

ORDINANCE NO. IV-4

#10

AIRPORT HEIGHT REGULATIONS AND USE OF PROPERTY IN VICINITY

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE JASPER COUNTY, IOWA, 1987, BY REPEALING ORDINANCE N-12 PERTAINING TO AIRPORT HEIGHT REGULATIONS AND USE OF PROPERTY IN VICINITY.

THIS ORDINANCE REGULATES AND RESTRICTS THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE NEWTON MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO NEWTON MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

This Ordinance is adopted pursuant to the authority conferred by Chapter 329.3 of the Code of Iowa. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Newton Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Newton Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Newton Municipal Airport and the public investment therein. Accordingly, it is declared:

1. that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Newton Municipal Airport;
2. that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
3. that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

Be It Enacted by the Board of Supervisors, Jasper County, Iowa:

Section I: Short Title

This Ordinance shall be known and may be cited as the Airport Height Regulations and Use of Property in Vicinity Ordinance.

Section II: Definitions

As used in this Ordinance, unless the context otherwise requires:

1. Airport. Newton Municipal Airport.
2. Airport elevation. The highest point of an airport's usable landing area measured in feet from sea level.
3. Approach Surface. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. Approach, Transitional, Horizontal, and Conical Zones. These zones are set forth in Section III of this Ordinance.
5. Board of Adjustment. A Board consisting of 7 members appointed by the City Council/Jasper County Board of Supervisors as provided in Chapter 329.12 of the Code.
6. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. Hazard to Air Navigation. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. Height. For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
10. Nonconforming Use. Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

11. **Nonprecision Instrument Runway.** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
12. **Obstruction.** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.
13. **Person.** An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
14. **Precision Instrument Runway.** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). It also means a precision approach system is planned and is so indicated by an FAA approved airport layout plan or any other FAA planning document.
15. **Primary Surface.** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
16. **Runway.** A defined area on an airport prepared for landing and take-off of aircraft along its length.
17. **Structure.** An object, including a mobile object constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
18. **Transitional Surfaces.** These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces 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 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
19. **Tree.** Any object of natural growth.
20. **Utility Runway.** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
21. **Visual Runway.** A runway intended solely for the operation of aircraft using visual approach procedures.

Section III: Airport Surfaces and Height Limitations

In order to carry out the provisions of this Ordinance there are hereby created an established certain surfaces which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Newton Municipal Airport. Such surfaces are shown on the Newton Municipal Airport Zoning Map which is attached to this Ordinance and made a part hereof. An area located in more than one (1) of the following surfaces is considered to be in only the surface with the more restrictive height limitation. Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any surface created by this Ordinance to a height in excess of the applicable height limit herein established for such surface. The various surfaces and such height limitations are hereby established and defined as follows:

1. **Horizontal Surface.** The horizontal surface is a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of the end of the primary surface on each end of runway 13/31 and connecting the adjacent arcs by lines tangent to those arcs.
2. **Conical Surface.** The conical surface extends outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
3. **Primary Surface.** The primary surface is a surface longitudinally centered on a runway and extends 200 feet beyond each 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. The width of the primary surface is 250 feet for runway 18/36 and the width is 1,000 feet on runway 13/31.
4. **Approach Surface.** The approach surface is a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and expands uniformly to a width of 1,250 feet for runway ends 18 and 36; 4,000 feet for runway end 13; and 16,000 feet for runway end 31. The approach surface extends for a horizontal distance of 5,000 at a slope of 20 to 1 for runway ends 18 and 36; 10,000 feet at a slope of 34 to 1 for runway end 13; and 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for runway end 31.
5. **Transitional Surface.** The transitional surface extends 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. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the

conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

Section IV: Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section V: Nonconforming Uses

1. Regulations Not Retroactive. The regulations prescribed by this Ordinance 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 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 prosecuted.
2. Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Newton City Planner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Jasper County, Iowa.

Section VI: Permits

1. Future Uses. Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section VII, 4.
 - a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
 - b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
 - c. In the area lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section IV, 7.

2. 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. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming Uses Abandoned or Destroyed. Whenever the Newton City Planner determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations. The application for variance 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. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Newton City Planner for advice as to the aeronautical effects of the variance. If the Newton City Planner does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Jasper County, Iowa at its own expense, to install, operate, and maintain the necessary markings and lights.

Section VII: Enforcement

It shall be the duty of the Newton City Planner to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Newton City Planner upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Newton City Planner shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Newton City Planner.

Section VIII: Board of Adjustment

1. It is hereby ordered that the Newton Zoning Board of Adjustment shall have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Newton City Planner in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.
2. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Ordinance.
3. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Newton City Planner or decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

Section IX: Appeals

1. Any person aggrieved, or any taxpayer affected, by any decision of the Newton City Planner made in the administration of the Ordinance, may appeal to the Board of Adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Newton City Planner a notice of appeal specifying the grounds thereof. The Newton City Planner shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Newton City Planner certifies to the Board of Adjustment, 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 opinion of the Newton City Planner cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the Newton City Planner and on due cause shown.
4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
5. The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

Section X: Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Section 414.5 of the Iowa Code.

Section XI: Penalties

Each violation of this ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than \$250.00 dollars or imprisonment for not more than 10 days or both; and each day a violation continues to exist shall constitute a separate offense.

Section XII: Conflicting Regulations

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

Section XII: Severability

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

Section XIV: Effective Date

WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Jasper County, Iowa and publication and posting as required by law.

Section XV:

The Code of Ordinances of the Jasper County, Iowa, is hereby amended by repealing Airport Height Regulations and Use of Property in Vicinity.

Section XVI: Severability Clause.

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section XVII: When Effective.

This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

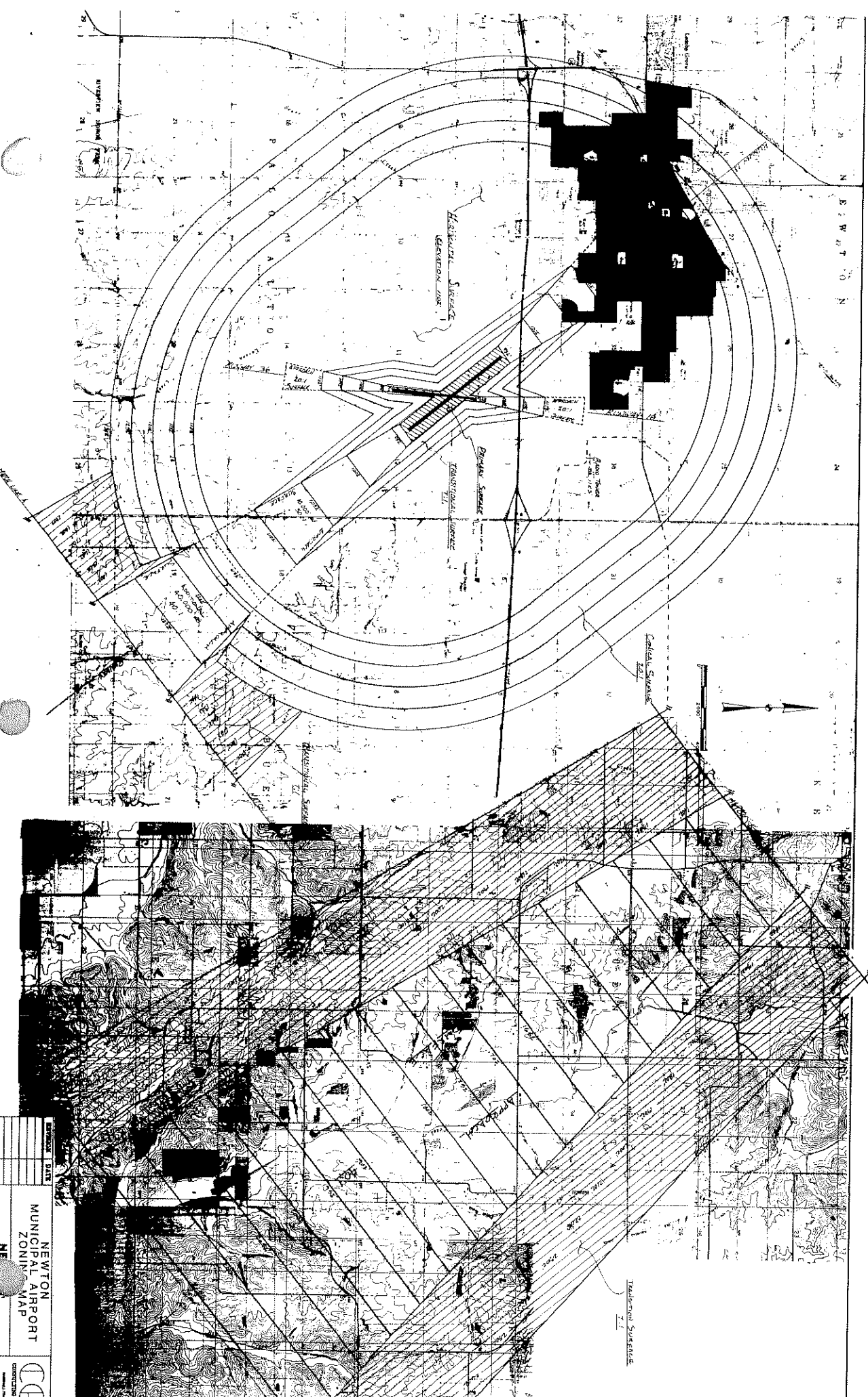
PASSED AND APPROVED by the Board of Supervisors, Jasper County, Iowa this 24th day of November, 1992.

(SEAL)


Chairman, Jasper County Board of Supervisors

ATTEST:


Linda Gifford, County Auditor



T I S C	RECORDING FEE \$ <u>5.00</u>	DATE OF <u>December</u> 19 <u>92</u> AT <u>4:00</u>	STATE OF IOWA, JASPER COUNTY:
	TRANSFER FEE \$ _____	O'CLOCK <u>P</u> M. BOOK <u>998</u> PAGE <u>559</u>	By <u>Nancy Potter</u> Recorder <u>Shirley Carter</u> Deputy

REQUEST FOR CHANGE: Jasper County Airport Height Regulations and Use of Property in Vicinity.

The Jasper County Board of Supervisors having acted officially in public hearing on November 24, 1992 to review changes to the Jasper County Zoning Ordinance Airport Height Regulations and use of property in vicinity.

After due consideration of the revised ordinance, solicitation of public comments and a vote of the Board of Supervisors of 3 Yea and 0 Nay, we do hereby approve the changes to the Ordinance #IV-4 including map.

Signed on behalf of the Jasper County Board of Supervisors.

Howard Peters Jr.
Howard Peters Jr., Chairman
Jasper County Board of Supervisors

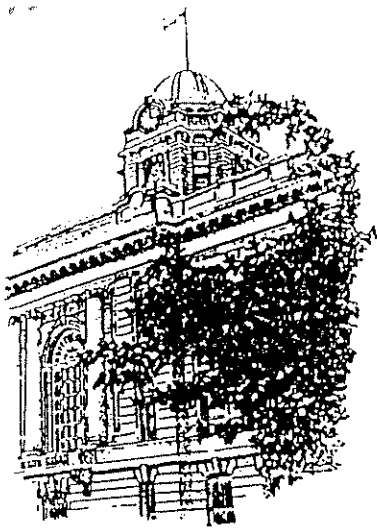
State of Iowa, Jasper County

On this 4th day of December, 1992, before me, A. J. Greve, a Notary Public in and for the State of Iowa, appeared Howard Peters Jr. personally known to be the chairperson of the Jasper County Board of Supervisors and that said request was signed by him on behalf of said Jasper County Board of Supervisors.

Witness my hand a Notarial Seal the day and year written above

A. J. Greve
Notary in and for the State of Iowa

Supervisor (Howard)



Jasper County Court House

Jasper County Auditor

and
Commissioner of Elections
Box 944
Newton, Iowa 50208
Phone 515-792-7016

Linda Gifford - Auditor
Marlena Ray - Deputy
Kay Beard - Deputy

December 1, 1992

TO: NEWTON DAILY NEWS
RE: PUBLICATION OF ORDINANCE

Please print the enclosed ORDINANCE NO. IV-4, including the map attached on the back page, in the Daily News one (1) time. Friday December 4th would be fine. If you have any questions please feel free to call 792-7016.