MINERAL COUNTY AIRPORT
ZONING REGULATIONS

SECTION I - SHORT TITLE

These regulations may be known and may be cited as "Mineral County Airport Zoning Regulations".

SECTION II - DEFINITIONS

As used in these regulations unless the context otherwise requires:

1. (1) AIRPORT - the Mineral County Airport described as follows, to-wit:

See Exhibit A attached hereto and made a part hereof by reference.

(2) AIRPORT ELEVATION - the highest point of an airport's useable landing area measured in feet from mean sea level.

(3) AIRPORT HAZARD - any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the air space required for the flight of aircraft in landing or take off at such airport or is otherwise hazardous to such landing or take off of aircraft.

(4) STRUCTURE - an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formation, and overhead transmission lines.

(5) TREE - any object of natural growth.

(6) NONCONFORMING USE - any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of these regulations or an amendment thereto, on effective date of same.

(7) HEIGHT - for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(8) PERSON - an individual, firm, partnership, corporation,

joint venture, company, association, joint stock association or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

(9) BOARD OF ADJUSTMENT - a board consisting of five (5) members appointed by the Mineral County Board of County Commissioners.

(10) RUNWAY - a defined area on an airport prepared for landing and take off of aircraft along its length.

(11) 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 and 250 feet out, on both sides of the runway, from the centerline of the hard surface; but when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway. (Amended 10-18-82)

(12) APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - these zones apply to the area under the approach, transitional, horizontal and conical surfaces defined in these regulations.

SECTION III - AIRPORT ZONES

In order to carry out the provisions of these regulations, there are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a particular airport. Such zones are shown on the Mineral County Airport Hazard Zoning Map consisting of One (1) sheets, prepared by Davis Engineering Service, Inc. Del Norte, Colorado, and dated December 14, 1973, which is attached to these regulations and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. RUNWAY APPROACH ZONE - the inner edge of this approach zone coincides with the width of the primary surface and is (insert width of airport in feet) feet wide. The approach zone expands outward uniformly to a width of 1500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.

2. TRANSITIONAL ZONES - these zones are hereby established as the area beneath the transitional surface. This surface extends outward and upward 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 side to the primary and approach surfaces to where they intersect the horizontal and conical zones.

3. HORIZONTAL ZONE - the horizontal zone is hereby established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to these arcs. The horizontal zone does not include the approach and transitional zones.

4. CONICAL ZONE - the conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. The conical zone does not include the transitional zone.

SECTION IV - AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in these regulations, no structure or tree shall be erected, altered, allowed to grow or be maintained in any zone created by these regulations to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. RUNWAY APPROACH ZONE - slopes upward twenty (20) feet horizontally for each foot vertically 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.

2. TRANSITIONAL ZONES - slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zone, and extending to a height of 150 feet above the airport elevation which is 8,680 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach

zones, and extending to where they intersect the conical surface.

3. HORIZONTAL ZONE - one hundred fifty (150) feet above the airport elevation or a height of 8,830 feet above mean sea level.

4. CONICAL ZONE - slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

5. MORE RESTRICTIVE LIMITATION SHALL PREVAIL - Where an area is covered by more than one (1) height limitation, whether such limitations are imposed by these regulations or by regulations of any govermental entity having jurisdiction, or both, the more restrictive limitation shall prevail. (Amended 10-18-82)

SECTION V - USE RESTRICTIONS

Not withstanding any other provisions of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise, in any way, create a hazard or endanger the landing, take off, or maneuvering of aircraft intending to use the airport.

SECTION VI - NONCONFORMING USES

1. REGULATIONS NOT RETROACTIVE - the rules herein prescribed by these regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any struc-

ture, the construction or alteration of which was begun prior to the effective date of these regulations, and is diligently prosecuted.

2. MARKING AND LIGHTING - notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Mineral County Board of County Commissioners or their designated representatives to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of Mineral County.

SECTION VII - PERMITS - AIRPORT NOISE

1. FUTURE USES - no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted by the Mineral County Board of County Commissioners or their duly designated representatives.

(a) Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to these or any applicable regulations.

(b) Before any such permit is granted the person making such application shall sign an agreement, release and waiver on forms furnished by the Board of County Commissioners or their designated representatives whereby such applicants expressly agree to release and hold harmless the County of Mineral, State of Colorado, from any complaints, actions or liability for and on account of any and all noise, disturbance or interference caused or made by aircraft using and operating to, from and upon the Mineral County Airport. Signing of such instrument shall be an absolute condition of the issuance of such permit, and shall be binding upon the heirs, survivors or assigns of such applicant regardless of compliance with any other requirements herein.

(c) A fee may be charged for such application and permit, in the discretion of the Board of County Commissioners.

2. EXISTING USES - no permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these regulations or any amendments thereto or than it is when the application for a permit is made.

3. NONCONFORMING USES ABANDONED OR DESTROYED - whenever the Mineral County Board of County Commissioners or their designated representatives determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, destroyed, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. VARIANCES - any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the rules prescribed in these regulations, may apply to the Board of Adjustment for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of these regulations.

5. HAZARD MARKING AND LIGHTING - any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Mineral County Board of County Commissioners or their designated representatives to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard. The cost and expense thereof to be paid by the person granted such permit or variance.

SECTION VIII - ENFORCEMENT

It shall be the duty of the Mineral County Board of County Commissioners or their designated representatives to administer and enforce the regulations prescribed herein. Enforcement and penalties shall be in accordance with applicable state laws.

SECTION IX - BOARD OF ADJUSTMENT

1. ESTABLISHMENT AND PROCEDURE - the Board of Adjustment is hereby established, the members of which shall be appointed by the Board of County Commissioners. The word "Board" when used in this section shall be construed to mean "Board of Adjustment." The Board shall consist of five (5) members of which not more than two (2) may be current members of the County Planning Commission. Those members serving on the Board at the time of the adoption of this Resolution shall complete their terms. Thereafter, one (1) member shall be appointed for one (1) year; two (2) members shall be appointed for two (2) years; and two (2) members shall be appointed for three (3) years. After the initial appointments, all terms shall be for a three (3) year period. In addition to the regular members of the Board, the Board of County Commissioners may appoint two (2) associate members for staggered three (3) year terms. In the event that any regular member be temporarily unable to act owing to absence from the County, illness, interest in a case before the Board or any other cause, his place may be taken during such temporary disability by an associate member who shall enjoy full voting privileges. Vacancies which may occur from time to time on said Board shall be filled by appointment of the Board of County Commissioners. Any member of the Board of Adjustment may be removed for cause by the Board of County Commissioners.

2. PROCEEDINGS OF THE BOARD OF ADJUSTMENT -

(a) The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Resolution. The meetings shall be held at the call of the Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses by application to the district court. The court upon proper showing may issue subpoenas

and enforce obedience by contempt proceedings. All meetings shall be open to the public.

(b) The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be a public record and immediately filed in the Office of the Board.

3. HEARINGS, APPEALS AND NOTICES -

(a) Appeals to the Board of Adjustment may be taken by any person aggrieved by his inability to obtain a building permit, or by the decision of any administrative officer of county agency based upon or made in the course of the administration or enforcement of the provisions of this Zoning Resolution. Appeals to the Board of Adjustment may be taken by any officer, department, board or bureau of the County affected by the grant or refusal of a building permit or by other decision or an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of this Zoning Resolution. The time within which such appeal must be made and the form or other procedure relating thereto, shall be as specified in the supplemental rules of procedure adopted by such Board.

(b) The appellant shall file with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall immediately transmit to the Board all papers constituting the record of action upon which the appeal was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the interested parties, and decide the same within a reasonable time.

(c) At the hearing, any party may appeal in person or by agent or attorney. The Board may affirm, reverse (wholly or partly), or may modify the order, requirement, decision or determinationappealed and may make such order, requirement, decision or determination as in their opinion ought to be made in the premises,

and to that end shall have all powers of the officer from whom the appeal is taken.

(d) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or agency, or to decide in favor of the appellant in any appeal or request for variance from this Zoning Resolution.

4. APPEAL STAYS - An appeal stays all proceedings and furtherance of the action appealed from unless the officer from whom the appeal was taken certifies to the Board after the notice of appeal which was filed with him that by reason of fact stated in the certificate, the stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, other than by restraining order which may be granted by the Board or by a Court of Record on application, on notice to the Officer from whom the appeal was taken and on due cause shown.

5. POWERS OF THE BOARD - upon appeals the Board of Adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the Zoning Resolution.

(b) To hear and decide, grant or deny applications for variances from the provisions of the Zoning Resolution when the strict application of this Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property. The Board may authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial deteriment to the public good and without substantially impairing the intent and purpose of the zone plan and Zoning Resolution. However, the Board may not grant variances from the provisions of this Zoning Resolution covering the use, height or density of land or buildings, or the provisions governing planned unit developments.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Resolution. The Board may grant a variance only if it makes findings that all of the following requirements insofar as applicable have been satisfied:

1. That there are unique physical circumstances or conditions such as exceptional irregularity, narrowness or shallowness of a specific piece of property at the time of the enactment of this Resolution, or by reason of exceptional topographic or other physical conditions or other extraordinary and exceptional situation or condition peculiar to the affected property.

2. That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;

3. That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Zoning Resolution;

4. That such unnecessary hardship has not been created by the applicant;

5. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;

6. That the variance, if granted, is a minimum variance that will afford relief and is the least modification possible of the Zoning Resolution provisions which are in question.

(c) To permit changes in nonconforming uses and as provided in Article 9, Sections 9.1 and 9.6 of the Mineral County Zoning Regulations.

(d) To hear and decide such other special questions upon which such Board is authorized by resolution of the Board of County Commissioners.

SECTION X - JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision concerning these regulations, after exhausting of administrative remedies, may appeal to the courts as provided by applicable law.

SECTION XI - PENALTIES

Each violation of these regulations or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than Five Hundred Dollars ($500.00) or imprisonment for not more than thirty (30) days or both; and each day a violation continues to exist shall constitute a separate offense.

SECTION XII - CONFLICTING REGULATIONS

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

SECTION XIII - SEVERABILITY

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

SECTION XIV - EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of these regulations is necessary for the preservation of the public health, public safety, and general welfare, and EMERGENCY is hereby declared to exist, and these regulations shall be in full force

and effect from and after its passage by the Mineral County Board of County Commissioners or their designated representatives and publication and posting as required by law.

Adopted by the Mineral County Board of County Commissioners or their designated representatives this 4th day of March, A.D., 1974.

EXHIBIT A

Mineral County Airport located on premises situate in the County of Mineral and State of Colorado and described as follows, to-wit:

A tract of land located in the SW¼ Section 6 and the NW¼ Section 7, T. 41 N., R. 1 E., N.M.P.M., Mineral County, Colorado, containing 27.40 acres, more or less, which tract is more particularly described by metes and bounds as follows, to-wit: Beginning at the SW Corner of said Section 6; thence N. 1° 02' E., 201.97 feet along the west line of said Section 6 as determined by the Dependent Resurvey of 1941 of said Township; thence N. 83°02' E., 1315.97 feet; thence N. 79°37' E., 700.00 feet to the West Right of Way Limits of the Deed Creek Road., thence S. 10° 23' E., 1200.89 feet along the West Right of Way Limits of said road; thence S. 83° 02' W., 700.00 feet to a point on the west line of the NE°NW° of said Section 7; thence N. 3°28' W., 147.46 feet along the west line of the NE°NW° of said Section 7 to the NW Corner of the NE¼ NW¼ of said Section 7, thence S. 89°20' W., 1392.60 feet along the north line of said Section 7 to the place of beginning;

AND

A tract of land located in the NW¼ NW¼ Section 7, T. 41 N., R. 1 E., N.M.P.M., Mineral County, Colorado, containing 7.16 acres, more or less, which tract is more particularly described by metes and bounds as follows, to-wit: Beginning at the NW Corner of said Section 7; thence N. 89° 20' E., 1392.60 feet along the north line of said Section 7 as determined by the Dependent Resurvey of 1941 of said Township; thence S. 3° 28' E., 147.46 feet along the east line of the NW¼ NW¼ of said Section 7; thence S. 83° 02' W., 1394.67 feet to a point on the west line of said Section 7; thence N. 3° 15' W., 300.63 feet along the west line of said Section 7 to the place of beginning;

AND

A tract of land located in the SE¼ Section 1, the N½ Section 12 and the NE¼ Section 11, T. 41 N., R. 1 W., N.M.P.M., Mineral County, Colorado, containing 63.43 acres, more or less, which tract is more particularly described by metes and bounds as follows, to-wit: Beginning at the NE Corner of said Section 12; thence S. 3° 15' E., 300.63 feet along the east line of said Section 12 as determined by the Dependent Resurvey of 1941 of said Township; thence S. 83° 02' W., 5,452.43 feet; thence N. 6° 58' W., 500.00 feet; thence N. 83° 02' E., 3,552.08 feet; thence N. 1° 42' E., 91.57 feet to a point on the north line of said Section 12; thence S. 88° 18' E., 642.68 feet along the north line of said Section 12; thence N. 0° 50' E., 6.38 feet; thence N. 83° 02' E., 1297.91 feet to a point on the east line of said Section 1; thence S. 1° 02' W., 201.97 feet along the east line of said Section 1 to the place of beginning;

RESOLUTION

WHEREAS, Mineral County, Colorado has previously adopted the Mineral County Airport Regulations, which regulations constitute zoning regulations pertaining to all property surrounding county airports in Mineral County, Colorado, and;

WHEREAS, there was presented to the Board of County Commissioners of Mineral County, Colorado, proposed amendments to the Mineral County Airport Regulations for possible adoption by said Board, said amendments referring to Paragraph 11 of Section II and Paragraph 5 of Section IV of said regulations, and;

WHEREAS, such proposed amendments were submitted to the Mineral County Planning Commission and the Mineral County Planning Commission conducted a hearing with regard to such amendments on the 15th day of September, 1982 without notice to the public, such public notice being unnecessary, and;

WHEREAS, the Mineral County Planning Commission did recommend to the Board of County Commissioners of Mineral County, Colorado, that such amendments be adopted, and;

WHEREAS, The Board of County Commissioners of Mineral County, Colorado conducted a public hearing on the 18th day of October, 1982, subsequent to proper public notice given more than thirty days prior to such hearing on the 16th day of September, 1982 by publication in The Mineral County Miner and South Fork Times, and;

WHEREAS, all public notices have been properly given, all requirements of statutes have been met, and it is the opinion of the Board of County Commissioners that said amendments ought to be adopted, the same being in the best interests of the people of Mineral County, Colorado.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MINERAL COUNTY, COLORADO:

1. That Paragraph 11 - Primary Surface, of Section II- Definitions, of the Mineral County Airport Regulations, be and the same is hereby amended to read as follows:

> 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 and 250 feet out, on both sides of the runway, from the centerline of the hard surface; but when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway.

2. That Paragraph 5 of Section IV of the Mineral County Airport Regulations, be and the same is hereby amended to read as follows:

> More Restrictive Limitation Shall Prevail - Where an area is covered by more than one (1) height limitation, whether such limitations are imposed by these regulations or by the regulations of any governmental entity having jurisdiction, or both, the more restrictive limitation shall prevail.

BE IT FURTHER RESOLVED, that the foregoing amendments shall be made a part of the Mineral County Airport Regulations in such fashion that any person inspecting such regulations in the future shall be placed upon notice of these amendments, and these amendments shall apply to all land surrounding all county airports in Mineral County, Colorado from and after this date.

The foregoing Resolution was duly adopted upon motion, second, and unanimous vote in favor thereof, at a special meeting of the Board of County Commissions of Mineral County, Colorado, held on the 18th day of October, 1982 and duly called for such purpose upon proper notice, at the Mineral County Courthouse, Creede, Colorado.

Chairman/Commissioner

Commissioner

Commissioner

ATTEST:

County Clerk and Recorder