

***TUSCOLA AREA AIRPORT ZONING ORDINANCE***

***ADOPTED BY THE TUSCOLA COUNTY BOARD OF COMMISSIONERS  
UNDER THE AUTHORITY OF***

***IN COMPLIANCE WITH PA110 OF 2006***

***COUNTY ORDINANCE # 01-2010***

**ORDINANCE ADMINISTRATED BY:**

**The Local Municipality Zoning Administrator**

**or by default**

**The Airport Zoning Administrative Agency**

**TUSCOLA COUNTY AIRPORT ZONING ORDINANCE**

**DRAFTED BY**

**Working Committee for the Tuscola Area Airport**

**Appointed by**

**Tuscola Area Airport Zoning Commission/Tuscola County Planning Commission**

**Under the authority of**

**THE TUSCOLA COUNTY COMMISSIONERS**

**Contributing expert direction, consultation and draft ordinance models:**

**Mr. Doug Van Essen, Attorney for Tuscola County**

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**ARTICLE 1**  
**TITLE AND PURPOSE**

**1.1 Title**

This Ordinance includes all airport zoning plans attached hereto and is to be known and may be cited as the "Tuscola Area Airport Zoning Ordinance."

**1.2 Purpose**

An Ordinance establishing airport zoning regulations for the purpose of promoting the health, safety, and general welfare of the inhabitants of the County of Tuscola by preventing the establishment of airport hazards, restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Tuscola Area Airport; providing for the allowance of variances from such regulations; designating the Airport Zoning Administrative Agency/Zoning Administrator charged with the administration and enforcement of such regulations; establishing an airport zoning board of appeals; providing for enforcement; and imposing penalties for violation of this Ordinance.

The Board of Commissioners of the County of Tuscola does hereby ordain as follows:

**ARTICLE 2  
DEFINITIONS**

For the purposes of this Ordinance, the words, terms and phrases set forth in this Article mean:

**2.1 ABOVE ESTABLISHED AIRPORT ELEVATION (AEAE)**

Denoted elevations above the elevation of the airport (seven hundred one (701) feet).

**2.2 ABOVE GROUND LEVEL (AGL)**

Denotes elevations above ground level at the base of the structure.

**2.3 ABOVE MEAN SEA LEVEL**

Denotes elevations above sea level based upon and determined by reference to the United States Coast and Geodetic Survey datum.

**2.4 AIRPORT**

The Tuscola Area Airport and all appurtenances used or acquired for airport buildings or other airport facilities, and all other appurtenant rights of way or other existing or future interests.

**2.5 AIRPORT ELEVATION**

Seven hundred one (701) feet above mean sea level at the midpoint of the runway of the Tuscola Area Airport.

**2.6 AIRPORT HAZARD**

Any structure or tree within the Airport Hazard Area that exceeds the height limitations established by this Ordinance, or any use of land or appurtenances within the Airport Hazard Area that interferes with the safe use of the airport by aircraft unless a variance has been granted by the Airport Zoning Board of Appeals.

**2.7 AIRPORT HAZARD AREA (AHA)**

Any area of land or water, or both, lying within Tuscola County as depicted in zones A thru E on the accompanying map (see Map 1, pg. I), in which an airport hazard might exist if not prevented by this Ordinance. The Airport Hazard Area (AHA) is equivalent to the Airport Zoning Area (AZA).

**2.8 AIRPORT ZONING ACT**

Act no. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session).

**2.9 AIRPORT ZONING ADMINISTRATIVE AGENCY**

The Tuscola County Airport Zoning Administrator or its Agent, the local zoning administrator.

**2.10 AIRPORT ZONING BOARD OF APPEALS**

An independent, five (5) member board appointed by the Tuscola County Commissioners.

**2.11 AIRPORT ZONING AREA (AZA)**

The area lying within Zones A through E on Map 1, Pg I.

**2.12 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 Article 4 of this Ordinance. The perimeter of the approach surface coincides with the perimeter of the approach zone.

**2.13 APPROACH ZONE**

An area that commences two hundred (200) feet beyond the end of each paved runway, existing or planned, and extends outward for ten thousand (10,000) feet at a slope of thirty-four to one (34:1) and extends outward for five thousand (5,000) feet from each end of turf runways at a slope of twenty to one (20:1).

**2.14 BOARD OF APPEALS**

The Tuscola Area Airport Zoning Ordinance Board of Appeals.

**2.15 CONICAL SURFACE**

A surface starting at the periphery of the horizontal surface and at a height of one hundred fifty (150) feet above airport elevation, extending outward and upward at a slope of fifty feet outward for each foot upward (50 to 1) for a horizontal distance of seventeen thousand, five hundred (17,500) feet.

**2.16 CONICAL ZONE**

The area that commences at the periphery of the horizontal zone and extends outward there from, a horizontal distance of seventeen thousand, five hundred (17,500) feet.

**2.17 HAZARD TO AIR NAVIGATION**

An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**2.18 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 mean above ground level at the base of the structure unless otherwise specified.

**2.19 INNER HORIZONTAL SURFACE**

An inner horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.

**2.20 INNER HORIZONTAL ZONE**

A zone established by swinging arcs of ten thousand (10,000) feet radii for all existing or planned MAC and FAA approved, paved runways, measured from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs.

**2.21 LAND-USE GUIDANCE ZONE**

An area or zone, in which certain types of land uses are recommended due to noise, vibrations, fumes, dust, fuel particles and other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at the Tuscola Area Airport (See Map 3, Pg III).

**2.22 NON-CONFORMING USE**

Any pre-existing structure, object of natural growth, or use of land that is inconsistent with the provisions of this Ordinance or any amendment thereto as of the effective date of this regulation.

**2.23 OBSTRUCTION**

Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Article 3 of this Ordinance and FAA Regulations part 77.23.

**2.24 OUTER HORIZONTAL SURFACE**

A horizontal plane five hundred (500) feet above the established airport elevation, the perimeter of which coincides with the perimeter of the outer horizontal zone.

**2.25 OUTER HORIZONTAL ZONE**

The area lying between the outer edges of the Conical Surface and extending to a radius of 10 miles.

**2.26 PERSON**

Any individual, firm, partnership, corporation, company, association, joint stock association, Municipal Corporation, or other body politic, including but not limited to, any trustee, receiver, assignee or other similar representative of any of them.

**2.27 PERMIT**

A permit issued by the Airport Zoning Administrative Agency/ Zoning Administrator.

**2.28 PRIMARY SURFACE**

A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway and has a width of five hundred (500) feet . When the runway has no specially prepared hard surface, the primary surface ends at each end of that runway and has a width of two hundred fifty (250) feet.

**2.29 RUNWAY**

A defined area on an airport prepared for landing and takeoff of aircraft along its length, including runways that are planned and approved by the FAA and MAC per current layout plans.

**2.30 STRUCTURE**

Any object, including a mobile object, constructed or installed by man, including but without limitation, buildings, wind generators, towers, cranes, smokestacks, earth formations, overhead transmission lines, and radio and television aeriels and antennae, but no including highways and their appurtenances.

**2.31 TRANSITIONAL SURFACES**

An imaginary plane perpendicular to a runway centerline and to the centerline extended through the runway's primary surface and approach surface, which plane extends outward and upward from each side of the runway's primary surface and approach surface at a slope of seven to one (7:1) extending to the intersection of the transitional surface with the inner horizontal surface.

**2.32 TRANSITIONAL ZONE**

The areas beneath the transitional surfaces.

**2.33 TREE**

Any object of natural growth.

**2.34 VARIANCE**

An issuance by the Airport Zoning Board of Appeals authorizing the erection of a new structure, increase in the height of an existing structure or growth of a tree or other use of property in excess of the height restrictions in Zones A through E on Map 1, Pg I or the use restrictions in this Ordinance as provided for in MCL 259.454.

**2.35 ZONING ADMINISTRATOR**

The Airport Zoning Administrative Agency or the local zoning administrator where a local unit of government has adopted and maintains this Ordinance, including any amendments, and elects to have its zoning administrator/board administer the Ordinance, and who is designated and charged with the administration and enforcement of this Ordinance and/or the local zoning administrator if a local unit exercises its rights under MCL §259.445 with respect to its geographic boundaries.

**ARTICLE 3  
GENERAL REGULATIONS**

**3.1 Airport Zoning Area**

An Airport Zoning Area (AZA) is here-by established, which area or zone consists of the area between the conical zone and the circumference created by a circle with a radius of 10 miles and the center being the reference point of the airport. (See Map 1, Pg. I).

**3.2 Approach Standards**

The approach, transitional, conical and inner and outer horizontal surfaces that establish the height limitations under this Ordinance are denoted on Map 1, Pg. I.

**3.3 Legal Height Limitations**

No use or structure shall be constructed or altered or made more non-conforming in the Airport Zoning Area (AZA) that exceeds the airport clearance requirements below, unless a Determination of No Hazard has been issued by the Federal Aviation Administration (FAA) OR a Michigan Tall Structure Permit has been issued by the Michigan Aeronautics Commission, AND a variance has been issued by the Airport Zoning Board of Appeals under this Ordinance. (See Map 1, Pg. I).

**Zone A. (Horizontal Zone)**

The height limit is established at one hundred fifty (150) feet above the established airport elevation or eight hundred fifty-one (851) feet above sea level.

**Zone B. (Conical Zone)**

The height limit slopes fifty (50) feet outward for each foot upward (50:1), beginning at the periphery of the horizontal zone and extending seventeen thousand five hundred (17,500) feet horizontally. The zone begins at one hundred fifty (150) feet above established airport elevation (AEAE) and extends to a height of five hundred (500) feet above established airport elevation (AEAE).

**Zone C. (Runway Approach Zone)**

The height limit slopes thirty-four (34) feet outward for each foot upward (34:1), beginning two hundred (200) feet beyond the end of the paved runway, existing or planned and approved by FAA and MAC, and extending to a horizontal distance of ten thousand (10,000) feet along the extended runway centerline.

**Zone D (Transitional Zone)**

The height limit is established to begin at the edge of the primary surface or approach surface and increasing at a slope of seven (7) feet outward for each foot upward on a line perpendicular to the centerline of the runway and to that centerline extended, and extending to the intersection of the transitional surface with the inner horizontal surface.

**Zone E (Outer Horizontal Zone)**

The height limit is established at five hundred (500) feet above ground level or above the established airport elevation, whichever is the lesser.

### **3.4 Permit Requirement**

To ensure compliance with this Ordinance, an application for an Airport Zoning Permit shall be required for all structures that are within the limits of zones A thru E and will equal or exceed the limits below and as shown on Map 2, Pg II.

**Zone A.** Twenty-five (25) feet above ground level (AGL) in zones 1-5 (**See map 3 page III**) and thirty-five (35) feet above ground level (AGL), in the remainder of Zone A.

**Zone B.** One hundred twenty-five (125) feet above ground level (AGL) or above established airport elevation (AEAE), whichever is the lesser, in Zone B.

**Zones C and D.** Twenty-five (25) feet above ground level (AGL).

**Zone E.** Four hundred ninety-nine (499) feet above ground level (AGL) or above established airport elevation (AEAE) whichever is the lesser, for any other part of the hazard area. A permit is not required for structures less than four hundred ninety-nine (499) feet in zone E unless a “Determination of Presumed Hazard” has been issued for the structure. This requirement is not relinquished even if a subsequent “Determination of No Hazard” has been issued.

The Airport Zoning Administrative Agency/Zoning Administrator may also require application for any structure that the Federal Aviation Administration (FAA) has required notice of under Title XIV of the Code of Regulations Part 77. No structure shall be erected or materially changed without a permit that is necessary under this ordinance.

### **3.5 Permit Issuance**

Unless the Airport Zoning Administrative Agency/Zoning Administrator conclude that the proposed use would cause an imminent and material interference with a terminal obstacle clearance area, a departure area, turn and termination area or circling approach area, based on a study by an aeronautical engineer retained by the Administrator, a permit shall be issued for a proposed structure that is located within the Airport Zoning Area if ALL of the following requirements are met:

- A. A land-use permit has been issued by the governing municipality.
- B. The structure’s height or use is not inconsistent with this Ordinance.
- C. The landowner has obtained a determination of no hazard by the Federal Aviation Administration (FAA) if application is required.
- D. An opinion from MAC that The Michigan Tall Structure Permit could be issued, if required by the Michigan Aeronautics Commission (MAC).

Note: It is the option of the Applicant as to the order of meeting the requirements.

### **3.6 Unlawful Land Use**

Notwithstanding any other provisions of this Ordinance, no person may use any lands within the Airport Zoning Area (AZA) which:

- A. Would create electrical interference with radio communications between the airport and aircraft or create interference with navigational aids employed by aircraft;
- B. Would make it difficult for flyers to distinguish between airport lights and others or result in glare to the eyes of flyers using the airport;
- C. Would create air pollution in such amounts as to impair the visibility of flyers in the use of the airport;
- D. Would locate or permit the operation of a dump, waste disposal site, sanitary landfill, hazardous waste facility, solid waste transfer station or recycling facility within 10,000 feet of any runway at the airport, unless the construction, location and operation of the site is approved or authorized by the Federal Aviation Administration as not being in violation of its orders, rules or regulations applicable to the airport, or unless a waiver is issued by the Federal Aviation Administration;
- E. Would otherwise endanger the landing, taking off, or maneuvering of aircraft;
- F. Would attract birds;
- G. Would raise the descent minimums of any instrument approach procedure to the airport, or otherwise limit operations at the airport, as determined by an airspace study conducted by the Federal Aviation Administration.

### **3.7 Non-Conforming Existing Uses**

The provisions of Section 3.3 and 3.6 of this Ordinance shall not apply to structures, trees or other non-conforming uses existing in an Airport Hazard Area on the effective date of this Ordinance, unless the local Zoning Administrator determines it to be abandoned, or 80% torn down, destroyed, deteriorated, or decayed. The definition of abandon shall be the same as definition used by each respective local land-use zoning agency.

### **3.8 Alterations to Non-Conforming Land Use**

The provisions of Section 3.3 and 3.6 of this Ordinance shall apply to changes or alterations which increase the height of existing structures, trees or other non-conforming uses after the effective date of this Ordinance, with the same force and effect as though the same were new uses.

### **3.9 Land-Use Guidance Zone**

- A. **Purpose.** The purpose of land-use guidance zones 1 to 5 as identified on Map 3, Pg III, hereto, is to designate areas in which certain types of land uses are recommended due to undesirable effects that may be caused by the operation of aircraft.
- B. **Acceptable Land-Use.** The uses of land within the areas shown on the zoning plans are acceptable land-uses as outlined in the land use guidelines (see Pgs. V through IX).

## ARTICLE 4 PERMITS

### 4.1 Permit Threshold Map

There is attached hereto as **Map 2, Pg II**, the Permit Threshold Map, showing applicable height limitations within the Airport Hazard Area (AHA) above which Airport Zoning Permits are required under this Ordinance. The Permit Threshold Map is affixed to this Ordinance for the information of and consultation by all persons proposing to make uses of land within the Airport Hazard Areas, whether the same be a new use or changes in an existing use, and it shall not be a defense in any action that a person charged with violation of this Ordinance, whether in a criminal or civil action, failed to consult this Ordinance or the permit maps prior to the action giving rise to the violation.

### 4.2 Application for Airport Zoning Permits

**NOTE: The permit hereafter described refers to, and only to, the Airport Zoning Permit and is obtainable only after first obtaining a land use permit from the municipality in which the land use is to take place.**

- A. The owner of the land on which the structure is proposed as well as any lessee, licensee or operator of the structure must execute the Application for the Permit.
- B. An application for a permit shall include a site plan and be accompanied by the Airport Zoning Permit Fee assessed by the administering agency.

Every site plan submitted to the Airport Administrative Agency/Zoning Administrator shall be in accordance with the requirements of this Ordinance and shall include the following information:

- (1) A scale of not less than one(1) inch equals fifty (50) feet if the subject property is less than three (3) acres and one (1) inch equals one hundred (100) feet if three (3) acres or more.
- (2) Date, north point and scale
- (3) The Latitude and Longitude of the base of the proposed structure or use.
- (4) The elevation of the land at the base of the proposed structure or use.
- (5) The dimensions of all lot and property lines showing the relationship of the subject property to abutting properties.
- (6) The uses of all surrounding property, including general topography, natural characteristics such as woods, wetlands, and floodplains, public drains, utilities and other related items.
- (7) The location of all existing structures within five hundred (500) feet of the property.
- (8) The location of existing developments, planned new development and site revisions, including grading, landscaping, pedestrian circulation and other activities.

- (9) The location of all existing and proposed drives and parking areas.
  - (10) The location and right-of-way widths of all abutting streets and alleys.
  - (11) The names and addresses and seal of the architect, planner, designer or engineer responsible for the preparation of the site plan.
- C. Application shall be made to the Airport Zoning Administrative Agency/Zoning Administrator upon forms furnished by the Airport Zoning Administrative Agency/Zoning Administrator. Applicant shall supply copies as required.
  - D. The Airport Zoning Administrative Agency/Zoning Administrator shall, within thirty (30) days from the application, determine whether the height limitations as designated by the Airport Zoning Maps and this Ordinance, would or would not be violated if the application were granted, and that all the requirements and considerations of section 3.5 have been met, shall then grant or deny the application accordingly (the Airport Zoning Administration Agency/Zoning Administrator not being vested with authority to permit a variance).
  - E. The Airport Zoning Administrative Agency/Zoning Administrator shall advise applicant of its action within five (5) days after the action has been taken.
  - F. In the event of a denial that is based on the violation of the restrictions of this Ordinance, the Applicant must apply to the Tuscola County Airport Zoning Board of Appeals for a certificate of variance, prior to initiation of any judicial proceedings.
  - G. The issuance of a permit shall not be construed to permit a use that violates any section of this Ordinance or any general zoning ordinance or regulations of any political subdivision applicable to the same area.
  - H. The permit shall be valid for a period of one (1) year from the date of issuance. An extension of up to one (1) year may be granted if sought before the first year terminates. The extension shall be based on the demonstration that the development has encountered unforeseen difficulties beyond the applicant's control.

#### **4.3 Permit Procedures**

Persons desiring to create a new use, or to change existing uses, must file an application for a permit if the proposal involves improvements that exceed the permit threshold heights as specified in Section 3.4 of this Ordinance. Such persons shall proceed with one of the following after consulting the applicable permit threshold map: (See Map 2, Pg. II)

##### **A. Procedure One:**

If it appears, after consulting the Permit Threshold Map, that the proposed new use, or changed existing use, clearly would not violate the terms of this Ordinance or require a permit, then the new use may be created, or existing use altered, without applying for a permit hereunder or taking any further action under this Ordinance.

## **B. Procedure Two:**

Note: It is the option of the Applicant as to the order of meeting the requirements.

If it appears, after consulting the Permit Threshold Map, that the proposed new use, or change to an existing use **may** violate the terms of this Ordinance or require a permit, the new use shall not be created, or existing use changed, until a proper permit has first been obtained from the Airport Zoning Administrative Agency/Zoning Administrator in accordance with the provisions of this Ordinance.

The Administrator may consider the application before or after the Applicant(s) has obtained a Determination of No Hazard or the Federal Aviation Administration (FAA) has issued a variance, and/or the Michigan Aeronautics Commission has issued a Michigan Tall Structure Permit.

Inasmuch, as the height limitations imposed in the Airport Hazard Area steadily increase from the airport center, and at various rates according to location of approaches, the permit maps are only approximations for any given segment of the Airport Hazard Area and therefore a height limitation may be somewhat greater than accorded by the maps, depending upon the particular plat of land involved.

The purpose of this second procedure is, therefore, to enable the Airport Zoning Administrative Agency/Zoning Administrator to make exact mathematical determinations and enable users of the land within the hazard area to avoid violations of this Ordinance.

## **C. Procedure Three:**

If it appears, after consulting the Permit Threshold Map, that the proposed new use, or change in existing use, **will** violate the provisions of this Ordinance, then no such new or changed use shall be undertaken unless the person proposing to undertake it shall first apply to the Tuscola Area Airport Zoning Board of Appeals and obtain a certificate of variance in accordance with the procedures contained in this Ordinance.

### **4.4 Exception for Emergency Repairs**

No permit is required for the emergency repair or emergency replacement of nonconforming public utility structures, when the height of such structures will not be increased by such repair or replacement. It is intended that in the application of this provision any combination of circumstances calling for immediate action or remedy in the repair or replacement of such nonconforming public utility structures shall be deemed an emergency.

### **4.5 Expenses**

The Airport Zoning Administrative Agency/Zoning Administrator may require the Applicant to obtain an opinion of an Aeronautical Engineer approved by the Airport Zoning Administrative Agency/Zoning Administrator or the Federal Aviation Administration (FAA). The Opinion shall address whether the proposed structure to be permitted will not violate the provisions of federal or state law or this Ordinance, and/or imminently and materially interfere with a terminal obstacle clearance area, a departure area, turn and termination area or circling approach area of the current airport. The Applicant shall pay for the costs of the Opinion, which shall be made available to the public.

**ARTICLE 5**  
**ORDINANCE ADMINISTRATION**

**5.1 Airport Zoning Administration**

**A. Primary Administration**

Pursuant to Section 15 of the Airport Zoning Act, being MCL §259.445, if a local unit of government within the Airport Hazard Area adopts and incorporates this Ordinance as it is written, including any amendments, then that ordinance's administrator may serve as the Zoning Administrator pursuant to this Ordinance for all areas within the geographic boundaries of the local unit, provided that the Airport Zoning Board of Appeals as provided in Section 4.2 will continue to exercise such powers as are conferred on it by the Airport Zoning Act, as further provided below. If any municipality does not adopt the amendments to this ordinance within forty-five (45) days of their adoption by the county, that municipality shall have their authority to administer the ordinance automatically revoked. Any local unit of government that wishes to exercise its rights under Section 15 of the Airport Zoning Act, MCL §259.445, and this subsection, must file a certified copy of its adoption of the provisions of this Ordinance, accompanied by a written notice of its intention to serve as the administrator of this Ordinance within its jurisdiction with the Tuscola County Clerk, and with the Tuscola County Planning Commission.

**B. Default Administration.**

The Tuscola Airport Zoning Administrative Agency is designated the Zoning Administrator charged with the duty of administering and enforcing this Ordinance. The Airport Zoning Administrative Agency shall act as the "administrative agency" referred to in the Airport Zoning Act, PA 23 of 1950. The duties of the Airport Zoning Administrative Agency shall include those of issuing permits as provided below, but the Airport Zoning Administrative Agency shall not have or exercise any of the powers or duties delegated to the Airport Zoning Board of Appeals. The Airport Zoning Administrative Agency may adopt such rules of procedure as may be necessary in connection with the administration and enforcement of this Ordinance.

**(1) Authority**

The Tuscola County Board of Commissioners does hereby establish an Airport Zoning Administrative Agency consisting of an individual, appointed by and answerable to them, for this position.

**(2) Duties**

It shall be the duty of the Airport Zoning Administrative Agency to administer and enforce the regulations prescribed herein. Applications for permits may be made to the Default Airport Zoning Administrative Agency only under the following conditions, upon a form published for that purpose.

- (a) The municipality in which the property is located has chosen not to have the Local Zoning Administrator administer this ordinance.
- (b) The Zoning Administrator of the municipality in which the property is located, requests that the Airport Zoning Administrative Agency rule on the application.

Applications requiring submission to the Airport Zoning Administrative Agency by this Ordinance shall be considered and granted or denied as promptly as is feasible.

**(3) Compensation**

Compensation shall be at a rate determined by the Tuscola County Board of Commissioners.

**C. Document Filing**

A copy of the entire application including site plan, county application form, analysis form and any other related documents shall be forwarded to the Tuscola County Planning Commission for filing.

**D. Airport Property Land Use Administration**

The Airport Authority Board is granted sole authority to approve land uses on airport property in accordance with State and Federal guidelines. This does not exempt the Airport Authority Board from complying with the decisions and authority of the Michigan Aeronautics Commission granted by the Aeronautics Code of the State of Michigan.

**5.2 Board of Appeals**

There is hereby created an Airport Zoning Board of Appeals consisting of an independent, five (5) person body appointed by the Tuscola County Board of Commissioners. The Board of Appeals has the powers set forth in Section 27 of the Airport Zoning Act, being MCL §259.457, and shall exercise such powers as are conferred upon it in the Airport Zoning Act and in this Ordinance.

**A. Official Name:**

The Board of Appeals shall be officially known as the Tuscola Area Airport Zoning Board of Appeals.

**B. Compensation:**

The Board of Appeals shall receive such compensation and expense reimbursement for attendance at meetings and hearings, and may employ such necessary personnel, as may be provided for by resolution of the Tuscola County Board of Commissioners.

**C. Rules and Procedures:**

The Board of Appeals shall adopt by-laws concerning its organization and procedure, including appeal forms, and other authorized matters, consistent with the provisions of the Airport Zoning Act and this Ordinance. Such rules shall include, but not be limited to:

- (1) The Board of Appeals shall provide a reasonable period of time from which appeal may be taken to it from an action of the Airport Zoning Administrative Agency/Zoning Administrator.
- (2) Meetings of the Board of Appeals shall be held at the call of the Chair and at such other times as the Board of Appeals may determine. Notice of all meetings shall be given to all members.
- (3) An annual meeting shall be held during the month following the anniversary date of this Ordinance.
- (4) The Chair, or in his or her absence the Vice-Chair, may administer oaths or affirmations and issue subpoenas to compel the attendance of witnesses.
- (5) All hearings of the Board of Appeals shall be public, and it shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or abstaining with cause, then so indicating and recording.

- (6) The Board shall keep records of its examinations and other official acts, all of which shall be immediately filed in the offices of the Tuscola Airport Zoning Board of Appeals, (Annex Office) and shall be a public record.

**D. Powers:**

The Board of Appeals, by the concurring vote of a majority of its members, shall have the power to issue certificates of variance under the provisions of this Ordinance, or to otherwise decide appeals from any order, requirement, rule, regulation, decision or determination made by the Airport Zoning Administrative Agency/Zoning Administrator under the powers conferred upon it by this Ordinance.

**E. Who May Appeal:**

Any person, including the governing body of any political subdivision, aggrieved by the refusal of the Airport Zoning Administrative Agency/Zoning Administrator to issue a permit or, its conclusion that a proposed use is in violation of this Ordinance or any other decision regarding the implementation of the Ordinance, may appeal to the Tuscola Area Airport Zoning Board of Appeals, including but not limited to submission of a request for a variance.

**F. Appeal Procedure:**

- (1) All appeals from actions of the Airport Zoning Administrative Agency/Zoning Administrator shall be taken within the time and in the manner provided by the by-laws of the Board of Appeals, by filing with the Airport Zoning Administrative Agency/Zoning Administrator and with the Board of Appeals, a notice of appeal specifying the grounds of appeal.
- (2) The Airport Zoning Administrative Agency/Zoning Administrator shall promptly transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.
- (3) An appeal shall “*stay*” all proceedings in furtherance of the action appealed from, unless the Airport Zoning Administrative Agency/Zoning Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a “*stay*” would, in the Zoning Administrator's opinion, cause imminent peril to life or irreparable damage to property.
- (4) In that case, proceedings shall not be “*stayed*” otherwise than by order of the Board of Appeals and on due cause shown.
- (5) The Board of Appeals shall fix a time for the hearing of the appeal, give public notice and due notice to the parties of interest, and decide the appeal within a reasonable time.
- (6) Any party may appear at the hearing in person or by agent or by attorney.
- (7) The Board of Appeals may, in conformity with the provisions of this Ordinance, reverse, affirm or modify, wholly or partly, the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator.

**G. Certificates of Variance:**

- (1) An application for certificate of variance is to be submitted on the form provided for by the rules of the Board of Appeals and may be submitted along with or in lieu of an appeal.
  - (a) If the application is granted, the applicant will receive a certificate of variance in the form prescribed by such rules.
  - (b) The certificate shall provide that it is not effective for a period of thirty (30) days following the date of its issuance.
  - (c) Immediately upon issuance, copies of the certificate shall be filed with the Airport Administrative Agency/Zoning Administrator, Tuscola County Planning Commission, the Michigan Aeronautics Commission and each political subdivision affected by the certificate.
- (2) In acting upon applications for variance, a variance can be granted on the condition that  
The Federal Aeronautics Administration (FAA) and the Michigan Aeronautics Commission (MAC) has issued a permit or determination of non-hazard. Any conditions imposed by FAA or MAC shall automatically become a part of a variance issued. Additional conditions may be imposed.

The Tuscola County Airport Zoning Board of Appeals reserves the right to send documentation, or any other input to the Federal Aeronautics Administration (FAA) and/or to the Michigan Aeronautics Commission (MAC) that has relevance to the permit sought.

In addition, variances shall be allowed for any of the following reasons:

- (a) A literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship.
- (b) Relief granted would not be contrary to the public interest and approach protection.
- (c) Relief granted would do substantial justice.
- (d) Relief granted would be in accordance with the spirit of the regulations of this Ordinance.

Provided, however, that any variance may be allowed subject to any reasonable condition or conditions subsequent that the Board of Appeals may deem necessary to effectuate the purpose of this Ordinance. Nothing in this section shall be construed to permit a use that would conflict with any general zoning ordinance or regulation of any political subdivision applicable to the same area.

**ARTICLE 6  
JUDICIAL ACTION**

**6.1 Appeals to Circuit Court**

Any person, including the Michigan Aeronautics Commission on behalf of and in the name of the State, aggrieved by any decision of the Tuscola Area Airport Zoning Board of Appeals, may appeal to the Circuit Court of the County of Tuscola as provided in Section 30 of the Airport Zoning Act.

**6.2 Penalties**

Any person who violates this Ordinance or any regulations, orders or rulings made pursuant to this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or imprisoned for a term not to exceed 90 days, or both. Each day a violation continues to exist after notice shall constitute a separate offense. Such notice may be given by the Airport Zoning Administrative Agency/Zoning Administrator by certified mail, return receipt requested, addressed to the person maintaining the violation at the last known address.

**6.3 Appearance Ticket Authorization**

Unless prohibited by state law, the following persons are empowered to issue and serve appearance tickets for violations of this Ordinance, pursuant to Act No.175 of the Public Acts of 1927, as amended by Act No.506 of the Public Acts of 1980, Act No.366 of the Public Acts of 1984 and Act No.49 of the Public Acts of 1988, being sections 764.9c and 764.9f of the Michigan Compiled Laws:

A. The Airport Zoning Administrative Agency and/ or Local Zoning Administrator if a Local Unit of Government has exercised its administration rights under this Ordinance;

OR

B. The Tuscola County Sheriff and all other Tuscola County Deputy Sheriffs

**6.4 Civil Action Available**

The Airport Zoning Administrative Agency/Zoning Administrator, on behalf of and in the name of the County of Tuscola, may, in addition to any criminal action taken, institute in the Circuit Court of Tuscola County, an action to prevent, restrain, correct or abate any violation of this Ordinance or the Airport Zoning Act, or of airport zoning regulations adopted under this Ordinance or under the Airport Zoning Act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order to effectuate fully the purposes of this Ordinance or the Airport Zoning Act and the regulations adopted and orders and rulings made pursuant thereto.

Such action by the Airport Zoning Administrative Agency/Zoning Administrator shall be undertaken only if the local unit's administrative body or the County Board of Commissioners, respectively, shall have authorized a civil action.

**ARTICLE 7  
NON-PRE-EMPTION AND SEVERABILITY OF PROVISIONS**

**7.1 Severability of Provisions**

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

**7.2 Non-pre-emption.**

This Ordinance is not intended to pre-empt any more stringent local zoning ordinance or other land-use control. Rather, this Ordinance is designed to augment and add to existing land-use controls.

**ARTICLE 8  
AMENDMENTS**

This Ordinance, and the regulations prescribed herein, may be amended by the Tuscola County Board of Commissioners after a public hearing is held in relation to the proposed amendment, pursuant to Section 19 of the Airport Zoning Act.

**ARTICLE 9  
EFFECTIVE DATE**

This Ordinance shall take effect on January 1, 2011.

\_\_\_\_\_  
Thomas Bardwell, Chairperson,  
Tuscola County Board of Commissioners

Attest:

\_\_\_\_\_  
Ms. Margie White, Tuscola County Clerk



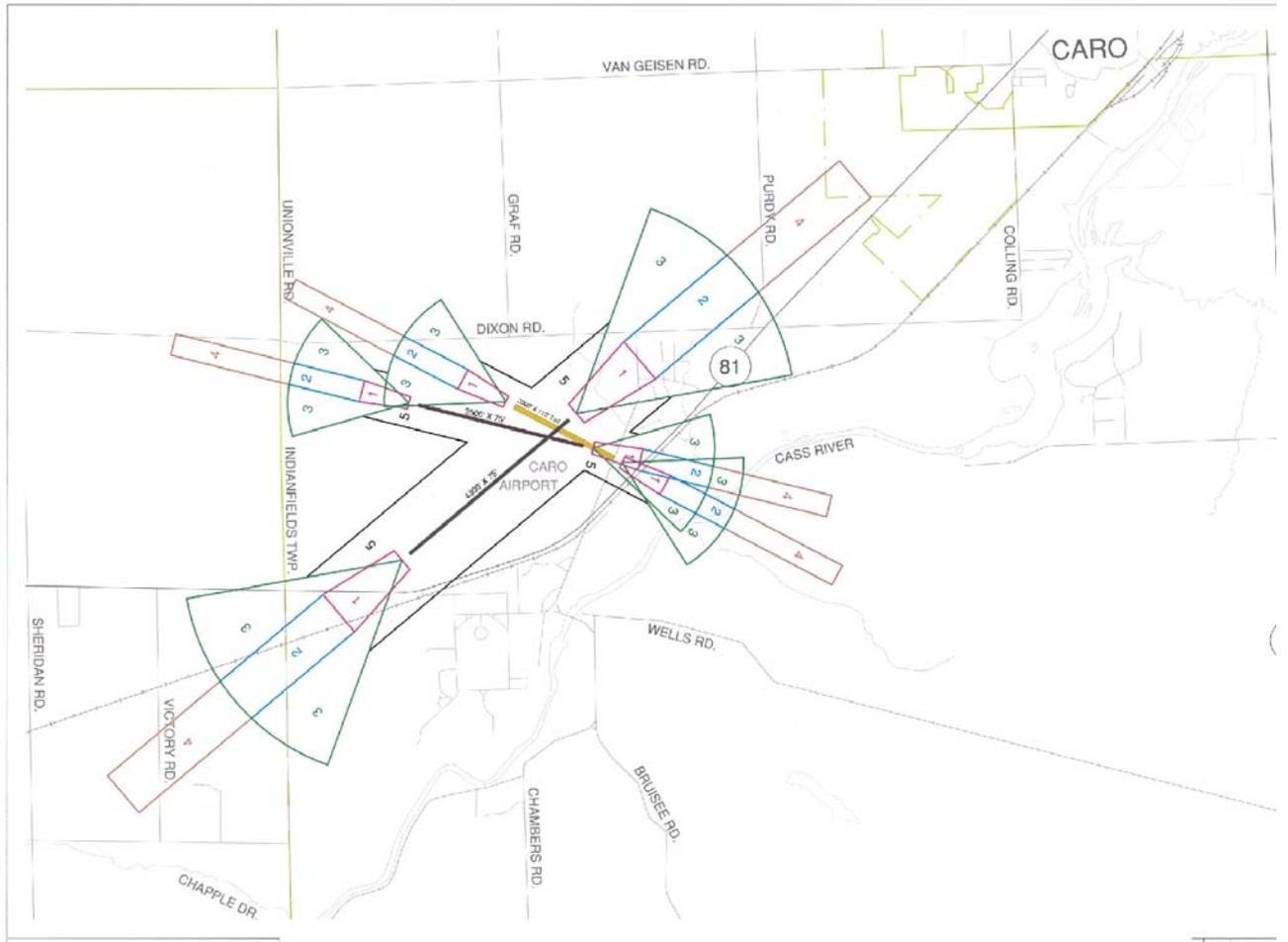
# TUSCOLA COUNTY AREA AIRPORT PERMIT THRESHOLDS



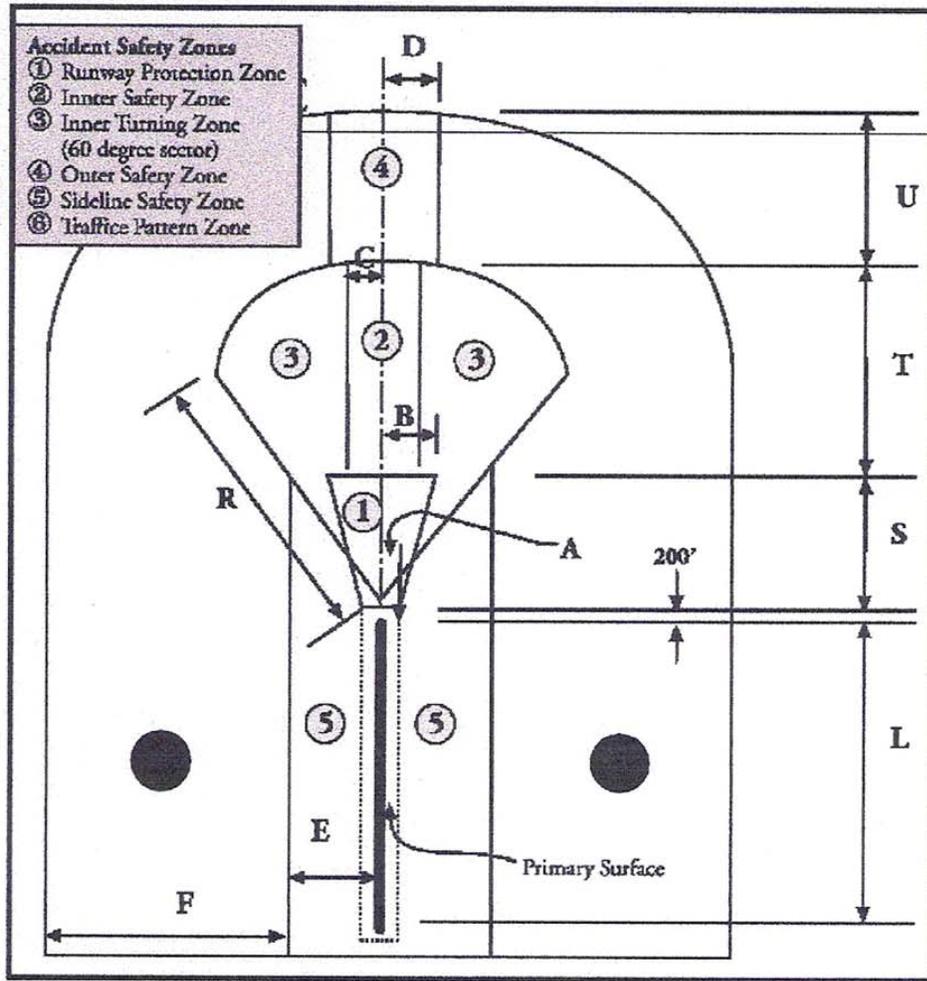
## PERMIT REQUIREMENTS

- A** Twenty-five (25) feet above ground level (AGL) in zones 1-5 (see map 3 page A-3) and thirty-five (35) feet above ground level (AGL) in the remainder of Zone A.
- B** One hundred twenty-five (125) feet above ground level (AGL) or above established airport elevation (AEAE), whichever is the lesser.
- C-D** Twenty-five (25) feet above ground level (AGL).
- E** Four hundred ninety-nine (499) feet above ground level (AGL) or above established airport elevation (AEAE), whichever is the lesser. An airport permit is not required for structures less than four hundred ninety-nine in zone E unless a "Determination of Presumed Hazard" has been issued for the structure. This requirement is not relinquished, even if a subsequent "Determination of No Hazard" has been issued.

# LAND USE ZONES



# AIRCRAFT ACCIDENT SAFETY ZONE DIAGRAM



## SAFETY ZONE DIMENSION (IN FEET)

Note:  
 Data Source: NTSB  
 accident investigations  
 1984-1991. Illustration  
 Source: Hodges and  
 Shurt, Institute of  
 Transportation Studies,  
 University of California,  
 Berkeley, 1993.

Dimension	Runway Length Category (L)		
	Runway less than 4,000	Runway 4,000 to 5,999	Runway 6,000 or more
A	125	250	500
B	225	505	875
C	225	500	500
D	225	500	500
E	500	1,000	1,000
F	4,000	5,000	5,000
R (60°Sector)	2,500	4,500	5,000
S	1,000	1,700	2,500
T	1,500	2,800	2,500
U	2,500	3,000	5,000

**ACCIDENT SAFETY ZONES, LAND USE GUIDELINES AND  
PLANNING STRATEGIES FOR NEW DEVELOPMENT**

Accident Safety Zone	Land Use Characteristics	Land Use Guidelines	Land Use Planning Strategies  *All aviation uses are acceptable
Zone 1 (See Special Note)	Population Density	Avoid land uses which concentrate people indoors or outdoors.	<ol style="list-style-type: none"> <li>1. 0-5 people/acre.</li> <li>2. Airport sponsor should purchase property if possible.</li> <li>3. Zone land uses, which by their nature, will be relatively unoccupied by people (i.e. mini-storage, small parking lots).</li> </ol>
	Residential vs. Non-Residential Land Use	Prohibit all residential land uses. All non-residential land uses permitted outright subject to the Population Density and Special Function Land Use guidelines.	<ol style="list-style-type: none"> <li>1. Create a height hazard overlay ordinance around the airport.</li> <li>2. Airport sponsor should purchase property if possible.</li> <li>3. Airport sponsor should obtain aviation and obstruction easements.</li> <li>4. During the site development process, shift all structures away from the runway centerlines if possible.</li> <li>5. Landscaping requirements shall establish only low growing vegetation.</li> <li>6. Prohibit high overhead outdoor lighting.</li> <li>7. Require downward shading of lighting to reduce glare.</li> <li>8. Evaluate all possible permitted conditional uses to assure compatible land use.</li> </ol>
	Special Function Land Use	Prohibit all Special Function Land Uses.	<ol style="list-style-type: none"> <li>1. Prohibit overhead utilities and all noise sensitive land uses.</li> <li>2. Zone land for uses other than for schools, play fields, hospitals, nursing homes, daycare facilities and churches.</li> <li>3. Limit storage of large quantities of hazardous or flammable material.</li> <li>4. Ensure permitted uses will not create large areas of standing water, or generate smoke/steam, etc.</li> </ol>

**Special Note:** Since the dimensions of Zone 1 are similar to the dimensions of the Runway Protection Zone (RPZ), those airports receiving federal grant dollars from the FAA's Airport Improvement Program, should strongly consider purchasing the RPZ or otherwise acquire rights to the property for the RPZ.

## COMPATIBLE LAND USE MATRIX

Accident Safety Zone	Land Use Characteristics	Land Use Guidelines	Land Use Planning Strategies <i>*All aviation uses are acceptable</i>
Zone 2	Population Density	Avoid land uses which concentrate people indoors or outdoors.	<ol style="list-style-type: none"> <li>1. 0-5 people/acre.</li> <li>2. Zone land uses, which by their nature, will be relatively unoccupied by people (i.e. mini-storage, small parking lots).</li> </ol>
	Residential vs. Non-Residential Land Use	Prohibit all residential land uses. All non-residential land uses permitted outright subject to the Population Density and Special Function Land Use guidelines.	<ol style="list-style-type: none"> <li>1. Create a height hazard overlay ordinance around the airport.</li> <li>2. Obtain aviation and obstruction easements.</li> <li>3. During site development process, shift all structures away from the runway centerlines if possible.</li> <li>4. Prohibit mobile home parks.</li> <li>5. Landscaping requirements shall establish only low growing vegetation.</li> <li>6. Prohibit high overhead outdoor lighting.</li> <li>7. Require downward shading of lighting to reduce glare.</li> <li>8. Evaluate all possible permitted conditional uses to assure compatible land use.</li> </ol>
	Special Function Land Use	Prohibit all Special Function Land Uses.	<ol style="list-style-type: none"> <li>1. Prohibit overhead utilities and all noise sensitive land uses.</li> <li>2. Zone land for uses other than for schools, play fields, hospitals, nursing homes, daycare facilities and churches.</li> <li>3. Limit storage of large quantities of hazardous or flammable material.</li> <li>4. Ensure permitted uses will not create large areas of standing water, or generate smoke/steam, etc.</li> </ol>



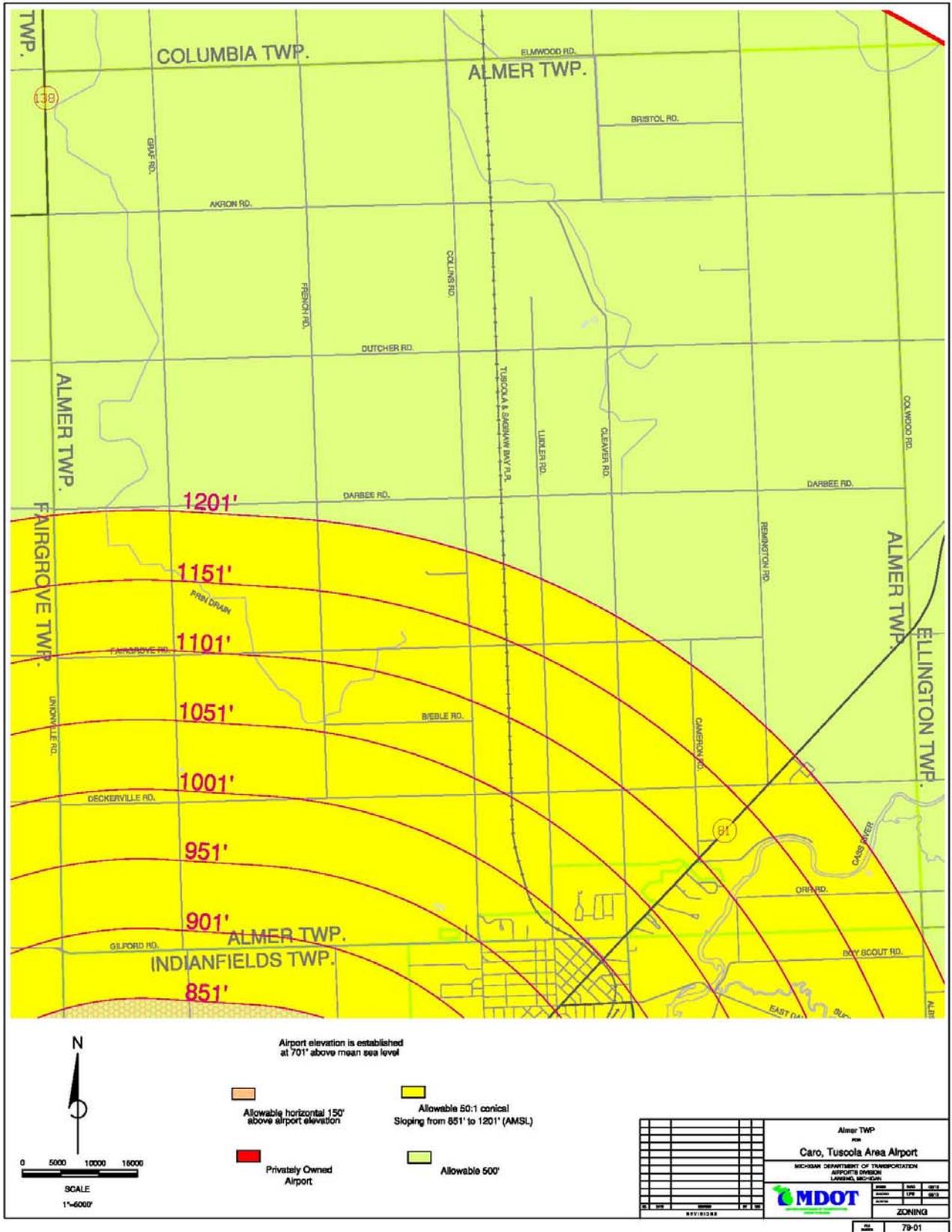
## COMPATIBLE LAND USE MATRIX

Accident Safety Zone	Land Use Characteristics	Land Use Guidelines	Land Use Planning Strategies  *All aviation uses are acceptable
Zone 4	Population Density	Limit population concentrations.	1. < 40 people/acre in buildings, < 75 persons/acre outside buildings.
	Residential vs. Non-Residential Land Use	Limit residential development to Low Density housing standards. All non-residential land uses permitted outright subject to the Special Function Land Use guidelines.	<ol style="list-style-type: none"> <li>1. Create a height hazard overlay ordinance around the airport.</li> <li>2. Obtain aviation easements.</li> <li>3. Clustered development to maintain density as long as open space remains unbuild. Place clustered development away from extended runway centerline.</li> <li>4. Prohibit mobile home parks.</li> <li>5. Require downward shading of lighting to reduce glare.</li> <li>6. Evaluate all possible permitted conditional uses to assure compatible land use.</li> </ol>
	Special Function Land Use	Prohibit all Special Function Land Uses.	<ol style="list-style-type: none"> <li>1. Evaluate noise sensitive land uses in light of aircraft noise contour lines (if available) when establishing new zoning.</li> <li>2. Prohibit high overhead utilities and all noise sensitive land uses.</li> <li>3. Zone land for uses other than for schools, play fields, hospitals, nursing homes, daycare facilities and churches.</li> <li>4. Limit storage of large quantities of hazardous or flammable material.</li> <li>5. Ensure permitted uses will not create large areas of standing water, or generate smoke/steam, etc.</li> </ol>





# ALMER TOWNSHIP



# COLUMBIA TOWNSHIP



# DAYTON TOWNSHIP





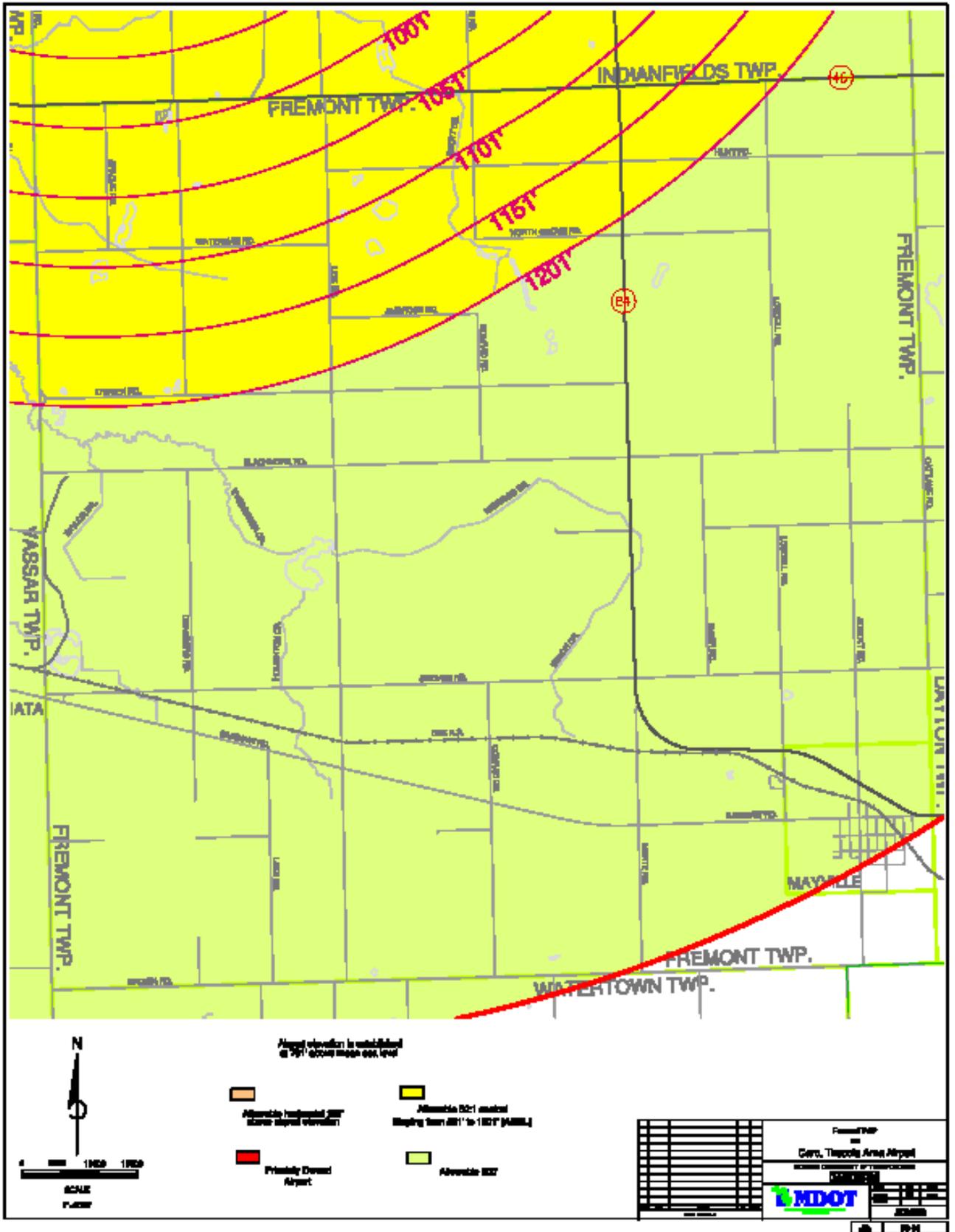


# ELMWOOD TOWNSHIP



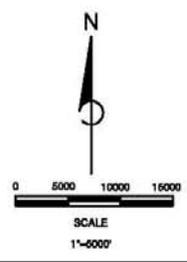
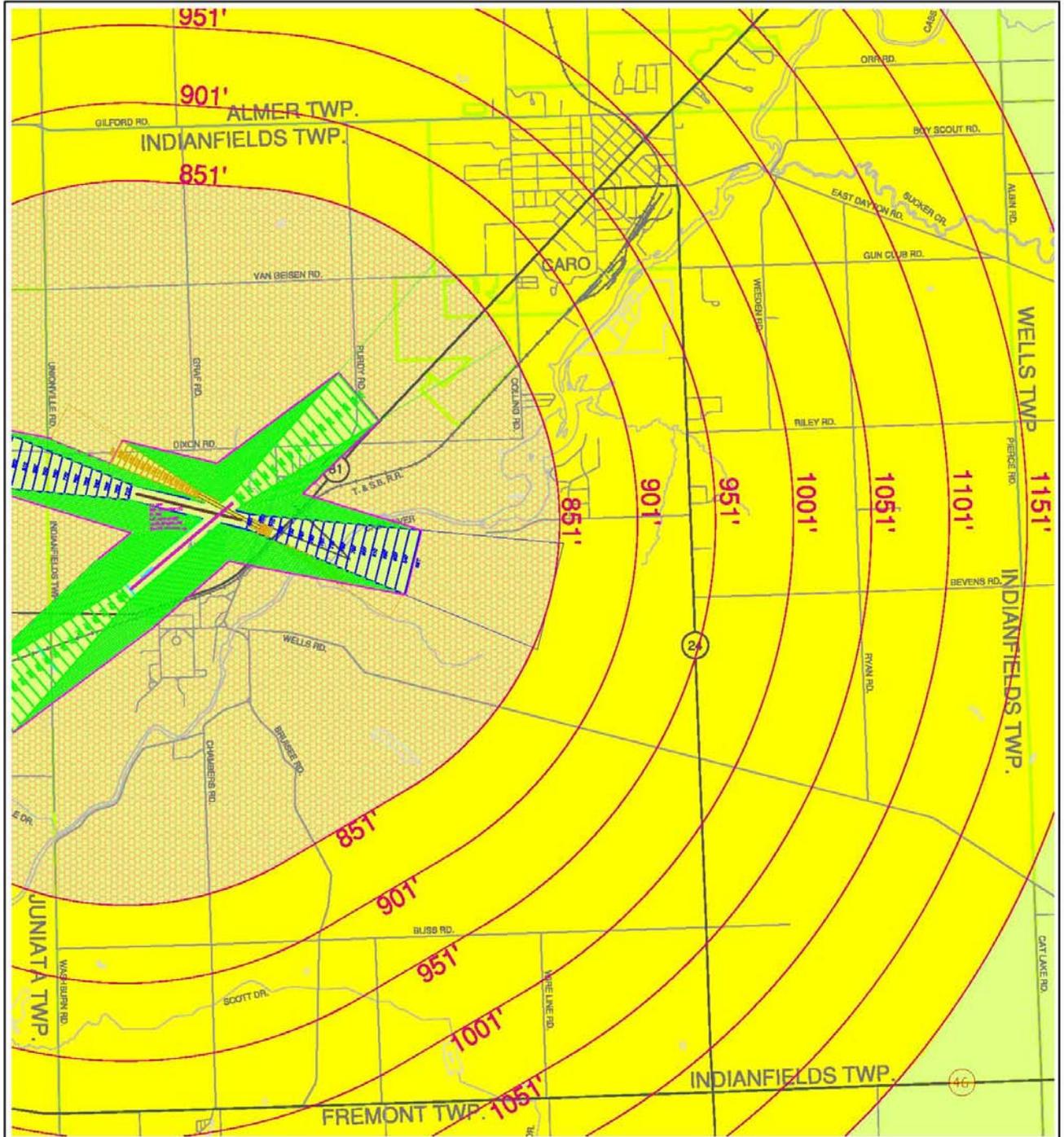


# FREMONT TOWNSHIP





# INDIANFIELDS TOWNSHIP



Airport elevation is established at 701' above mean sea level

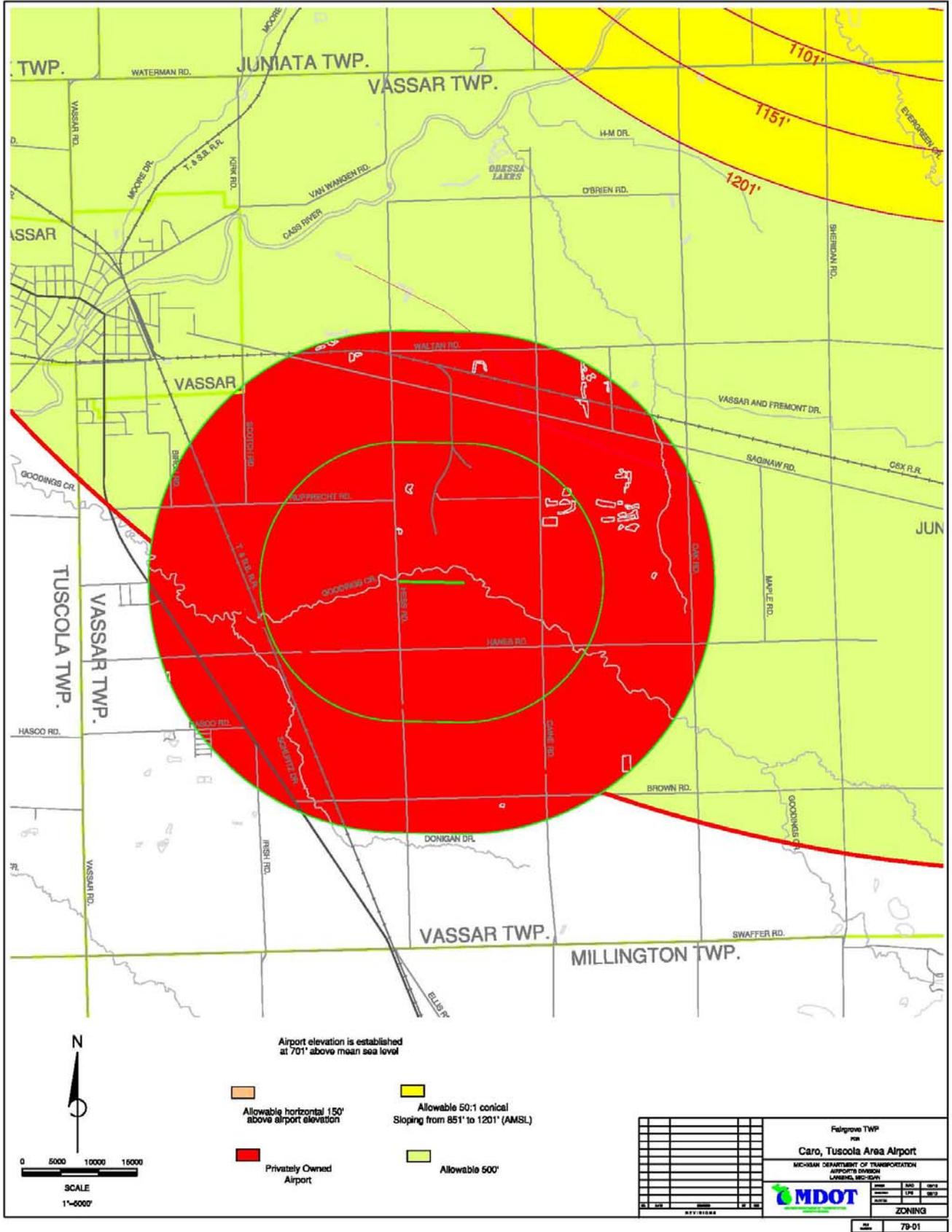
- Allowable horizontal 150' above airport elevation
- Allowable 50:1 conical Sloping from 851' to 1201' (AMSL)
- Privately Owned Airport
- Allowable 600'

Indianfields TWP for <b>Caro, Tuscola Area Airport</b> MICHIGAN DEPARTMENT OF TRANSPORTATION AIRPORTS DIVISION LANSING, MICHIGAN	
	<b>ZONING</b> 79-01





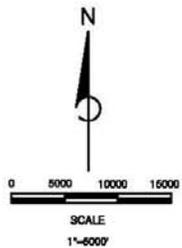
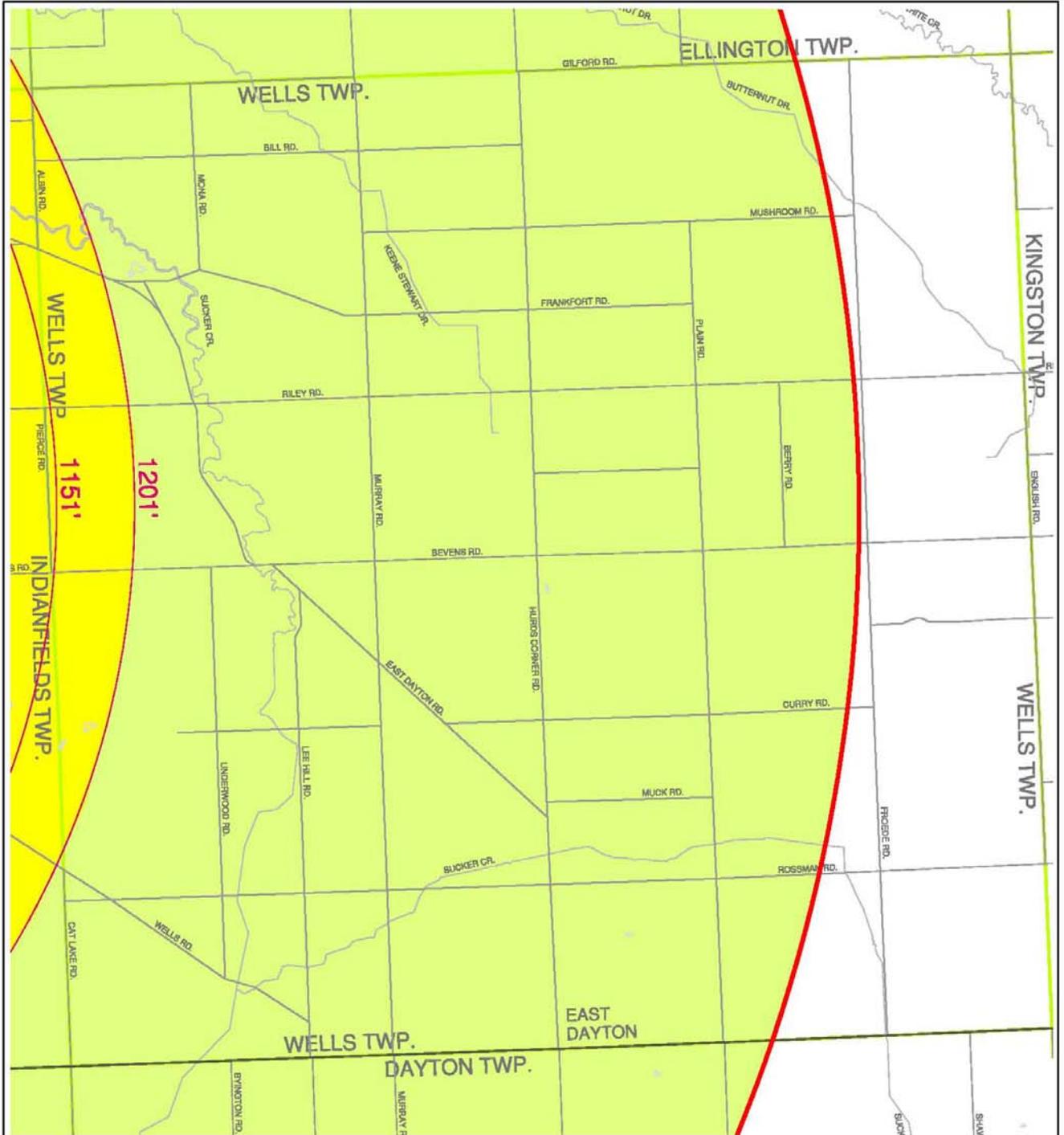
# VASSAR TOWNSHIP



# WATERTOWN TOWNSHIP



# WELLS TOWNSHIP



Airport elevation is established at 701' above mean sea level

- Allowable horizontal 150' above airport elevation
- Privately Owned Airport
- Allowable 50:1 conical Sloping from 851' to 1201' (AMSL)
- Allowable 500'

Wells TWP. FOR <b>Caro, Tuscola Area Airport</b> MICHIGAN DEPARTMENT OF TRANSPORTATION AIRPORTS DIVISION LANSING, MICHIGAN	
	ZONING 79-01