

**BUCHANAN COUNTY ZONING CODE OF ORDINANCES
2008**

TABLE OF CONTENTS

TITLE VI – PROPERTY AND LAND USE

Chapter 52 – Airport Hazards and Tall Structures

CHAPTER 52

AIRPORT HAZARDS AND TALL STRUCTURES

52.01 Purpose	52.08 Airport Board of Adjustment
52.02 Short Title	52.09 Judicial Review
52.03 Definitions	52.10 Penalties
52.04 Airport Zones	52.11 Conflicting Regulations
52.05 Use Restrictions	52.12 Effective Date
52.06 Lighting	52.13 Pre-existing Structures
52.07 Airport Zoning Commission	

52.01 PURPOSE. This Chapter is adopted pursuant to the authority conferred on the City of Independence and the Buchanan County Board of Supervisors by Iowa Code Section 329.3. It is hereby found that an airport hazard endangers the lives and property of users of the Independence Municipal Airport and property of occupants of land in its vicinity. Accordingly, it is declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the City and County served by the Independence Municipal Airport;
2. That it is necessary in the interest of the public health, public safety, and general welfare that creation of airport hazards be prevented;
3. That this should be accomplished, to the extent legally possible, by proper exercise of the police power; and
4. That the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City of Independence and Buchanan County may raise and expend public funds, as an incident to the operation of airports to acquire land or property interests therein.

52.02 SHORT TITLE. This Chapter shall be known and may be cited as “The Independence Municipal Airport Height Zoning Ordinance.”

52.03 DEFINITIONS. As used in this Chapter, unless the context otherwise requires:

1. “Airport” shall mean the Independence Municipal Airport.
2. “Airport elevations” shall mean the highest point of an airport’s useable landing area measured in feet above mean sea level, which elevation is established to be 978 feet.
3. “Airport hazard” shall mean any structure or tree or use of land which would exceed the Federal obstruction standards as contained in Fourteen Code of Federal Regulations, Sections Seventy-Seven Point Twenty-One (77.21), Seventy-Seven Point Twenty-Three (77.23) and Seventy-Seven Point Twenty-Five (77.25) as revised March 4, 1972, and which obstruct the airspace required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
4. “Airport primary surface” shall mean a surface longitudinally entered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or

planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

5. “Airport height” shall mean for the purpose of determining the height limits in all zones set forth in this Chapter and shown on the zoning map, the mean sea level elevation unless otherwise specified.
6. “Control zone” shall mean airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.
7. “Instrument runway” shall mean a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation, equipment, for which an instrument approach procedure has been approved or planned.
8. “Minimum descent altitude” shall mean the lowest altitude, expressed in feet above mean sea level to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.
9. “Minimum enroute altitude” shall mean the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.
10. “Minimum obstruction clearance altitude” shall mean the specified altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments which meet obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.
11. “Runway” shall mean a defined area on an airport prepared for landing and takeoff of aircraft along its length.
12. “Visual runway” shall mean a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military services approved military airport layout plan, or by a planning document submitted to the FAA by competent authority.
13. “Structure” shall mean any object constructed or installed by man including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.
14. “Tree” shall mean any object of natural growth.

52.04 AIRPORT ZONES. In order to carry out the provisions of this Section, there are hereby created and established certain zones which are depicted on the Independence Municipal Airport Height Zoning Map. A structure or tree in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. “Horizontal Zones”: The land lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by:

- a. Swinging arcs of 5000 feet radii from the center of each of the primary surface of runway(s) 13 and 31, and connecting the adjacent arcs by lines tangent to those arcs. (Visual Runway).
- b. Swinging arcs of 10,000 feet radii from the center of each end of the primary surface of runway(s) 17 and 35 and connecting the adjacent arcs by lines tangent to those arcs. (Instrument Runway).

(Note: The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5000 feet arc is encompassed by tangents connecting two adjacent 10,000 feet arcs, the 5000 feet arc shall be disregarded on the construction of the perimeter of the horizontal surface).

No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Independence Municipal Airport Height Zoning Map.

2. “Conical Zone”: The land lying under 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 4000 feet. No structure or tree shall penetrate the conical surface in the conical zone, as depicted on the Independence Municipal Airport Height Zoning Map, which is attached hereto and by this reference made a part hereof.
3. “Approach Zone”: The land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

- a. The inner edge of the approach surface is:
 - i. 250 feet wide for Runway(s) 13 and 31.
 - ii. 500 feet wide for Runway(s) 17 and 35. (Visual Other Than Utility Runway and Non-Precision Instrument Runway).
- b. The outer edge of the Approach Zone is:
 - i. 1250 feet for Runway(s) 13 and 31. (Visual Utility Runways).
 - ii. 1500 feet for Runway(s) 35. (Visual Other Than Utility Runways).
 - iii. 3500 feet for Runway(s) 17. (Non-Precision Instrument Other Than Utility Runways).
- c. The Approach Zone extends for a horizontal distance of:
 - i. 5000 feet at a slope of 20 to 1 for Runway(s) 13, 31, and 35. (All Visual & Non-Precision Instrument Utility Runways).
 - ii. 10,000 feet at a slope of 34 to 1 for Runway(s) 17. (Non-Precision Instrument Other Than Utility Runways).

- d. No structure or tree shall exceed the approach surface to any runway, as depicted on the Independence Municipal Airport Height Zoning Map.
4. “Transitional Zone”: The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. No structure or tree shall exceed the Transitional Surface, as depicted on the Independence Municipal Airport Height Zoning Map.
5. No structure shall be erected in Buchanan County that raises the published Minimum Descent Altitude for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum Obstruction Clearance Altitude or Minimum Enroute Altitude to be increased on any Federal Airway in Buchanan County.

52.05 USE RESTRICTIONS. Notwithstanding any other provisions of Section 52.04, no use may be made of land or water within Independence or Buchanan County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. All lights or illumination used in conjunction with street, parking, signs, or use of land and structures shall be arranged and operated in such a manner that they are not hazardous or dangerous to aircraft operating from the Airport or in the vicinity thereof.
2. No operations from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any useable runway of the Airport.
3. No operations from any use in the City of Independence or Buchanan County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

52.06 LIGHTING.

1. Notwithstanding the provisions of Section 52.05, the owner of any structure over 200 feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure, constructed after the effective date of this Chapter and exceeding 949 feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments.
2. Any permit or variance granted by the City or County pursuant to this or any other ordinance may be so conditioned as to require the owner of the structure or growth in question to permit the City of Independence or Buchanan County at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an air space hazard.

52.07 AIRPORT ZONING COMMISSION.

1. “Members of Commission”: There is hereby created an Airport Zoning Commission which shall consist of five (5) members; two (2) members appointed by the Buchanan County Board of Supervisors; two (2) members appointed by the Independence City Council, and one (1) additional member to act as chairman and to be appointed by a majority vote of the members appointed by the aforementioned governing bodies.
2. “Terms of Office, Removal and Vacancies”: The terms of the members of the Airport Zoning Commission shall be for six (6) years, excepting that when the Commission shall first be created, one of the members appointed by each governing body shall be appointed

or a term of two (2) years and one for a term of four (4) years with the chairman appointed to serve the full six (6) year term. Members may be removed for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was appointed.

3. “Powers and Duties”: It shall be the duty of the Airport Zoning Commission to administer the regulations prescribed herein, which shall include recommendations concerning adopting, amending or repealing airport zoning regulations. Any recommendations to the regulations set forth herein or violations thereof shall be promptly transmitted to the Buchanan County Board of Supervisors and the Independence City Council for action thereon. The Commission shall enforce this Chapter through all criminal and civil sanctions available to it.

The Commission shall hear all requests for zoning changes, which shall be promptly considered and granted or denied. Should the Commission receive a request for a variance, it shall be forthwith transmitted to the Airport Board of Adjustment for action thereon.

The Commission shall adopt rules for its governance and in harmony with the provisions of this Chapter. Meetings of the Commission shall be held at the call of the Chairman and at such other times as the Commission may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Commission shall be open to the public. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the offices of the City Clerk and the County Auditor.

4. “Zoning Changes”: Any person desiring a zoning change may make application to the Airport Zoning Commission. The application shall be in writing and shall specify the reasons for the proposed change. Upon receipt of a zoning change request, the Commission shall promptly forward a copy to the Airport Manager for his opinion as to the aeronautical effects of such zoning change. If the Airport Manager does not respond within fifteen (15) days from receipt of the copy of the application, the Commission may make its decision to grant or deny the zoning change. A two-thirds (2/3) vote by the Commission shall be necessary for any action.

52.08 AIRPORT BOARD OF ADJUSTMENT.

1. “Members of Board”: There is hereby created an Airport Board of Adjustment which shall consist of five (5) members; two (2) members appointed by the Buchanan County Board of Supervisors, two (2) members appointed by the Independence City Council, and one (1) additional member to act as chairman and to be appointed by a majority vote of the members appointed by the aforementioned governing bodies.
2. “Terms of Office, Removal and Vacancies”: The terms of the members of the Airport Board of Adjustment shall be for six (6) years, excepting that when the Board shall first be created, one of the members appointed by each governing body shall be appointed for a term of two (2) years and one for a term of four (4) years with the chairman appointed to serve the full six (6) year term. Members may be removed for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was appointed.
3. “Powers and Duties”:

- a. To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Commission in the enforcement of this Chapter;
 - b. To hear and decide special exemptions or variances to the terms of this Chapter. The Board shall not grant any variance in contradiction to a state law, federal law, or federal regulation;
 - c. The Board shall adopt rules for its governance and in harmony with the provisions of this Chapter. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the offices of the City Clerk and County Auditor.
4. “Variances”: Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this Chapter, may apply to the Board of Adjustment for a variance from such regulations. No application for a variance to the requirements of this Chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Airport Manager for his opinion as to the aeronautical effects of such a variance. If the Airport Manager does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

52.09 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected by any decisions of the Board of Adjustment, may appeal to the Iowa District Court.

52.10 PENALTIES. Each violation of this Chapter or of any regulation, order or ruling promulgated hereunder shall constitute a simple misdemeanor. Each day a violation continues to exist shall constitute a separate offense. Nothing herein shall be construed to limit any civil sanctions that may also be available.

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

52.12 EFFECTIVE DATE. This Chapter shall be deemed to have been in full force and effect from and after its passage by the Independence City Council and the Buchanan County Board of Supervisors and publication and posting as required by law.

52.13 PRE-EXISTING STRUCTURES. Those structures existing prior to the effective date of this Chapter shall not be affected by the height restrictions herein; provided, however, that owners of pre-existing nonconforming structures, trees, or uses shall permit the City at its own expense to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

No pre-existing nonconforming structure, tree or use, shall be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when this Chapter was adopted.