# CLARION COUNTY
# AIRPORT ZONING ORDINANCE

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**Prepared by the**
**Clarion County Planning Commission**

**Assisted by**

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# ARTICLE 1
# PURPOSE AND AUTHORITY

## Section 101 Title

This Ordinance shall be known and may be cited as the **Clarion County Airport Zoning Ordinance**. The accompanying district map shall be known, and may be cited as, the **Clarion County Zoning Map**.

## Section 102 Authority

In accordance with the authority granted to Clarion County through the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended), this Ordinance and map are intended to:

Establish County zoning for those communities without municipal zoning ordinances within the Airport Hazard District;

Regulate the height, bulk, number of stories, size and placement of buildings and structures within the Airport Hazard District;

Regulate the use of land where it is necessary to meet purposes of this Ordinance;

Divide parts of the County into districts of such size, shape and area, and to establish such zoning map, as may be deemed best suited to carry out the regulations; and

Establish procedures for the administration, enforcement, amendment, and relief from hardships under certain circumstances.

## Section 103 Purpose

These regulations are deemed necessary in order to encourage beneficial growth in the County while keeping the height and use of development consistent with the existing County airport facilities and the County 's ability to develop new facilities needed. These regulations are expected to:

Promote the public health, safety, morals and general welfare;

Provide for national defense and homeland security by facilitating full use of airports and similar defense facilities;

Secure safety from fire, flood, panic and other dangers by providing for adequate airspace for light, air and safety, and by promoting civil emergency preparedness and operations;

For the regulation, restriction or prohibition of uses and structures at, along, or near aircraft and helicopter facilities; and

To implement and provide general consistency to the Clarion County Comprehensive Plan.

**Section 104 Compliance**

No structure shall be located, erected, demolished, constructed, moved, externally altered, converted or enlarged nor shall any structure or land use be used or designed to be used except in full compliance with this Ordinance and after the lawful issuance of all permits and certifications required by this Ordinance.

**Section 105 Schedule of Fees**

The County Commissioners shall, from time to time, establish, by resolution, a schedule of fees, charges and expenses and a collection procedure for building permits, appeals and other matters pertaining to this Ordinance. The schedule of fees may be posted in the County Planning Commission Offices, and may be amended only by official action by the Board of County Commissioners.

No permit, certificate, application or variance shall be issued, nor shall any action be taken on proceedings before the Zoning Hearing Board unless, or until, such costs, charges, fees or expenses have been paid in full.

A zoning certificate or building permit shall be required for all new construction, additions or alterations affecting exterior dimensions of existing structures; and, for any structural or exterior changes required for a change of the structure's use, or for any change in use.

Any application for amendment, variance, special exception, conditional use, permit or any other application or certificate within the scope of this Ordinance, shall be accompanied by a fee, such fee to be established by resolution of the Board of County Commissioners, who may, from time to time revise such fees in order to bear a reasonable relationship to the costs involved.

**Section 106 Interpretation of Regulations**

Whenever the provisions of this Ordinance are at variance with provisions in other parts of this Ordinance any other lawfully adopted rules, regulations or ordinances, the more restricted requirements shall govern.

## Section 107 Severability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, nor the validity of any other section or provision of the Ordinance, other than the one so declared.

## Section 108 Repeal

Any resolution or ordinance, or any part of any resolution or ordinance conflicting with the provisions of this Ordinance is hereby repealed to the extent of such conflict.

## Section 109 Community Development Objectives

In addition to the general purposes listing in **Section 103**, the following specific community development objectives, have been considered as a basis upon which the regulations and controls of this Ordinance are derived:

To promote the continued viability of the Clarion County Airport as an important resource for the County's economic development.

To prevent obstructions of airspace which would negate the use of the Clarion County Airport as a necessary facility in times of civil or military emergencies.

To prevent uses in proximity to the Clarion County Airport which would create an innate hazard to normal use of the facility.

To promote agriculture and forestry uses within proximity to the Clarion County Airport as in the interests of both public safety and the conservation of natural and historic resources.

# ARTICLE 2
# DEFINITIONS

## Section 201 Interpretation

For the purpose of this Ordinance, words used in the present tense shall include the future. The singular number shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter. The word "shall" is always mandatory. The word "building" includes "structure" and shall be construed as if followed by the words "or any part thereof." The phrase "used for" includes "arranged for," "person" includes an individual, corporation, partnership, incorporated association, or any other legal entity. The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character. Except as defined within this Ordinance, all words and phrases shall have their normal meanings and usage.

## Section 202 Specific Terms

The following words and phrases shall have the meaning given in this section.

ACCESSORY BUILDING - A subordinate building, incidental to, and located on the same lot as, the principal building, and used for an accessory use.

ACCESSORY USE - A use incidental to, and subordinate to and located on the same lot occupied by the principal use to which it relates.

AGRICULTURE - Any agricultural use, including farming, dairying, pasturage, agriculture, aquaculture, horticulture, floriculture, viticulture, horse keeping, animal and poultry husbandry. Agriculture also includes the home sale of fruits, meats, vegetables and similar agricultural produce.

AIRCRAFT – Any contrivance, except an unpowered hang glider or parachute, used for manned ascent into, or flight through, the air.

AIRPORT – Clarion County Airport.

AIRPORT ELEVATION – One thousand four hundred fifty-eight (1,458) feet above mean sea level.

AIRPORT HAZARD – Any structure or object, natural or manmade, or use of land, determined to adversely impact the airspace required for flight, or aircraft in landing or taking off at an airport.

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 surface zone, height limitation slope, as set forth in Article 3. In plan, the perimeter of the approach surface coincides with the perimeter of the approach surface zone.

APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL SURFACE ZONES – These zones are set forth in Article 3.

AREA - Area of a lot or site shall be calculated from dimensions derived by horizontal projections of the site.

BASEMENT - A floor level completely below grade or floor level in which more than two-thirds (2/3) of the perimeter walls are below grade. A wall shall be considered below grade where the dimension from the first floor line to the finished grade is five (5) feet or less, and the slope of the finished grade extending ten (10) feet from the building walls does not exceed thirty (30) degrees.

BUILDING - A roofed structure, whether or not enclosed by walls, to be used for the shelter, enclosure or protection of persons, goods, materials or animals.

CONDITIONAL USE - A use to be allowed or denied by the County Commissioners pursuant to public notice and hearing and recommendations by the County Planning Commission and pursuant to the express standards and criteria set forth in this Ordinance. In allowing a conditional use, the County may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of the Planning Code and of this Ordinance.

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 four thousand (4,000) feet.

CONSTRUCTION - The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and

accessories in connection therewith; reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health and safety or general welfare, but not including buildings.

FORESTRY - The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development.

FAA – The Federal Aviation Administration of the United States Department of Transportation.

HEIGHT – For the purposes of determining the height limits in all zones set forth in this Section, and shown on the maps incorporated herein, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE – A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which, in plan, coincides with the perimeter of the horizontal surface zone.

HEIGHT OF BUILDING OR STRUCTURE - The vertical distance measured from the average level of finished grade along all the exterior walls of the building to the highest point of the roof and to the highest point on any structure which rises wholly or partly above the roof.

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

LOT - A tract or parcel of land, regardless of size, held in single or joint ownership, which is occupied or capable of being occupied by buildings, structures, and accessory buildings, including such open spaces as are arranged, designed or required. The term "lot" shall also mean "parcel," "plot," "site," or similar term.

NONCONFORMING STRUCTURE - A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Ordinance or an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING USE - A use, whether of land or structure, which does not comply with the applicable use provisions of this Ordinance or amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation.

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 non-precision instrument approach procedure has been approved or planned

OBSTRUCTION – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Article 3.

PLANNING CODE - The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as re-enacted and amended by Act No. 170 of 1988 and Acts 67 and 68 of 2000, and as further amended from time to time.

PRECISION INSTRUMENT RUNWAY – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precisions Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

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. 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 Article 3. 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.

SANITARY LANDFILL - A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

SPECIAL EXCEPTION - A use permitted with special permission granted by the Zoning Hearing Board, to occupy or use land and/or a building for specific

purposes in accordance with the criteria set forth in this Ordinance when such use is not permitted by right.

STORY - That portion of a building located between the surface of any floor and the next floor above; if there is not more than one (1) floor the space between any floor and the ceiling next above it shall be considered a story.

STRUCTURE - Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

TRANSITIONAL SURFACES – These surfaces extend outward at 90E (ninety degree) angles to the runway centerline and the runway centerline extended, at a slope of 7 to 1 (seven feet horizontally to each foot vertically) from the sides of the primary and approach surfaces to 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 five thousand (5,000) feet, measured horizontally from the edge of the approach surface and at 90E angles to the extended runway centerline.

UTILITY RUNWAY – A runway that is constructed for, and intended to be used by, propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less.

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

ZONING OFFICER - The Zoning Officer of the County of Clarion, or his/her authorized representative.

## ARTICLE 3
## DISTRICT REGULATIONS

To implement the Purposes and Community Development Objectives contained in Article 1 of this ordinance, the County does hereby create zoning districts and adopt an Official Zoning Map depicting those districts. Specifically, a zoning district is hereby created which shall be referred to as the **Airport Hazard District (AHD)**

**Section 301 Airport Hazard District (AHD) The following Height, Use, and performance restrictions shall apply to all areas of the Airport Hazard District.**

**301.1** Airport Surface Zones Height Restrictions – In order to carry out the provisions of this Ordinance, there are hereby created and established certain sub-zones within the Airport Hazard District that include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces, as they apply to the Clarion County Airport. These Airport Zones are shown on the Official Zoning Map, which is kept on file in the County Planning Commission offices, and is made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. Except as otherwise provided for in this section, no structure shall be erected, altered, or maintained, or change of surface grade created in excess of the allowable height limitations established for each zone. The various zones are hereby established and defined:

A. Approach Surface Zone:

1. Utility Runway Visual Approach Surface Zone: Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide. The zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

   The approach surface slopes 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 five thousand (5,000) feet along the extended runway centerline.

2. Utility Runway Non-precision Instrument Approach Surface Zone: Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary

surface and is five hundred (500) feet wide. The zone expands outward uniformly to a width of two thousand (2,000) feet at a horizontal distance five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

The approach surface slopes 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 five thousand (5,000) feet along the extended runway centerline.

3. Runway Larger Than Utility Visual Approach Surface Zone: Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is five hundred (500) feet wide. The zone expands outward uniformly to a width of one thousand five hundred (1,500) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

   The approach surface slopes 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 five thousand (5,000) feet along the extended runway centerline.

4. Runway Larger Than Utility With a Visibility Minimum Greater Than ¾ Mile Non-Precision Instrument Approach Surface Zone: Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is five hundred (500) feet wide. The zone expands outward uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

   The approach surface slopes 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 ten thousand (10,000) feet along the extended runway centerline.

5. Runway Larger Than Utility With a Visibility Minimum as Low as ¾ Mile Non-Precision Instrument Approach Surface Zone: Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary

surface and is one thousand (1,000) feet wide. The zone expands outward uniformly to a width of four thousand (4,000) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

The approach surface slopes 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 ten thousand (10,000) feet along the extended runway centerline.

6. Precision Instrument Runway Approach Surface Zone: Established beneath the precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The zone expands outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

The approach surface slopes fifty (50) 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 ten thousand (10,000) feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of forty thousand (40,000) feet along the extended runway centerline.

B. Transitional Surface Zone: Slopes 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 one hundred fifty (150) feet above the airport elevation, which is One thousand four hundred fifty seven and nine tenths (1457.9) feet above mean sea level. In addition to the foregoing, there are established 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 with the conical surface.

C. Horizontal Surface Zone: Established at one hundred fifty (150) feet above the established airport elevation, or at a height of one thousand six hundred seven and nine tenths (1,607.9) feet above mean sea level.

D. Conical Surface Zone: Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal surface and at one

hundred fifty (150) feet above the established airport elevation, and extending to a height of three hundred fifty (350) feet above the established airport elevation, or at a height of one thousand eight hundred seven and nine tenths (1,807.9) feet above mean sea level.

E. General Navigation Hazard Zone: This zone entails a five (5) mile radius of the airport runway as depicted on the Official Zoning Map. This surface begins at a uniform elevation of one thousand eight hundred and seven and nine tenths feet (1,807.9) above mean sea level, or three hundred fifty (350) feet above the established airport elevation.

**301.2** Airport Hazard Overlay District Restrictions – All regulations and restrictions adopted under this Section shall be reasonable; none shall impose any requirement or restriction unless it is reasonably necessary to effectuate the purpose of this Section.

A. Permit Required: No material change shall be made in the use of land and no structure shall be erected or otherwise established in the Airport Hazard Overlay Zone unless a permit therefore shall have been issued by the County. In determining conformity to height restrictions the County Zoning Officer may rely upon the technical assistance of the Clarion County Airport.

B. Performance Standards: Notwithstanding any other provisions of this Ordinance or other County ordinances, no development shall be permitted that results in any of the following within the Airport Hazard District which would:

Create electrical interference with navigation signals or radio communications between the airport and aircraft;

Make it difficult for pilots to distinguish between airport lights and other illumination;

Produce glare in the eyes of pilots using the airport;

Impair visibility in the vicinity of the airport;

Create bird strike hazards; or otherwise endanger in any way, or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

C. Use Restrictions: In order to ensure that the performance standards and Height Restrictions can be met, the following use restrictions apply within all areas of the Airport Hazard District. Certain explicitly named permitted uses do not require a permit. Permitted uses may be conducted following issuance of a permit by the Zoning Officer. Conditional Uses shall be referred by the Zoning Officer to the County Commissioners for approval, subsequent to review by the County Planning Commission and as specified in Article IX of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

**TABLE 301.2.C - USE RESTRICTIONS**

| **Use** | **Use Restrictions** |
|---|---|
| Agriculture and Forestry | No restrictions. No permit required if the use does not involve a new, altered, or expanded building or structure. |
| Property listed on the National Register of Historic Places | No permit required if alteration or change of use does not increase the height of the structure or change existing grade. |
| Single-family dwellings and accessory buildings | No permit required if structure does not exceed thirty-five (35) feet in height from existing grade. |
| Multiple-family dwellings, commercial, institutional, and industrial structures under thirty-five (35) feet in height from existing grade. | No permit required if a land development plan is approved by the County Planning Commission. |
| All other uses not specified | Permitted use subsequent to meeting height restrictions for the district, and issuance of a permit by the Zoning Officer |
| Communication Towers | Conditional Use, pursuant to Specific standards in this Article. |
| Sanitary Landfills | Prohibited within all areas within the Airport Hazard District |

**301.3** Nonconformance – The regulations prescribed by this Section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of such nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any

structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently carried out.

**301.4** Marking and Lighting – 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 County, State or Federal officials to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport and obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the official body responsible for their placement.

**301.5** Existing Uses – No permit shall be granted that would allow the establishment or creation of an obstruction, or permit a nonconforming use, structure or tree, to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto, or than it is when the application for a permit is made.

**301.6** Variances – Any request for a variance in accordance with Article 4 (408(F) – Page 22) of this Ordinance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for a variance to the requirements of this Ordinance may be considered by the Zoning Hearing Board unless a copy of the application has been furnished to Clarion County Airport officials for review and comment. If the appropriate Airport official does not respond within fifteen (15) days after receipt, the Zoning Hearing Board may decide the case on its own.

**301.7** Conditional Use standards-Communication Towers

A. The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communication antennas.

B. The applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.

C. Communication towers shall comply with all applicable Federal Aviation Administration regulations, Pennsylvania Department of Transportation, Bureau of Aviation regulations, applicable Clarion County Subdivision and Land Development Regulations, and applicable Airport Zoning Height Restrictions.

D. Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on an existing building, structure or communications tower. A good faith effort shall require that all owners of potentially suitable structures within a Three (3) mile radius of the proposed communications tower site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:

1. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.

2. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.

3. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.

4. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.

5. A commercially reasonable agreement could not be reached with the owners of the structure.

E. Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all-weather surface for its entire length.

F. The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function, and that no suitable site can be found outside the Airport Hazard District.

G. Unless pre-empted by airport zoning Height Restrictions, the maximum height of any communications tower shall be two hundred (200) feet.

H. The foundation and base of any communications tower shall be set back from a property line (not lease line) with any residential use at least one hundred (100) feet and shall be set back from any other property line (not lease line) at least fifty (50) feet.

I. The base of a communications tower shall be landscaped so as to screen the foundation and base and communications equipment building from abutting properties.

J. The communications equipment building shall comply with the required height requirements.

K. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association.

L. The applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communications tower; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of one million dollars ($1,000,000) per occurrence and property damage coverage in the minimum amount of one million dollars ($1,000,000) per occurrence covering the communications tower and communications antennas.

M. All guy wires associated with guyed communication towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.

N. The site of a communications tower shall be secured by a fence with a minimum height of eight (8) feet to limit accessibility by the general public.

O. No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction.

P. If a communications tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the

communications tower within six (6) months of the expiration of such twelve (12) month period.

Q. One (1) off-street parking space shall be provided within the fenced area.

# ARTICLE 4
# ZONING HEARING BOARD

## Section 401 Creation

There is hereby created a Zoning Hearing Board, herein referred to as the "Board," consisting of three (3) residents of the County appointed by the Board of County Commissioners pursuant to the Pennsylvania Municipalities Planning Code, as amended. Said Board shall perform all the duties, and exercise all powers prescribed by said Code and as herein further provided.

## Section 402 Appointment

The terms of office of the Board shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Board of County Commissioners of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the County, nor be a member of the Planning Commission. The Board of County Commissioners shall also appoint one (1) alternate member to the Board. The appointment, rights and duties of the alternate shall be in accordance with Article IX of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

## Section 403 Removal of Members

Any Board member may be removed for misfeasance or nonfeasance in office, or for other just cause, by a majority vote of the Board of County Commissioners, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

## Section 404 Organization of Board

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing or the taking of any action, a quorum shall be not less than the majority of all the members of the Board, but where two (2) members are disqualified to act in a particular matter, the alternate member shall be seated. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in Section 908 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended). The Board may make, alter and rescind rules and forms for its procedure, consistent with County ordinances and laws of the Commonwealth. The Board shall keep full public records of its business and shall submit a report of its

activities to the Board of County Commissioners as requested by the Board of County Commissioners.

**Section 405 Expenditures for Services**

Within the limits of funds appropriated by the Board of County Commissioners, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

**Section 406 Legal Counsel**

Where legal counsel is desired, an attorney, other than the County Solicitor, shall be used.

**Section 407 Hearings**

The Board shall conduct hearings and make decisions in accordance with the following requirements.

A. Notice shall be given to the public by notice published once each week for two (2) successive weeks in a newspaper of general circulation in the County. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than thirty (30) days or less than seven (7) days from the date of the hearing. Written notice shall be given to the applicant, the Zoning Officer, and to any person who has made timely request for the same. Written notices shall be prescribed by rules of the Board. In addition to the notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

B. The Board of County Commissioners may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

C. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

D. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

E. The parties to the hearing shall be the County, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

F. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

G. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

H. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

J. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, except that advice from the Board's Solicitor is exempt from this restriction; shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site

or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

K. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. Where application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Ordinance or the Planning Code, or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this Ordinance or the Planning Code, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days in the same manner as provided in Subsection 607(1) of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended). Nothing in this subsection shall prejudice the right of any party to appeal the decision to a court of competent jurisdiction.

L. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board nor later than the last day of the hearing, the Board shall provide by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

**Section 408 Board's Functions:**

The Board shall have exclusive jurisdiction for the following:

A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the County and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

D. Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended) and this Ordinance.

E. Appeals from the Zoning Officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

F. Variances: The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions

generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

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

4. That the variance, if authorized, will not alter the essential character or purposes of the district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public safety and welfare; and

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance.

**Section 409 Parties Appellant Before Board**

Appeals under Section 408 and proceedings to challenge Section 408 may be filed with the Board in writing by the landowner affected, any officer or agency of the County, or any person aggrieved. Requests for a variance may be filed with the Board by any landowner or any tenant with the permission of such landowner.

**Section 410 Time Limitations; Persons Aggrieved**

No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate County officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. See also Section 914.1 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

## Section 411 Stay of Proceedings

Upon filing of any proceeding referred to in Section 408 and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action there under shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. See also Section 915.1 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

# ARTICLE 5
# ADMINISTRATION, ENFORCEMENT AND APPEALS

## Section 501 Zoning Officer

The County of Clarion shall appoint the Zoning Officer who shall administer and enforce the provisions of this Ordinance, and shall do so in accordance with the provisions of this Ordinance and of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended). The Zoning Officer shall also have the duties as set forth by Article 9 of this Ordinance. The Zoning Officer shall not hold any elective office in the County.

## Section 502 Duties of the Zoning Officer

The Zoning Officer shall administer this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use, which does not conform to this Ordinance. The Officer shall be considered as qualified to perform his/her duties by meeting the qualifications established by the County Planning Commission. In addition, the Zoning Officer's duties, obligations and responsibilities include the following:

502.1 Application for Building/Zoning Permits: The Zoning Officer shall receive applications for Building/Zoning Permits and/or Certificate of Occupancy. A Building/Zoning Permit is an application filed prior to the start of construction/development by a developer to describe the proposed activity in sufficient detail to determine whether or not it meets the requirements of this and other applicable County ordinances. Applications conforming to such ordinances shall be approved, those not conforming to such ordinances shall be denied.

502.2 Inspections: The Zoning Officer or a duly appointed assistant may examine, or cause to be examined, all structures and/or land for which an application for a Building/Zoning Permit or a Zoning Certificate has been requested. Such inspections may be before, during and after construction and shall be made upon the termination of construction and prior to the issuance of a Certificate of Occupancy.

502.3 Permits, Applications, Appeals and Certificates: The Zoning Officer shall issue or deny such permits or certificates as required by this Ordinance where no other body is involved; shall receive all applications for Conditional Uses, Special Exceptions and Variances and forward same to the appropriate body. Where a decision is made by another body, the Zoning Officer shall issue or deny the permit as ordered by the applicable Board.

502.4 Enforcement: The Zoning Officer is authorized to institute civil enforcement proceedings as a means of enforcing this Ordinance and to revoke or refuse permits as authorized.

## Section 503 Permits and Certificates

503.1 Building/Zoning Permits: An application for a Building/Zoning Permit will be to show compliance with this and other appropriate County ordinances. Applications shall contain information relative to the proposed construction and use in sufficient detail to inform the Zoning Officer of the scope and extent of the proposed development. The exact details required, including sketches, plat plans, as well as the number of copies, time limits, and fees for such applications, shall be determined by the County.

503.2 Certificate of Occupancy: A Certificate of Occupancy shall be required prior to the occupancy or use of any vacant land or prior to the occupancy or use of any structure hereafter constructed, reconstructed, moved, altered or enlarged. The purpose of the Certificate of Occupancy is to confirm that the development described in the Building/Zoning Permit Application has been completed in compliance with the application and this Ordinance. Certificates of Occupancy shall also be required for a change of use of a structure or land to a different use and changes to a nonconforming use or structure. Said applications shall be on forms as approved by the County or the Board, as appropriate, and shall be accompanied by a fee as set by the County. It is the intent of the Ordinance that all appeal processes should follow the Pennsylvania Municipalities Planning Code or other appropriate State law. The filing of Appeals, Special Exceptions and Variances shall be within such time limits as specified by the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended). The filing of Conditional Uses shall follow procedures set forth by the County Commissioners.

503.3 Zoning Certificate: The Zoning Certificate shall be issued upon request to confirm that the use of land or a building within the County is in compliance with this Ordinance. The exact form of the Certificate and fees charged shall be determined by the County.

## Section 504 Violations

504.1 Enforcement Notice: When it appears to the County and/or the Zoning Officer that a violation has occurred, the Zoning Officer shall send an enforcement notice. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person

requested in writing by the owner of record. The enforcement notice shall state the following:

a. The name of the owner of record and any other person against whom the County intends to take action.

b. The location of the property in violation.

c. The specific violation with a description of the requirements, which have not been met, citing in each instance the applicable provisions of the Ordinance.

d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.

f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

504.2 Causes of Action: In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, and any amendment thereto or prior enabling laws, the County, the Zoning Officer of the County, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the County at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Board of County Commissioners of Clarion County. No such action may be maintained until such notice has been given.

504.3 Jurisdiction: District justices shall have initial jurisdiction over proceedings brought under Section 504.4.

504.4 Enforcement Remedies: Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance and any amendment thereto any prior enabling laws shall, upon being

found liable therefore in a civil enforcement proceeding commenced by the County, pay a judgment of not more than five hundred ($500) dollars, or such maximum amount as stipulated by the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended), plus all court costs, including reasonable attorney fees incurred by the County as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the County may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation continues shall constitute a separate violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the County. Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the County and its Zoning Officer the right to commence any action for enforcement pursuant to this section.

# ARTICLE 6
# AMENDMENTS

## Section 601 General

The Board of County Commissioners may introduce and/or consider amendments to this Ordinance and to the Zoning Map, as proposed by a member of the Board of County Commissioners, the Planning Commission, or by a petition of a person or persons residing or owning property within the County.

## Section 602 Petitions

Petitions for amendments shall be filed with the Zoning Officer; and the petitioners, upon such filing, shall pay an advertising deposit and a filing fee, in accordance with a fee schedule affixed by the County.

## Section 603 Referral

Any proposed amendment presented to the Board of County Commissioners without written findings and recommendations from the Clarion County Planning Commission shall be referred to the Planning Commission for their review and recommendations prior to the public hearing by the Board of County Commissioners. The Board shall not hold a public hearing upon such amendments until required reviews and recommendations are received or the expiration of thirty (30) days from the date that such proposed amendments were submitted to the County and County Planning Commissions.

## Section 604 Action

Before acting upon a proposed amendment, the Board of County Commissioners shall, as required by law, hold a public hearing thereon. Public notice of such hearing is required and shall contain a brief summary of the proposed amendment and reference to the place where copies of the same be examined, shall be published in accordance with the provisions of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended). If the proposed amendment involves a change to the Zoning Map, notice of the public hearing shall be posted at the affected tract in accordance with Section 609 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended) at least one (1) week prior to the date of the hearing.

## Section 605 Curative Amendments

A landowner who desires to challenge on substantive grounds the validity of this Zoning Ordinance or Map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a Curative Amendment to

the Board of County Commissioners with a written request that his challenge and proposed amendment be heard and decided as provided in Section 916.1 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended). The Board of County Commissioners shall commence a hearing thereon within sixty (60) days. As with other proposed amendments, the Curative Amendment shall be referred to the County Planning Commission at least thirty (30) days before the hearing is conducted by the Board of County Commissioners. Public notice shall be given in accordance with applicable provision of the Planning Code. The hearings shall be conducted in accordance with instructions as set forth by Section 916.1 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended). The findings, actions and considerations of the Board of County Commissioners shall be in accordance with Section 609.1 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

The County may institute a Municipal Curative Amendment in accordance with Section 609.2 of the Pennsylvania Municipalities Planning Code (Act 247, as reenacted and amended).

Ordained and enacted into an Ordinance this ____ day of _____, _____ A.D.