ)
An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The applicable RPZ dimensions are depicted on the Airport Layout Plan.

LATERAL SAFETY ZONE (LSZ)
An area extending 1000 feet either side of runway centerline and including the area between the ends of the primary surface(s) used to enhance the protection of people and property on the ground.

INNER CRITICAL ZONE (ICZ)
Rectangular in shape and centered about the extended runway centerline. The width of the Inner Critical Zone is up to 2000 feet and extends a horizontal distance of up to 5000 feet from each end of the primary surface.

OUTER CRITICAL ZONE (OCZ)
Rectangular in shape and centered about the extended runway centerline. The width of the Outer Critical Zone is 1000 feet and extends a horizontal distance of up to 5000 feet, but no less than 3000 feet, from each end of the Inner Critical Zone.

TRAFFIC PATTERN AREA (TPA)
An area comprised of a rectangle based on a determined distance from the runway centerline and end. The Traffic Pattern Area represents an area where aircraft are commonly operating for the purposes of landing and take-off as depicted in the Airport Land Use Overlay Zone Map. A Traffic Pattern Area is commonly based on the predominant usage of the category of aircraft forecast to use the airport and the specific traffic patterns established at the airport.

AIRPORT INFLUENCE AREA (AIA)
An area, which establishes boundaries used to define the airport environs for land use planning purposes. Factors to be considered in defining the boundary of the Airport Influence Area include airport noise contours (when applicable), airport traffic patterns, departure, arrival and instrument approach corridors, safety zones and height restriction areas.

BUFFER ZONE (BZ)
An area in the proposed City Impact Area where aircraft are commonly operating for the purposes of landing and take-off. The Buffer Zone(s) establishes land use restrictions to enhance the protection of people and property on the ground while considering influences of the City Impact Area.

12-5.03 BOUNDARY LINES

A. The boundary lines of the Federal Airspace Zones shall be located and delineated along the contour lines established for the Airports. Where uncertainty exists as to such a zone's boundary, the following rules shall apply:

1. Boundaries shall be scaled from the nearest runway end shown on the Airport Land Use Map.

2. Boundaries shall be scaled from the nearest physical feature shown on the Airport Land Use Map.

3. Distances not specifically indicated on the Airport Land Use Zone Map shall be determined by a scaled measurement on the map.

B. The boundary lines of the Airport Land Use Overlay Zones shall be located and delineated as shown on the Airport Land Use Map.

C. When there is a boundary conflict between two airport zones within the same set that cannot be resolved by the application of this Chapter, the more restrictive of two conflicting zones shall control.

12-6. CREATION, ADOPTION & MAINTENANCE OF MAPS
In order to accomplish and illustrate more fully the objectives and purpose of this Chapter, the two sets of zones identified above (Federal Airspace and County Land Use Overlay) shall be illustrated on a respective set of maps as outlined below.

12-6.01 MAPS OF FEDERAL AIRSPACE ZONES

A. The Federal Airspace Zones shall be depicted on each of the Airports' Federal Aviation Regulation (FAR) Part 77 Airspace Drawings.

B. For each of the Airports, there shall be three (3) original, official, and identical copies of the FAR Part 77 Airspace Drawings reflecting the boundaries of the several recognized airspace zones. Each of the three copies for each Airport (2 airports x 3 maps each = a total of six (6) maps) shall be adopted by the Board. Each of these six (6) maps shall be signed by the Chairman of the Board of County Commissioners, attested by the Clerk, and shall bear the following words: "I hereby certify that this is an official Airspace Map for the ---- [Jerome County or Hazelton] Airport that was adopted by the Board of County Commissioners of Jerome County, on the --- day of ---, ----."

12-6.02 MAPS OF COUNTY LAND USE OVERLAY ZONES

A. The several County Land Use Overlay Zones shall be shown and identified, for each of the two Airports, on the Land Use Zone Maps.

B. Three (3) original, official, and identical copies of each Airport's Land Use Zone Map, (2 airports x 3 maps each = a total of six (6) maps) shall be adopted by the Board. Each of these six (6) maps shall be signed by the Chairman of the Board of County Commissioners, attested by the Clerk, and shall bear the following words: "I hereby certify that this is an official Airport Land Use Zone Map for the ---- [Jerome County or Hazelton] Airport that was adopted by the Board of County Commissioners of Jerome County, on the --- day of ---, ----."

12-6.03 MAINTENANCE OF FEDERAL AIRSPACE AND COUNTY LAND USE MAPS

A. Each of the twelve (12) maps identified above (6 Federal Airspace and 6 County Land Use Overlay) shall be as much of this Ordinance and Chapter as if each were individually and fully described herein.

B. The six (6) maps pertaining to each Airport (three of the Federal Airspace Zones and three of the County Land Use Overlay Zones) shall be filed and maintained as follows:

1. Maps depicting Federal Airspace Zones shall be identified as alphabetical exhibits, while those depicting County Land Use Overlay Zones shall be identified as numerical exhibits.

2. One (1) map from each set (the "federal" set and the "County" set) shall be filed in the office of the Administrator and shall be respectively designated as Exhibit "A" and Exhibit "1".

3. One (1) map from each set shall be filed in the office of the County Clerk and shall respectively be designated as Exhibit "B" and Exhibit "2".

4. One (1) map from each set shall be filed in the office of the Airport Manager(s) and shall be respectively designated as Exhibit "C" and Exhibit "3".

5. The Administrator shall be responsible for maintaining all the above exhibits by posting on each, all subsequent changes and amendments.

12-7. ZONING REGULATIONS AND EXCEPTIONS

12-7.01 GENERAL REGULATIONS

A. The permissible land and building uses for any Airport Land Use Zone shall be delineated in the text box entitled, *Airport Land Use Compatibility Table,* inserted on the land use map for each Airport. No land shall be used and no structure or other object shall be erected, altered, converted, or modified in any particular Airport Land Use Zone other than for those permitted in the above-described table. If said table is silent to a particular land or building use in a

particular Airport Land Use Zone, such use shall be allowed if the use is permitted by the Jerome County Zoning Ordinance.

B. Where the uses identified in the *Airport Land Use Compatibility Table* conflicts with any other provision of the Jerome County Zoning Ordinance, the *Airport Land Use Compatibility Table* and this Chapter shall apply.

C. Notwithstanding other provisions of this Ordinance, no use may be made of land, water, or structures within any zone established by this Chapter in such a manner as to intentionally:

1. Create electrical interference with navigational signals or radio communication between the Airports and aircraft.

2. Make it difficult for pilots to distinguish between airport lights and others, or result in glare in the eyes of pilots using the Airports.

3. Impair pilot visibility in the vicinity of the Airports.

4. Create bird strike hazards.

5. Endanger or interfere with the landing, taking off, or flight operations of aircraft utilizing the Airports in any way.

D. In the event of conflict between this section and any aviation hazard restriction, or where there exists a conflict between this Chapter and other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of the land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

12-7.02 HEIGHT REGULATIONS

A. No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow, in any zone recognized or established by this Chapter, within the jurisdiction of Jerome County, to a height in excess of the limit established for each zone as stated herein:

NONPRECISION INSTRUMENT RUNWAY APPROACH ZONE (LARGER THAN UTILITY RUNWAY). The height limitation for the Non-precision Instrument Runway Approach Zone (Larger Than Utility Runway) shall slope thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

VISUAL RUNWAY APPROACH ZONE. The height limitation for the Visual Runway Approach Zone shall slope twenty (20) feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

TRANSITIONAL ZONE. The height limitation for the Transitional Zone shall slope seven (7) feet outward for each foot upward, beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there shall be height limits sloping seven (7) feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there shall be height limits sloping seven (7) feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

HORIZONTAL ZONE. The height limitation for the Horizontal Zone shall be 150 feet above the airport elevation.

CONICAL ZONE. The height limitation for the Conical Zone shall slope twenty (20) feet outward for each foot upward, beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

B. Nothing in this Chapter shall be construed as prohibiting the construction, maintenance, or growth of anything to a height that is less than the height limitations defined in this Section except when, because of terrain, land contour or topographic features, such structure or growth would extend above the height limits prescribed herein, or above the height limits prescribed elsewhere in the Jerome County Zoning Ordinance. (See Chart in Chapter 6 of this Ordinance for other height restrictions that may apply).

12-7.03 EXCEPTIONS

A. The general purpose of the zones created herein is to prevent the encroachment of aviation hazards in the vicinity of the Airports. It is recognized that the nature of the Inner and Outer Critical Zones are such that exceptions to the Land Use Compatibility Table may be made provided the general purpose behind the zones are maintained. Therefore, regulated uses within the Inner and Outer Zones that are prohibited by the Land Use Compatibility Table shall not be allowed, except in those instances where it is shown by clear and convincing evidence that:

1. The Applicant cannot, without enduring undue hardship, locate the proposed use in a zone where such use is allowed by the JCZO.

2. The critically zoned property or location where the use is proposed has limited potential for supporting other reasonable uses.

3. In all other respects, the proposed use meets, or will meet, the standards specified in this and the underlying Chapter (if applicable); and specifically the standard of not creating an aviation hazard.

4. The spirit of this Chapter is not compromised.

B. Those seeking a permit per this section shall follow the permitting procedures set forth in Section 12-8.

12-8. PERMITS

A. ZONING PERMIT: Uses regulated solely by this this chapter shall require Zoning Permit.

B. UNDERLYING CHAPTER PERMIT: Uses regulated by this Chapter and by an underlying Zone or Chapter of the Ordinance.

12-9. PERMITTING PROCEDURE

12-9.01 ZONING PERMITS

A. Zoning Permits shall be obtained in the following manner:

1. An application for a Zoning Permit shall be filed with the Planning and Zoning Administrator's Office by the owner(s) or agent(s) of the real property for which the Zoning Permit is proposed. A complete application shall provide the following:

   a. The name, complete address, and telephone number of the Applicant(s).
   b. The legal address and/or common directions from the center of Jerome, Idaho.
   c. Development information
      i. Existing use
      ii. Proposed use
      iii. Description of proposed structure (if applicable)
      iv. Height of structure from ground line to roof line
   d. Attachments
      i. Real property summary sheet
      ii. Property deed
      iii. Agency letters as required by the Administrator
      iv. Complete site plan
      v. Documents described in 12-9.02(A)(2-5)

B. CRITERIA FOR APPROVAL A ZONING PERMIT APPLICATION

1. A permit shall be issued if the application is complete and complies with the general regulations of this chapter and other relevant laws, ordinances and regulations.

2. A permit shall not be issued if the application fails to comply with section 12-9.02(B)(1).

C. CONDITIONS AND SAFEGUARDS
In issuing a Zoning Permit, the Administrator may prescribe, require and/or attach appropriate conditions or safeguards to the permit. All imposed conditions shall be identified in the written decision and notification requirements of this chapter.

D. RECORD OF DECISION

The Administrator shall issue a written decision that conforms to the standards and criteria set forth in Idaho Code Section 67-6535. A copy of such written decision shall be sent to the applicant(s) or the designated agent(s).

E. APPEAL PROCEDURE
Any party aggrieved by the decision of the Administrator may appeal that decision according to the provisions of Chapter ~~19~~ **23** of the JCZO or other applicable provisions of law.

12-9.02 UNDERLYING CHAPTER PERMITS

A. Underlying Chapter Permits shall be obtained in the following manner:

1. Follow the application procedures for obtaining such a permit as found in the appropriate underlying Chapter of the Ordinance that directly authorizes such permit.

2. Provide a detailed map or drawing with the permit application that depicts the heights and location of the permitted action in relation to the Height and Land Use Zones. The detail provided in the map or drawing shall be of sufficient nature to allow a determination of whether the proposed use conforms to the regulations prescribed herein.

3. If required by the Idaho Division of Aeronautics or other state agencies, attach to the application a copy of all documentation sent to such agency or agencies, along with any response(s) that may have been received.

4. If required by federal regulations, attach to the application a copy of the FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, along with any response that may have been received. Unless the permit is for the construction or alteration of a highway, railroad or other traverse way for mobile objects located on the airport, or unless specifically requested by the FAA, an FAA Form 7460-1 shall not be required if the requested permit is for a tree or structure less than 200 feet above ground level and which is lower than an imaginary surface extending outward and upward at a slope of 100 feet horizontal for each 1 foot vertical within 20,000 feet (3.8 statute miles) beginning at the closest point of the closest runway. Jerome County reserves the right to request an applicant to notify the FAA of permit applications regardless of whether an FAA Form 7460-1 is required by this section.

5. The Applicant shall continue to forward copies of all documentation from the FAA, Idaho Division of Aeronautics or other agencies that were received subsequent to the application being filed.

B. LODGING AND FILING AN APPLICATION

1. Within fourteen (14) days after the Administrator receives an application, he shall notify the Applicant whether the application is complete. If the Administrator deems the application incomplete, the prescribed notice shall identify the missing documentation and shall inform the Applicant that no further action will be taken on the application until

such missing items are provided. The Administrator's finding of a complete application does not constitute an approval of the application, nor does it create a presumption to such effect.

2. Upon the satisfaction of the Administrator that an application is complete, he shall date it and mark the original application with the word, "Filed". Within seven (7) days after the Administrator deems the application filed, he shall send notice of such to the Applicant. The Administrator's finding of a complete application does not constitute an approval of application, nor does it create a presumption to such effect.

3. An application submitted to the Administrator shall be considered as being only lodged, not filed, with the County. It shall not be until the Administrator finds the application complete per the above paragraph that the application shall be deemed filed. Applications shall be considered and determined based upon the regulations existing as of the date of filing of the application, unless otherwise provided for by action of the Board.

C. SUBMISSION TO AIRPORT BOARD, IDAHO DIVISION OF AERONAUTICS, AND FAA

1. Within seven (7) days of an application being filed, the Administrator shall forward one of the provided copies of the application to the Jerome County Airport Manager(s), who shall then in turn schedule, at the next available meeting, the application for review by the Jerome County Airport Advisory Board.

2. Written notice of the date, time and location of the Airport Advisory Board's review of the application shall be mailed to the Applicant's address as provided on the application.

3. The Airport Advisory Board may request the Applicant to submit an FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, to the FAA.

4. Within seven (7) days of completing its review of the application, the Airport Advisory Board shall cause its recommendations on the matter to be forwarded to the Administrator.

D. SUBMISSION TO PLANNING AND ZONING COMMISSION AND/OR THE BOARD

Upon receipt of recommendations by the Airport Board, and upon receipt of recommendations (if required) from the FAA and Idaho Division of Aeronautics, the Administrator shall give notice of a public hearing before the Planning and Zoning Commission and/or Board, as required in the underlying Chapter, or if none, then per Chapter seven (7) of the JCZO.

E. CRITERIA FOR ISSUANCE OF PERMIT

1. Permits shall be issued if it is determined that:

   a. The application is complete.

   b. The Conditions included on the *Airport Land Use Compatibility Table* have been met.

c. There exists sufficient credible evidence to show, in the absence of clear and convincing evidence to the contrary, that the proposed use meets, or will meet, the standards specified in this and the underlying Chapter (if applicable) and complies with the whole of the JCZO; and

d. A finding per section 12-9.03(E)(2)(c) below has not been made.

2. A permit shall be denied if any of the following apply:

a. The application, on its face, fails to meet the standards for approval as set forth in 12-9.03(E)(1).

b. A finding, based on clear and convincing evidence in the record, that the proposed use does not comply with applicable standards in this or the underlying Chapter.

c. The Planning and Zoning Commission and/or the Board makes a scientifically defensible finding of fact, based on reliable and credible evidence that clearly and convincingly shows the proposed use would jeopardize public health or safety, regardless of whether the parameters of 12-9.03(E)(1) have been complied with in all other respects.

F. RECORD OF DECISION

The Planning and Zoning Commission and/or the Board shall issue its decision in writing, which shall conform to the standards and criteria set forth in Idaho Code Section 67-6535, as it may be amended from time to time.

12-10. NON-CONFORMING USE

A. REGULATIONS NOT RETROACTIVE

The regulations prescribed by this Chapter shall not require the removal or alteration of any structure or tree not conforming to the provisions herein on its effective date. The regulations of this Chapter shall not interfere with the continuance of such nonconforming use. Nothing contained herein shall require a change in the construction, alteration, or intended use of any structure whose construction or alteration commenced, or which had received County permission to commence such construction or alteration, prior to the effective date of this Chapter and whose construction is being pursued within the terms or conditions of the permit issued for such construction.

B. MARKING AND LIGHTING

Notwithstanding the provisions of 12-10 (A), the owner of a non-conforming structure or growth is hereby required to permit the installation, operation, and maintenance of markers and lights as the Planning and Zoning Commission deems appropriate after reviewing recommendations on the matter from the Airport Board. Such markers and lights shall serve as indicators of aviation hazards or obstructions to the operators of aircraft and shall be installed, operated, and maintained at the expense of Jerome County.

12-11. DISCLOSURE

A. A Fair Disclosure Statement shall be provided to any Applicant for any permit within an Airport Land Use Zone. The Fair Disclosure Statements shall serve to notify prospective buyers of property near the Airports that they may be exposed to potentially impactive levels of aircraft overflight, including but not limited to noise, vibration, fumes, dust, fuel or fuel particles, and other effects that may be caused by normal aircraft operations in and around airports.

B. Before a permit shall be issued, the Applicant shall sign the Fair Disclosure Statement or Administrator upon the Applicant's refusal, acknowledging that the Applicant was made aware of the above-described impacts. Such statement shall be recorded in the records of the County.

C. Nothing stated herein is meant to provide pilots, crews, owners of aircraft, or any other person's protection from liability for negligence committed on their part.

12-12. VARIANCE

A. A person desiring to erect or increase the height of any structure, or permit the growth of a tree, or use property in a manner which is not in accordance with the regulations prescribed in this Chapter, shall apply ~~to the Planning & Zoning Commission~~ for a variance from the affecting regulations as outlined in ~~Chapter 19 of~~ the ~~Jerome County Zoning Ordinance~~ **JCZO.** ~~In addition to the Chapter 19 requirements,~~ An application for a variance shall also be accompanied by a determination by the Jerome County Airport Advisory Board, the Federal Aviation Administration and the Idaho Division of Aeronautics concerning the effect of the proposal on the operation of air navigation facilities and on the safe, efficient use of the navigable airspace. A variance shall be viewed favorably if ~~the standards of Chapter 19 are met~~ **applicable** and if it is determined that the variance will not create an aviation hazard or obstruction.

B. In granting a Variance Permit, ~~the Planning and Zoning Commission may, if such action is deemed advisable to fulfill the purpose of this Chapter, place~~ **certain** conditions **may be placed** upon the Variance **Permit** which require the owner of the structure or tree in question to install, operate, and maintain at the owner's expense such markings and lights as are considered to be necessary. If deemed proper by the Board, this condition may be modified to require the owner to allow Jerome County, at the county's expense, to install, operate, and maintain the necessary markings and lights.

12-13. APPEALS

An appeal from an Administrative decision ~~may be made to~~ **or a decision from** the Planning and Zoning Commission, ~~and a decision from the Commission~~ may be appealed to the Board, as set forth under Chapter ~~19~~ **23** of the ~~Jerome County Zoning Ordinance~~**JCZO.**

12-14. VIOLATIONS

A. It shall be unlawful for any person to violate any of the provisions of this Chapter, or to fail, neglect, or refuse to comply with the provisions of this Chapter, or to knowingly make any

material false statement or knowingly omit information in any document required to be submitted under the provisions hereof.

B. It shall be unlawful for the holder of any permit within an Airport Land Use Zone to violate any of the provisions or conditions of such permit, or to fail, neglect, or refuse to comply with the provisions or conditions of such permit.

C. Each twenty-four (24) hour period a violation under this section continues shall be considered a separate offense under this Chapter.

12-15. PENALTIES

Any person who pleads guilty to or is found guilty of a violation of Section 12-14 of this Chapter shall be guilty of a misdemeanor and shall be subject to the penalties and actions prescribed under Chapter 20.