

# Madison County Airport Affected Area Regulations

**Adopted  
August 11, 2014**

**Madison County Board of Commissioners  
Resolution 30-2014**

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## **Section I. General Provisions**

### **A. Title**

These regulations shall be known as the Madison County Airport Affected Area (AAA) Regulations.

### **B. Authority**

Authorization for these regulations is in the Airport Compatibility Act found in Title 67, Chapter 7, MCA (2013), and applicable standards established by 14 CFR Part 77.

### **C. Purpose and Intent**

It is the purpose of these regulations to promote the public health, safety and general welfare of airport users and persons and property in the vicinity of the Ennis Big Sky and Twin Bridges Airports (Airports) by addressing the effects of noise, height of structures and trees, lighting, and land use in the vicinity of the Airports, in accordance with Section 67-7-203, MCA. These regulations are intended to protect the transportation infrastructure provided to the community by the Airports from incompatible development and protect the Airports from personal or property injury claims due to noise and hours of operations.

Madison County recognizes that agricultural lands surround the Ennis Big Sky and Twin Bridges Airports. Agriculture is important to the economy of the County and the use of this land must be balanced with the use of and regulations for the Airport. It is recognized that certain aspects of agriculture may from time to time attract wildlife and birds, which may interfere with aviation. These intermittent occurrences are not prohibited by these regulations. Uses which attract birds on a regular and continuing basis, such as garbage dumps, landfills, or sewage lagoons, are not allowed.

### **D. Designation of Airport Affected Area**

The Madison County Airport Board held a public hearing on July 14, 2014, and the Board of Madison County Commissioners held a hearing on August 11, 2014, before the Airport Affected Areas (AAA) were designated, after notice was published according to Section 7-1-2121. A draft of these regulations was addressed at these hearings and public comment was taken and considered.

The Board of Madison County Commissioners has the authority to adopt regulations to prevent the creation of airport hazards, establish an airport affected area, and such other regulatory powers as provided by Montana Code Annotated § 67-1-101 et seq. Uncontrolled uses, development and growth (manmade or natural), lights, radio broadcasts, and electromagnetic

emissions in the vicinity of either airport could create obstructions or hazards to navigation, air traffic or airport operations with risk of harm to property and serious injury or death to persons navigating in the airspace or on the ground. Reasonable regulations to eliminate, remove and mitigate existing and potential obstructions and hazards are necessary to comply with applicable local, state and federal laws, and promote public health, safety and general welfare.

The Airport Affected Area (AAA) for each airport is described in APPENDIX A, Madison County Airport Reference and shown in APPENDIX B, Airport Affected Area Drawings (AAA Drawing). The AAA encompasses the entire 14CFR, Part 77 surfaces which are illustrated in APPENDIX C. APPENDIX D, Airport Airspace Drawings, are from the FAA approved Airport Layout Plan (ALP) set for each airport. The Airport Airspace Drawing also identifies existing airport hazards and natural terrain penetrations that intrude in the Part 77 surfaces. The legal descriptions of the AAAs are found on an attachment to the sheet(s) and are separately recorded. The AAA Drawings are recorded with the Madison County Clerk and Recorder and on file with the Twin Bridges Town Clerk.

## **E. Jurisdiction**

### **1. Ennis Big Sky Airport**

The AAA for the Ennis Big Sky Airport is located entirely within the jurisdictional area of the Madison County Commissioners. Madison County shall be exclusively responsible for the administration and enforcement of the provisions of these regulations for those areas affected.

### **2. Twin Bridges Airport**

The AAA for the Twin Bridges Airport is located entirely within the jurisdictional area of Madison County Commissioners. Madison County shall be exclusively responsible for the administration and enforcement of the provisions of these regulations for those areas affected.

## **F. Severability**

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment affects only the part held invalid.

## Section II. Definitions

### A. Definitions Generally

Definitions which generally apply to title 67 and to these regulations are found in Section 67-1-101, MCA. In addition, definitions specific to the Airport Compatibility Act are found in Section 67-7-103, MCA. The Airport Compatibility Act allows definitions from 14 CFR, Part 77 to apply to these regulations as well. The following definitions apply to these regulations. If there is a conflict in interpretation between Title 67 or 14 CFR, Part 77 and these regulations, the more restrictive applies.

### B. Definitions Specifically

<b>Administration Officer</b>	Any person or persons designated or appointed by the County Commissioners with the authority to investigate complaints, interpret the regulation, issue permits, orders or decisions and generally administer the regulation.
<b>Adjacent landowner</b>	Each owner of record, and each purchaser under contract for deed of property immediately adjacent to the land being proposed for a variance.
<b>Aeronautical Areas</b>	Those areas of the airport property shown on maps for existing and future aviation needs such as runways, hangars, aprons, taxiways, taxi lanes, airspace protection, etc.
<b>Agricultural Activity</b>	Cultivation of the soil, farming, ranching, raising livestock or dry grain crops and all incidental uses including irrigation, crop rotation, harvesting, livestock processing, storage, maintenance or repair of related equipment and other incidental activities.
<b>Airport</b>	The Ennis Big Sky or Twin Bridges Airport.
<b>Airport Affected Area (AAA)</b>	The land and space above the ground surface of an airport in the proximity of the airport, the use of which may be affected by the airport's existence, and includes zones which are delineated areas on the ground which lie beneath the horizontal surface, the conical surface, the primary surface(s), the approach surfaces and the transitional surface(s) as described in 14 CFR, Part 77 and in these regulations.

<b>Airport Affected Area Map</b>	The official airport affected area map that shows the jurisdiction and application of this regulation and defines the zones and surfaces. If any land, use, structure, action or activity subject to this regulation is located partially within and partially outside the airport affected area, then only the portion located within the airport affected area shall be subject to this regulation.
<b>Airport Affected Area Permit</b>	The permit required pursuant to these regulations referred to as Airport Affected Area Permit (AAP), permit, or conditional permit.
<b>Airport Appeals Board</b>	The Madison County Airport Board appointed by the governing body that shall: hear and decide appeals from the determinations, decisions or orders of the Administration Officer; hear and decide variance requests; and hear and decide any and all special exceptions.
<b>Airport Board</b>	The Madison County Airport Board.
<b>Airport Elevation</b>	The highest point of elevation on the Airport's established runways measured in feet above mean sea level (MSL) and based on the North American Vertical Datum of 1988 (NAVD 88), set at 5,422.9 feet for the Ennis Big Sky Airport and 4,788.7 feet for the Twin Bridges Airport.
<b>Airport Layout Plan (ALP)</b>	The most recent graphic depiction of existing conditions and future proposed development for an airport adopted by the Board of County Commissioners. An ALP typically consists of several drawings, each intended to depict specific information about the airport, and an ALP report explaining the reasoning behind, and important features of, the ALP.
<b>Airport Property Area</b>	The land owned by Madison County and designated for airport use.
<b>Airport Owner</b>	Madison County, the local government body that owns the airports.
<b>Approach Surface</b>	A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. See <i>Surfaces and APPENDIX C</i> .

<b>Areas</b>	Any land within any of the airport affected area boundaries shown on the airport affected area map.
<b>CFR</b>	Code of Federal Regulations
<b>Change of Use</b>	Any change in the use of land, including development of structures, activities or action, such that taken as a whole the use of land would reasonably be viewed as changing the use as described in Table 1 - Change of Use.
<b>Conical Surface</b>	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. <i>See Surfaces and APPENDIX C.</i>
<b>Electromagnetic Effect</b>	Any interference or impediment to the transmission or quality of navigation or communication signals to or from aircraft, meteorological equipment, navigation equipment, communications equipment, or air traffic control facilities caused by a power source, radio frequency transmitter, or an object or surface that emits, reflects or re-radiates an electromagnetic signal or electrical pulse.
<b>FAA</b>	The Federal Aviation Administration.
<b>Governing Body</b>	The Board of Madison County Commissioners.
<b>Hazard / Obstruction</b>	Any structure, object of natural growth, or use of land that obstructs the air space required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to landing or taking off, navigation, air traffic or airport operations. Obstructions or hazards are used interchangeably and include lights, radio or electromagnetic emissions or any other thing that creates or causes unreasonable risks or interference with landing or taking off, navigation, air traffic or airport operations.
<b>Height</b>	The vertical difference in feet and inches between the highest point of a structure or tree and the ground where the structure or tree is located.
<b>Height relative to airport elevation</b>	The vertical difference in feet and inches between the highest point of a structure measured above mean sea level and the airport elevation and using the same vertical datum.

<b>Horizontal Surface</b>	A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet for all runways designated as utility or visual. <i>See Surfaces and APPENDIX C.</i>
<b>Imaginary Surface</b>	<i>See Surfaces and APPENDIX C.</i>
<b>Limited Development Area</b>	Those areas surrounding the airport property and runway protection areas but within the AAA.
<b>MCA</b>	Montana Code Annotated
<b>Non-aeronautical Areas</b>	Airport property outside of the aeronautical areas that might be suitable for uses not necessitating direct access to the airport pavements.
<b>Nonconforming Structure / Use</b>	Any preexisting structure, tree or other object of natural growth or use of land that is lawfully in existence when these regulations become effective, but does not conform to the height or use provisions of these regulations.
<b>Obstruction</b>	<i>See hazard / obstruction.</i>
<b>Permit</b>	<i>See airport affected area permit.</i>
<b>Person</b>	Any individual person, partnership, corporation, association, limited liability company, professional liability company, government board, agency or department, or other legal entity private or public.
<b>Primary Surface</b>	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; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at 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 a primary surface is: <ul style="list-style-type: none"> <li>(1) 250 feet for utility runways having only visual approaches.</li> <li>(2) 500 feet for utility runways having nonprecision instrument approaches.</li> </ul> <i>See Surfaces and APPENDIX C</i>

<b>Regulation</b>	The Madison County Airport Area Affected Regulation including all provisions, herein, and any definitions, maps or drawing that are expressly incorporated by reference and all of which shall be referred to as this regulation.
<b>Runway</b>	The defined and prepared surface of an airport, suitable for landing or taking off by aircraft, as well as planned extensions documented on the ALP Drawing.
<b>Runway Protection Area</b>	The land delineated on the ground encompassing the runway protection zones as defined by the most recent version of FAA Advisory Circular 150/5300-13A, "Airport Design." The Runway Protection Areas for the runways at the Ennis Big Sky and Twin Bridges Airports are shown on the AAA Drawings
<b>Special exception</b>	Any conditional permit or approval granted by the Airport Appeals Board after a public hearing pursuant to this regulation.
<b>Structural Penetration</b>	Unless an exemption applies – whenever any proposed structure or use, change of use, or replacement, rebuild, or substantial alteration, actions or activity (except trees) penetrates any surface or surfaces then permit review for obstructions and hazards shall be required.
<b>Structure</b>	An object forty feet (40') or taller, constructed or installed by any person, including but not limited to buildings, towers (cell or otherwise), radio antennae, cranes, smoke stacks, earth formations, overhead transmission lines, and any other things manmade.
<b>Substantial Damage</b>	Damage of eighty percent (80%) or more of any structure from any cause, including natural deterioration or decay, fire, storm or natural causes.
<b>Surfaces</b>	The airport imaginary surfaces for existing and planned development of the airport shown on the airport affected area map that include approach, conical, horizontal, primary and transitional surfaces. <i>See APPENDIX C.</i>
<b>Terrain Penetration</b>	Any natural land surface that penetrates into any of the civil airport imaginary surfaces as defined in 14 CFR, Part 77.25.
<b>Threshold</b>	The beginning of the portion of a runway which is available for landing.

<b>Transitional Surface</b>	<p>These surfaces extend 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 centerline.</p> <p><i>See Surfaces and APPENDIX C.</i></p>
<b>Tree</b>	<p>Any naturally growing vegetation, deciduous, coniferous or otherwise, or other naturally growing object greater than forty feet (40') above the ground.</p>
<b>Variance</b>	<p>An allowed deviation from the height or use requirements of these regulations.</p>
<b>Vicinity Sketch</b>	<p>An 8 ½ x 11, non-reduced copy of a portion of a 7.5 minute USGS Quadrangle Map showing the location of the proposed structure, tree or land use in relation to property or section lines and identifies the ground elevation at the proposed location. The Vicinity Sketch must include the name of the USGS map copied, the Township and Range of the area shown, and the horizontal and vertical data upon which the map is based (typically found in the lower right-hand corner of the map).</p>
<b>Zones</b>	<p>The ground beneath an imaginary surface of the same name.</p>

### **Section III. Administration**

#### **A. Appointment of Administration Officer**

The Madison County Planner who shall be known as the "Administration Officer" shall serve as the county's representative to issue permits and variances under these regulations and to administer the regulations, with all necessary authority and power to supervise, interpret, administer, adopt permit and variance forms, issue permits and enforce this regulation, including: may monitor and inventory all structures and uses in the airport affected area; shall determine and decide if any proposed structure or use would cause or create an obstruction or hazard; shall investigate any complaints regarding violations of this regulation, issue notices of violation and seek all available remedies.

## **B. Permit Fees and Application Forms**

An administrative fee shall be assessed for processing permits, special exceptions and variances as set by resolution of the Madison County Commissioners and paid to Madison County. The fees shall be based on a basic permit with additive fees for each special exception and for each variance requested, as described in APPENDIX E.

The Administration Officer shall establish the permit, variance and special exception applications that must include:

- Sufficient information to identify the owner and adjacent owners;
- Vicinity sketch;
- Site plan or survey locating all existing and proposed uses, trees, structures or changes, alterations, repairs, replacements as applicable;
- Description of all sources of lighting, radio, or electromagnetic emissions or other information reasonably necessary for the Administration Officer to review the application and determine if hazards or other obstructions will be created.

Applications must be executed by the owner before a notary with representations as to the accuracy and truthfulness of the information. No permit fee shall be required for trees.

## **C. Airport Affected Area Permit**

As required by MCA 67-7-212, the permit required pursuant to these regulations shall be referred to as Airport Affected Area Permit (AAP) or permit.

The purpose of the permitting process is to allow the Administration Officer to monitor the height of structures or trees and the uses in the AAA and to advise those members of the public who wish to change or add structure, trees or uses that there are legal restrictions on that activity, in order to protect the public health, safety and general welfare as well as to protect the current flying operation at the airport and those expected in the future. A permit must be obtained before the changes or additions are made.

### **1. Exemptions**

In all surfaces and zones the installation, erection, repair, replacement or construction of fences and fence lines not exceeding ten feet in height and agricultural activities are exempt. In the conical and horizontal surfaces and zones – structures not exceeding 40' in height shall be allowed without a permit. In the transitional surface and zone – uninhabited structures not exceeding 15' in height above ground, including sheds, storage buildings, garages and other uninhabited structures setback a minimum 25' from the property line shall be allowed without a permit.

## **2. Permit Required**

Within the Airport Affected Area the Airport Affected Area Permit must be obtained from the Administration Officer before any person:

- (a) Constructs, erects or installs any structure, including rebuilding, altering, expanding, or enlarging an existing structure, such that the structure exceeds FORTY FEET (40') in height above natural grade or penetrates the height of the imaginary surface where the structure is located;
- (b) Plants new trees or replaces trees which are expected to grow taller than forty feet (40') in height; or
- (c) Changes the use of land as defined in this regulation.

## **3. No Permit Required Other Agency Review**

Any "action or activity", including construction, alteration, enlargement, expansion, intensification or erection of any new or proposed structure whether nonconforming or otherwise, use or change of use, shall be allowed without a permit under this regulation if the action or activity is subject to and approved by the appropriate administrative agency or department pursuant to any of the following: Madison County Subdivision Regulations; Montana Open Pits Mining Act; Madison County Gravel Pits Regulations; applicable Zoning Regulations; Federal Aviation Administration; or any other local, state or federal administrative regulation that requires an environmental assessment or environmental impact statement as part of the review or permit process.

## **4. Procedure for Obtaining a Permit**

### **a. Submit fee and application**

Submit to the Administration Officer the fee and completed application with supporting drawings, narratives and documents required for the application.

- Tree – Include a description of the planned tree(s), including species and expected height at maturity, and existing height relative to the ground. There is no fee for trees.
- Structure – include a drawing with enough detail to determine height of the structure above ground level
- Use Change – include a description of the existing use and proposed use of the land or structure, explaining why that proposed use is permitted under these regulations.

### **b. FAA Notification by Form 7460-1**

The completed application must clearly indicate to the Administration Officer that the proposal will not penetrate any of the surfaces. Where

there is a question, a variance and FAA Form 7460-1 will be required. If FAA notification by Form 7460-1 is required, consultation with the FAA is recommended.

**c. Airport Board Consultation**

The requested permit may be discussed with the Airport Board prior to making a decision about whether or not to grant the permit. The requested permit must be set forth as an agenda item in the notice for the meeting of the Airport Board and public comment allowed.

**d. Special Exceptions, Variances**

Special exceptions and variances are presented to the Airport Board as noted in Section III.D and Section III.E and require approval by the Airport Board before the permit is issued.

**e. Decision**

Taking into consideration consultation with the Airport Board, the FAA, and any public comment, the Administration Officer shall grant, grant with conditions or deny the requested permit in writing, explaining the decision. The decision by the Administration Officer may be appealed to the Airport Appeals Board, pursuant to Section 67-7-302, MCA and as described in Section III.G.

**D. Special Exceptions Approval**

Any person may apply to the Airport Appeals Board for special exceptions approval without first applying for a permit from the Administration Officer. In addition, whenever the Administration Officer determines that a permit might be issued subject to conditions to reasonably mitigate potential hazards or obstructions, then the Administration Officer may recommend that the applicant seek special exceptions approval from the Airport Appeals Board. Special exceptions may be granted by the Airport Appeals Board only upon public hearing and notice and consideration of permit criteria, special exceptions criteria, and provisions of this regulation.

**1. Special Exceptions Criteria**

A special exception granted pursuant to this regulation may:

- (a) Require the owner of a structure to allow the governing body, at the owner's expense, to install, operate and maintain markers or lights to warn pilots of the presence of a hazard or obstruction;
- (b) Limit or condition any sources of light, radio or electromagnetic emissions;
- (c) Limit or condition hours of operations, activities, actions or uses that might unreasonably interfere with flight, navigation, air traffic or airport operations or cause a hazard or obstruction; or

- (d) Require such other conditions, restrictions or covenants reasonable necessary to promote public health and safety on the ground and / or in the air in the airport affected area.

## **E. Variances**

The variance procedure is consistent with the requirements of MCA 67-7-303.

### **1. When A Variance is Required**

Any person intending to erect or increase the height of a structure or use property in a manner that is not in accordance with the strict requirements of this regulation must obtain a variance from the Airport Appeals Board. In addition to the information required for a permit application, the variance application must include an explanation of the substantial practical difficulty or unnecessary hardship and any public interests that might be impacted. A variance application must include notice to the Federal Aviation Administrator on FAA Form 7460-1 (or such other updated forms) if required by FAA rules or regulations.

### **2. Circumstances for Granting a Variance**

To grant a variance, the applicant must demonstrate that a literal application or enforcement of the regulations would result in substantial practical difficulty or unnecessary hardship, the variance would not be contrary to the public interest, and when the noise or vibrations from normal and anticipated normal airport operations would not be likely to cause damage to the proposed structures.

- a. A variance must be granted when a literal application or enforcement of this regulation would result in substantial practical difficulty or unnecessary hardship; and when the variance would not be contrary to the public interest.

A variance is not contrary to the public interest when it is determined, after review by the County and after consultation with the FAA, that there is no hazard to air navigation or to persons and property in the vicinity of the airport and when the noise or vibrations from normal and anticipated normal airport operations would not be likely to cause damage to structures. Public interest considerations also include, but are not limited to, the annoyance by the airport operations and hours on the intended users of the structures; long term impacts on airport viability; and compatibility with airport operations.

- b. A variance must be granted for a nonconforming use when there is no immediate hazard to safe flying operations or to persons and property

in the vicinity of the airport and when the noise or vibrations from normal and anticipated normal airport operations would not be likely to cause damage to structures.

### **3. Conditions Imposed on a Variance**

Conditions may be imposed for granting the variance, including, but not limited to, a requirement that the owner of a structure or tree pay for the installation, operation and maintenance of lights and markers necessary to warn pilots of the presence of an AAA obstruction. Madison County may install the lights or markers. If it is impractical to mark a tree, the marking will not be required.

Whether or not the FAA determines there is a hazard to air navigation, FAA recommended mitigation must be a condition of granting the variance.

### **4. Notice to Applicant**

Granting of a variance puts the person who builds a structure pursuant to that variance or buys property for which a variance has been granted on notice the airport existed before the variance was granted and that noise, fumes, vibrations, light, or any other effects from normal and anticipated normal airport operations may occur.

## **F. Permit Criteria**

As required by MCA 67-7-212, a permit may not be granted that would allow the establishment of an airport hazard or that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this regulation. Permits shall be granted unless the Administration Officer finds that the structure or use, change of use, or replacement, rebuild, or substantial alteration, actions or activity would create a hazard or obstruction. If the Administration Officer cannot with reasonable certainty rule out the possibility that a hazard or obstruction might be created, enlarged, or increased then the Administration Officer may deny the permit. The Administration Officer may require mitigation against the establishment of hazards or obstructions, including but not limited to: requirements that the owner install and maintain markers or lights at the owner's expense necessary to warn pilots of the presence of a potential hazard or obstruction; limit or condition any sources of light, radio or electromagnetic emissions; limit or condition hours of operations of uses that might interfere with navigation, air traffic or airport operations; wildlife attractant mitigation.

### **1. Special Terrain Conditions**

In the conical and horizontal zones, penetration of an imaginary surface due to existing ground elevation shall not prohibit the proposed structure,

use, change of use or replacement, rebuild, or substantial alteration, actions or activity if:

- (1) No hazard or obstruction is established, enlarged or intensified; or
- (2) The conditions required by a special exception would reasonably mitigate against potential hazards or obstructions.
- (3) In the conical and horizontal surfaces and zones structures not exceeding 40' in height shall be allowed without a permit and shall not constitute a hazard or obstruction in the conical and horizontal zones.

## **2. Special Transitional Zone Conditions**

In the transitional zone, penetration of the imaginary surface due to the height of the proposed structure shall not prohibit the proposed structure, use, change of use or replacement, rebuild, or substantial alteration, actions or activity if:

- (1) No hazard or obstruction is established, enlarged or intensified; or
- (2) Conditions required by a special exception would reasonably mitigate against potential hazards or obstructions.
- (3) In the transitional surface and zone structures not exceeding 15' height above ground, including sheds, storage buildings, garages and other uninhabited structures or buildings, shall be allowed without a permit provided that setback of 25' from the property line is maintained.

## **3. Marking Structures**

### **a. Marking Nonconforming Structures**

With written notification, a property owner shall allow the governing body to install, operate and maintain lights and markers necessary to warn pilots of a nonconforming use at the governing body's expense.

### **b. Marking Structures Conditional Permits**

If required by a special exception, variance, or decision or determination following an appeal, the owner of a structure shall allow the governing body to install, operate and maintain markers or lights to warn pilots of the presence of a hazard or obstruction at the owner's expense.

## **G. Appeals**

The process and procedure before the Airport Appeals Board shall be consistent with this regulation and as required by MCA 67-7-302; MCA 76-2-223; and MCA 76-2-225 through MCA 76-2-228.

### **1. Written Submittal**

An appeal from a decision by the Administration Officer must be submitted, in writing, to the Airport Appeals Board, within thirty (30) days of the written decision by the Administration Officer. Appeals may be filed by the applicant, by any aggrieved person or taxpayer or by the governing body of a political subdivision and must state, with specificity, the basis of the appeal and provide a complete record, including documents, photographs, maps, surveys, and transcript of any public hearings. Untimely appeals shall not be considered and shall constitute a full waiver of any right to contest the issues therein, or issues that may have been appealable. An unsuccessful appellant may appeal further to a court of record.

### **2. Not Applicable to FAA Determinations**

This appeal process does not apply to a determination by the FAA that a requested obstruction would create a hazard to air navigation.

## **H. Public Hearing Special Exceptions, Variances and Appeals**

A requested variance will not be scheduled for discussion by the Airport Board until the FAA has made a determination, pursuant to Form 7460-1, whether or not there is a hazard to air navigation. The process and procedure before the Airport Appeals Board shall be consistent with this regulation and as required by MCA 67-7-302; MCA 76-2-223; and MCA 76-2-225 through MCA 76-2-228.

### **1. Notice and Posting**

The person requesting a special exception, variance or appeal must notify all adjacent landowners by first class US mail at least ten (10) days before the Airport Appeals Board public hearing and the notice must include the date, time and place of the public hearing with a copy of the application and any sketches, maps, surveys or photographs of other documents that might be submitted at the public hearing. At least ten (10) days before the scheduled public hearing the subject property must be posted with a Notice and in manner approved by the Administration Officer. Mailing to the last known addresses as shown in the public records of Madison County shall be adequate notice. An affidavit by the applicant or applicant's agent attesting to proof of mailing and posting shall be provided to the Airport Appeals Board prior to the commencement of the scheduled public meeting.

### **2. Public Meetings Law**

The Airport Appeals Board must notice and conduct the public hearing and give notice in accordance with public meetings law, MCA 7-1-2121, and shall allow reasonable time for the applicant, opponents and any

other public comment, including FAA comments, recommendations or reports if applicable. The Administration Officer may make recommendations in a written staff report to the Airport Appeals Board. The Airport Appeals Board must make written findings of fact and determine if based on the evidence presented the applicant has met the criteria for the granting of a variance, special exception or appeal. If not the Airport Appeals Board must make written findings of fact and deny the requested relief.

### **3. Airport Appeals Board Decision**

In reviewing, granting or deciding any special exception, variance or appeal the Airport Appeals Board may in conformity with the provisions of this regulation and governing statutes, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

### **4. Findings of Fact Required**

In granting or denying any special exceptions, variances, and appeals the Airport Appeals Board shall provide findings of fact, giving consideration to the conditions or criteria required by this regulation, the owner's rights, the number and height of the proposed structures, use and occupancy, and affects or impacts, if any, on public health, safety and general welfare and the general intent and purpose of this regulation. The Administration Officer may provide recommendations and a staff report to assist the Airport Appeals Board regarding any special exceptions.

#### **I. Enforcement**

The Administration Officer is the agent designated by the County Commission to enforce these regulations. Written notice of a violation must be given by the Administration Officer to the violator, specifying how these regulations have been violated, how the violation can be remedied and setting a reasonable deadline for the correction of the violation, prior to the imposition of a penalty. The penalty provisions of these regulations must also be included in the notice.

#### **J. Penalty**

As required by MCA 67-7-304, a person who violates this regulation, or condition of any permit or variance, or does not correct a violation, after notification that person is subject to a civil penalty and a criminal penalty.

##### **1. Civil Penalty**

The civil penalty is a fine of \$100 for each day that the violation is not remedied after the County Commission has determined there is a

violation for which a fine should be assessed against the violator, has given its own written notice of the violation to the violator, has held a hearing on the violation and has provided a written determination to the violator that there is a violation.

## **2. Criminal Penalty**

In addition to or separate from the civil penalty, the County Attorney may file misdemeanor criminal charges for a violation of these regulations. Pursuant to Section 45-2-104, MCA, a person is absolutely liable for a violation of these regulations. Upon conviction a fine of \$500 must be imposed.

## **K. Injunction**

Madison County or Town of Twin Bridges may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of MCA § 67-7-101 et seq, or this regulation.

## **L. Immunity**

### **1. Generally**

After the designation of an AAA, a person may not recover damages from a local government, an airport operator, or an airport owner for any injury caused by noise, fumes, vibrations, light, or any other effects from normal and anticipated normal airport operations.

### **2. After granting a variance**

A person owning or using a structure built pursuant to a variance may not collect damages from a governing body or local government or from an airport operator, or airport owner for interference with the enjoyment of that structure caused by noise, fumes, vibrations, light, or any other effects from normal and anticipated normal airport operations.

## **Section IV. Airport Affected Area (AAA)**

### **A. Introduction**

Utilizing its police power, the Madison County Commission designated an AAA for the Ennis Big Sky and Twin Bridges Airports in accordance with Section 67-7-201, MCA. The AAA includes the land surrounding the runways and the space or surfaces above that land.

Height restrictions for zones and land use restrictions in specified areas found in these regulations are meant to be reasonable and are designed to promote the health, safety and general welfare of airport users and persons and property in the vicinity of the airport, taking into consideration the character of

the flying operations conducted or expected to be conducted at the Airport, the nature of the terrain, future development of the Airports, and FAA recommendations for aeronautical surfaces necessary for safe flying operations. In addition, these regulations protect the Airports and its operations from uses which may infringe on airport operations and result in liability to the Airports.

**B. Surfaces and Zones**

A zone is the ground beneath an imaginary surface of the same name. Zones and surfaces as shown on the airport affected map establish standards for determining obstructions or hazards to air navigation. The zones are based on the FAA aeronautical surfaces described in 14 CFR, Part 77 and shown in APPENDIX C.

**Section V. Change of Use**

**A. Land Classification for Determining Change of Use**

The uses and descriptions in **Table 1 - Change of Use** shall be used to determine if a change of use has occurred for the purposes of required permit review. A change of use from one category to another shall require permit review.

**Table 1 - Change of Use**

<b>Use</b>	<b>Description</b>
Airport	Airport runway, tarmac, hangars, and other associated structures and uses.
Agricultural	Cultivation of the soil, farming, ranching, raising livestock or dry grain crops and all incidental uses including irrigation, crop rotation, harvesting, livestock processing, storage, maintenance or repair of related equipment and other incidental activities.
Business	Retail stores and services, restaurants, convenience stores, casinos, hotels, motels, bed and breakfast, filling stations, office buildings, and other general business uses, auto repair, and other general non-industrial / commercial businesses.
Cemeteries	Burial grounds, cemeteries, funeral homes and related uses.
Communications	Broadcasting, public communications or communication utilities, TV, radio, microwave and cellular towers and related uses, facilities or structures.
Education	Nursery and pre-nursery, elementary, grade, junior high and high schools day care centers [but not home day care or home based nursery schools], adult schools, district offices, universities, colleges, and junior colleges, including related facilities, playing fields, stadiums and grounds.

<b>Use</b>	<b>Description</b>
Government Special	Defense installations, military training facilities, military ranges, and related facilities, structures and uses.
Industrial / Commercial	Manufacturing, warehousing, refining, smelting, fabrication, assembling, heavy equipment operations, auto wrecking / junkyards, and other commercial uses involving production, storage, processing or refinement of goods and related facilities, structures or uses.
Parks, Open Space & Recreation	Community parks, playgrounds, golf courses, riding academies or equestrian centers, recreation complexes, open space, reserves, nature conservatories, and other recreational lands whether privately or publicly owned.
Public Facilities	Local, state or federal government buildings or offices, civic centers, libraries, community buildings, offices, police, fire, emergency and related facilities, structures and uses.
Religious	Churches and other places of worship.
Residential MF	Multi-family homes, dwellings, apartment buildings, townhouses, mobile home or manufactured home parks and related accessory buildings, structures and uses.
Residential SF	Single-family homes, dwellings and related accessory buildings, structures and uses.
Utilities	Sewage, waste water and water treatment facilities, and municipal water storage or water towers including related facilities and uses.

## **Section VI. Nonconforming Uses**

It is not the purpose or intent of these regulations to require removal or alteration of any existing structure or tree or to require the cessation or alteration of a use that is lawfully in existence when these regulations become effective. However, it is assumed nonconforming uses will not continue forever. The following provisions are designed to reasonably address nonconforming uses or structures or trees.

### **A. Documentation of uses and structures and trees**

The Administration Officer shall document, to the best of the Officer's ability and within a reasonable time after adoption of these regulations, those existing uses of land and the existence of structures or trees found in the AAA, with an estimate of the height of structures or trees.

### **B. Nonconforming uses of land**

Any lawful use of land in existence when these regulations become effective may continue, but reconstruction of a structure which contains a nonconforming use after destruction or substantial damage which affects that

use may be prohibited. Any addition to or remodel of structure containing a nonconforming use requires a variance under these regulations.

**C. Nonconforming structures or trees**

Existing structures or trees may continue to exist but their expansion or additional growth is prohibited unless a variance is obtained under the provisions of these regulations.

**D. Substantial damage to a nonconforming use**

“Substantial damage” occurs when 80% or more of a structure or tree is deteriorated or decayed or when that structure or tree has been torn down or destroyed. The Administration Officer has the authority to determine substantial damage. A substantially damaged structure or tree, which is nonconforming, may not be reconstructed or replaced without first obtaining variance under the provisions of these regulations and then obtaining a permit.

**E. Maintaining nonconforming trees**

After identification of trees in place at the time these regulations become effective, the County may trim those trees, at its expense, to maintain their heights at the time of identification.

**F. Marking nonconforming trees or structures**

If the County elects to install, operate and maintain, at its own expense, lights and markers necessary to warn pilots of a nonconforming use, the owners of those structures or trees shall allow this activity.

**G. Residential land uses**

If land in an area in which residential use is not permitted by these regulations has been developed for that use or platted for that use, the residential use may continue, but existing owners must be notified by the Administration Officer that the lots are within an adopted AAA within a reasonable time after its designation. It is the responsibility of those owners to notify subsequent purchasers of the property that the property is in an AAA and may be affected by these regulations.

**Section VII. Amendment of Regulations**

These regulations may be amended by following the same procedure for adoption as set forth in Section 67-7-201 (5), MCA. If appropriate, other boards or commissions may be involved.

## **Section VIII. Additional Provisions**

### **A. Acquisition of property rights**

A political subdivision within which a property or nonconforming use is located, or a political subdivision owning an airport or served by an airport may protect that airport by utilizing statutory rights set forth in Section 67-7-210, MCA, eminent domain and other sections found in Title 67.

### **B. Relationship of AAA regulations to zoning ordinances**

If a governing body has adopted a zoning ordinance or resolution and there is a conflict between these regulations and the zoning ordinance or resolution, the more stringent limitation or requirement prevails.

## **APPENDIX A. Madison County Airport Reference**

### **Airport Affected Areas**

Ennis Big Sky: The AAA perimeter for the Ennis Big Sky Airport is described by swinging 14,000-foot radius arcs from points on the extended Runway 16-34 centerline, 200 feet beyond each runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plane grid coordinates for these two centerpoints are N-384,615.953, E-1,415,328.524 and N-377,619.007, E-1,415,550.565.

The AAA for Ennis Big Sky omits those areas in Sections 14, 22, 23, 26, 27, 34, 35, T6S, R1W and Sections 2, 3 and 11 in T7S, R1W, PM as they are over 200 feet below the airport elevation (Over 400 feet below the overlying horizontal surface). Structures exceeding 200 feet are still required to be evaluated through FAA Form 7460-1.

Twin Bridges: The AAA perimeter for the Twin Bridges Airport is described by swinging 14,000 radius arcs from points on the extended Runway 17-35 centerline, 200 feet beyond each runway threshold, and connecting the adjacent arcs by lines tangent to those arcs. The state plane grid coordinates for these two centerpoints are N-485,090.083, E-1,251,558.642 and N-478,709.673, E-1,251,058.272.

The AAA for Twin Bridges omits those areas in Sections 15, 16, 21, 22, 27, 28, 33, T3S, R6W, and the Town of Twin Bridges boundaries as of the effective date of these regulations as they are outside the transitional and approach zones and are more than 150-feet below the airport elevation (300-feet below the overlying horizontal surface). Structures exceeding 200-feet are still required to be evaluated through FAA Form 7460-1.

### **Airport Elevations**

The elevation of the Ennis Big Sky Airport is 5,422.9 feet.  
The elevation of the Twin Bridges Airport is 4,788.7 feet.

### **Runways**

The Ennis Big Sky Airport runway is 6,600-foot by 75-foot paved and oriented N03°23'22" E (True).

The Twin Bridges Airport runways are 6,000-foot by 75-foot paved - oriented at N 02°26'09" E (True) and 3,400-foot by 110-foot turf oriented at N 83°35'09" E (True).

**APPENDIX B.      Airport Affected Area Drawings**

B1. Ennis Big Sky Airport Affected Area

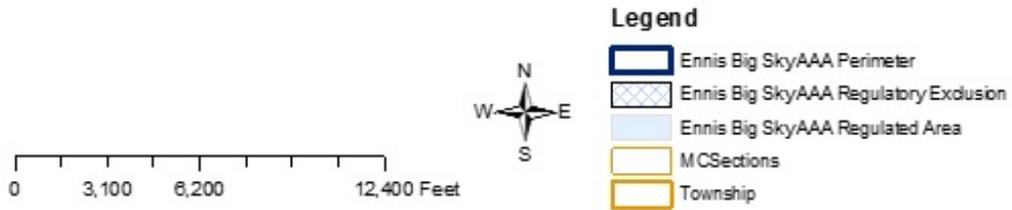
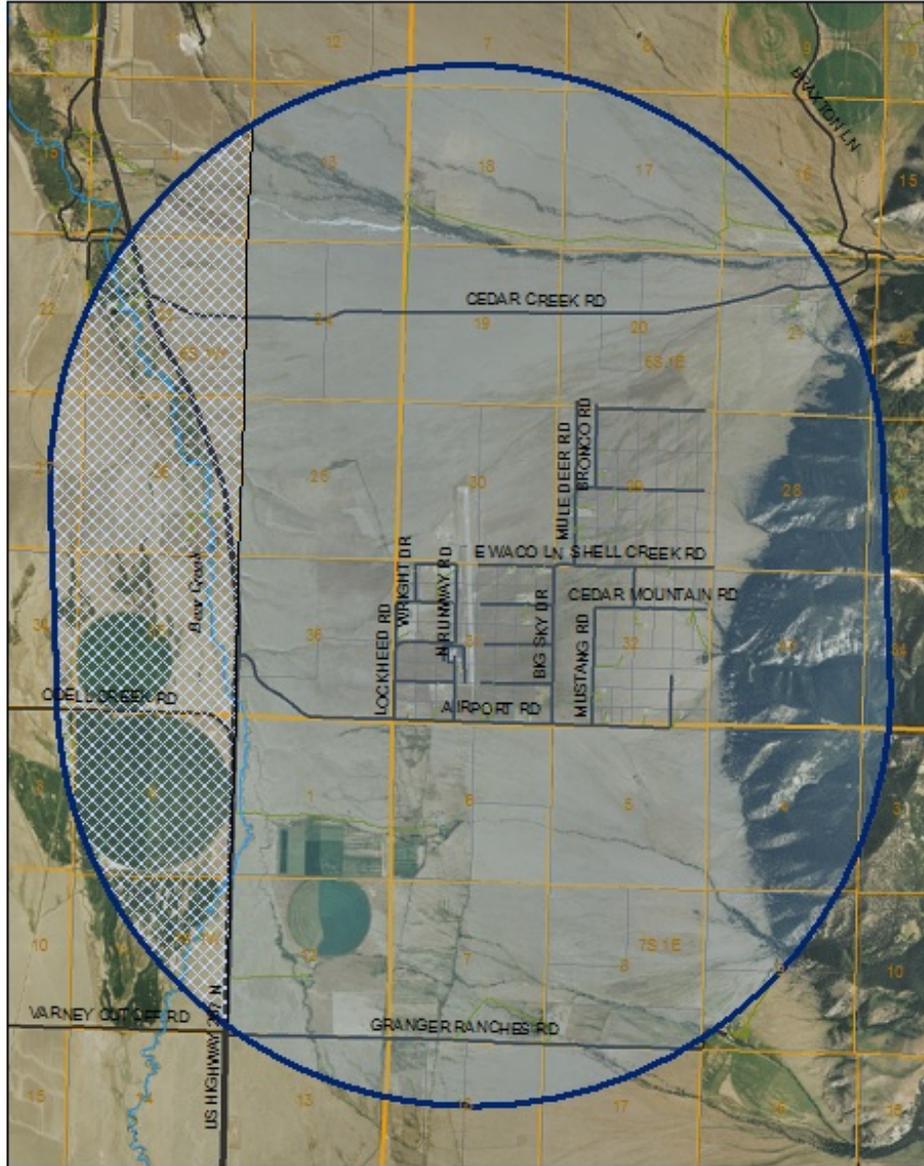
B2. Ennis Big Sky AAA Zones

B3. Twin Bridges Airport Affected Area

B4. Twin Bridges AAA Zones

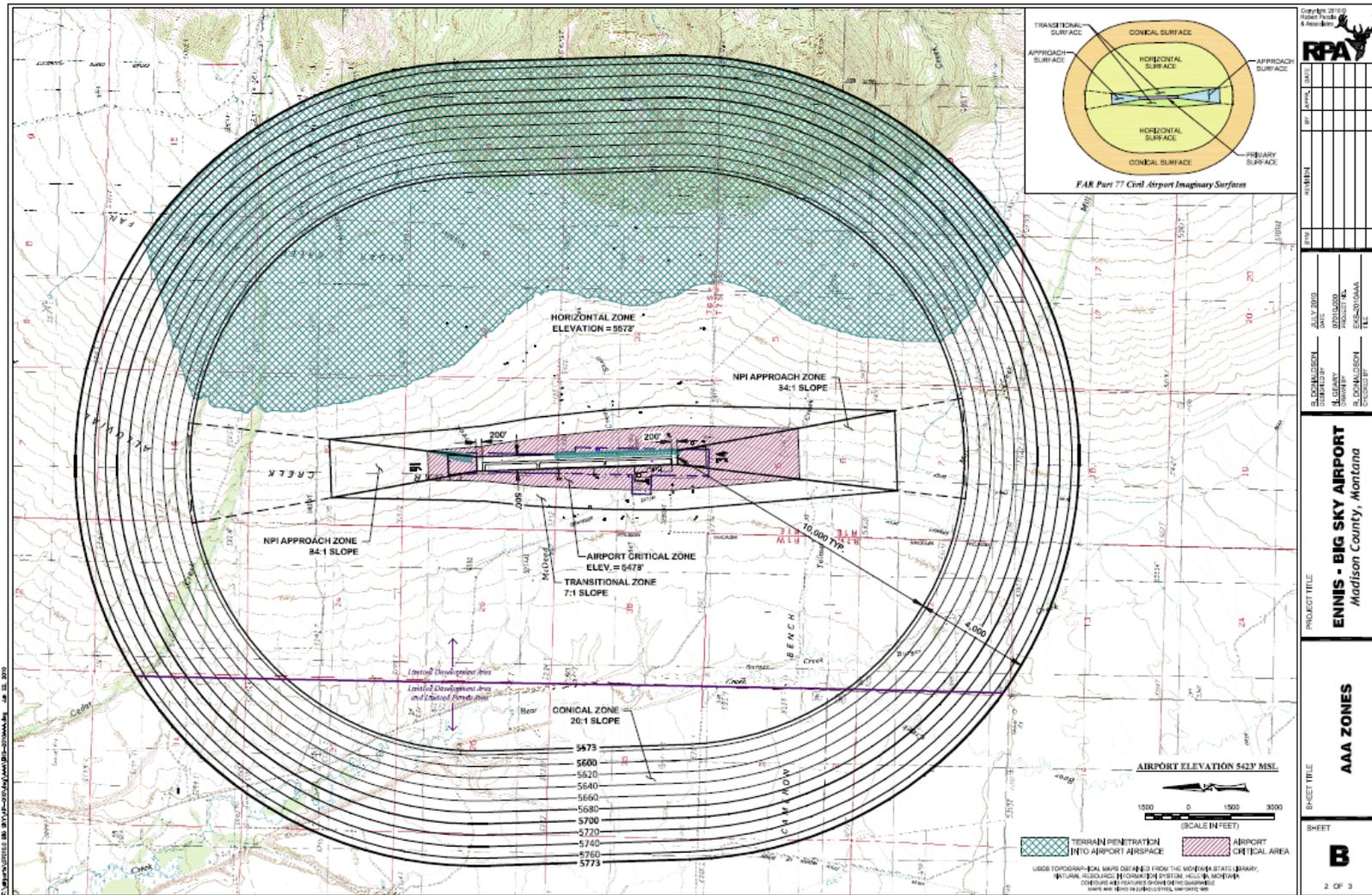
# Appendix B 1 - Ennis Big Sky Airport Affected Area

Ennis Big Sky Airport  
Airport Affected Area



Madison County AAA Regulations  
Adopted August 11, 2014

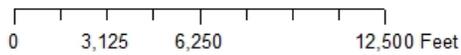
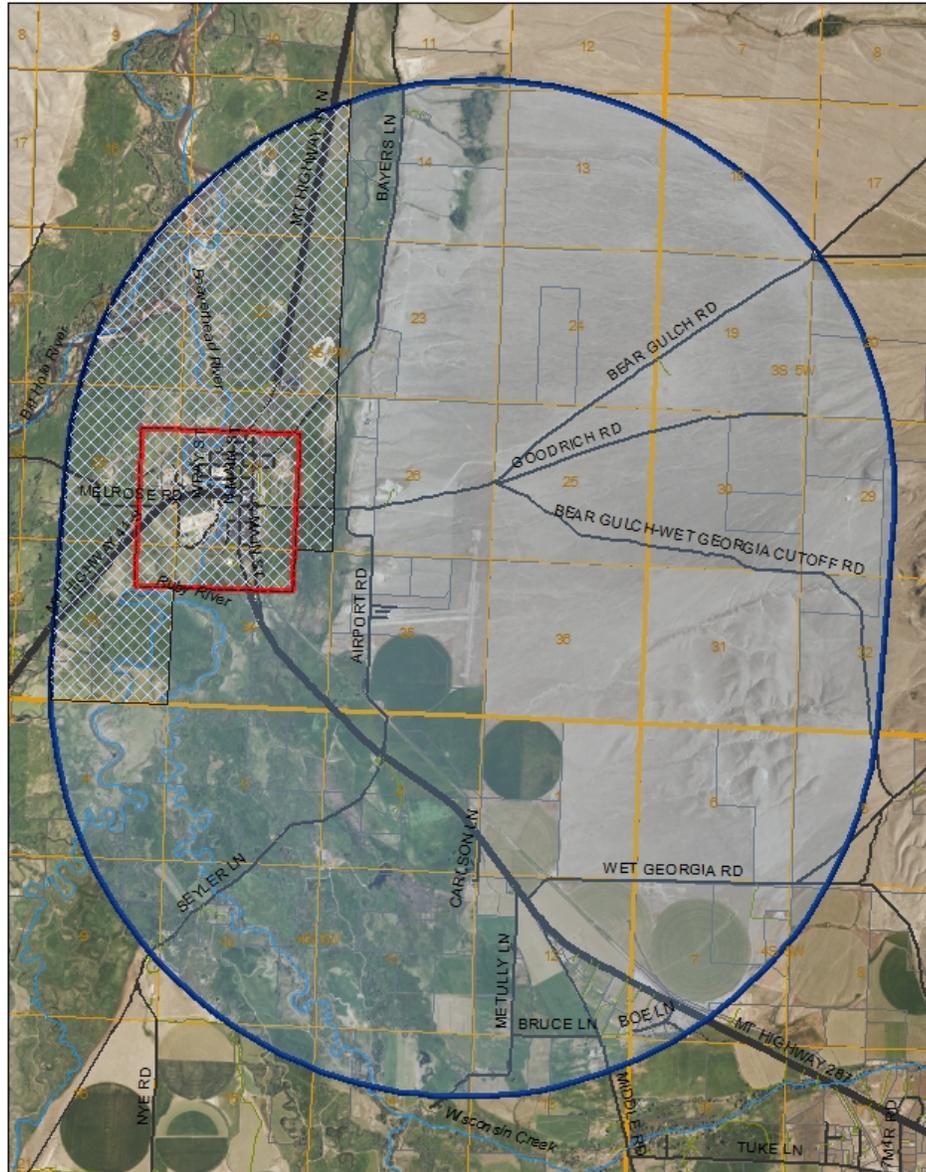
# Appendix B 2 - Ennis Big Sky AAA Zones



Madison County AAA Regulations  
Adopted August 11, 2014

## Appendix B 3 - Twin Bridges Airport Affected Area

Twin Bridges Airport  
Airport Affected Area

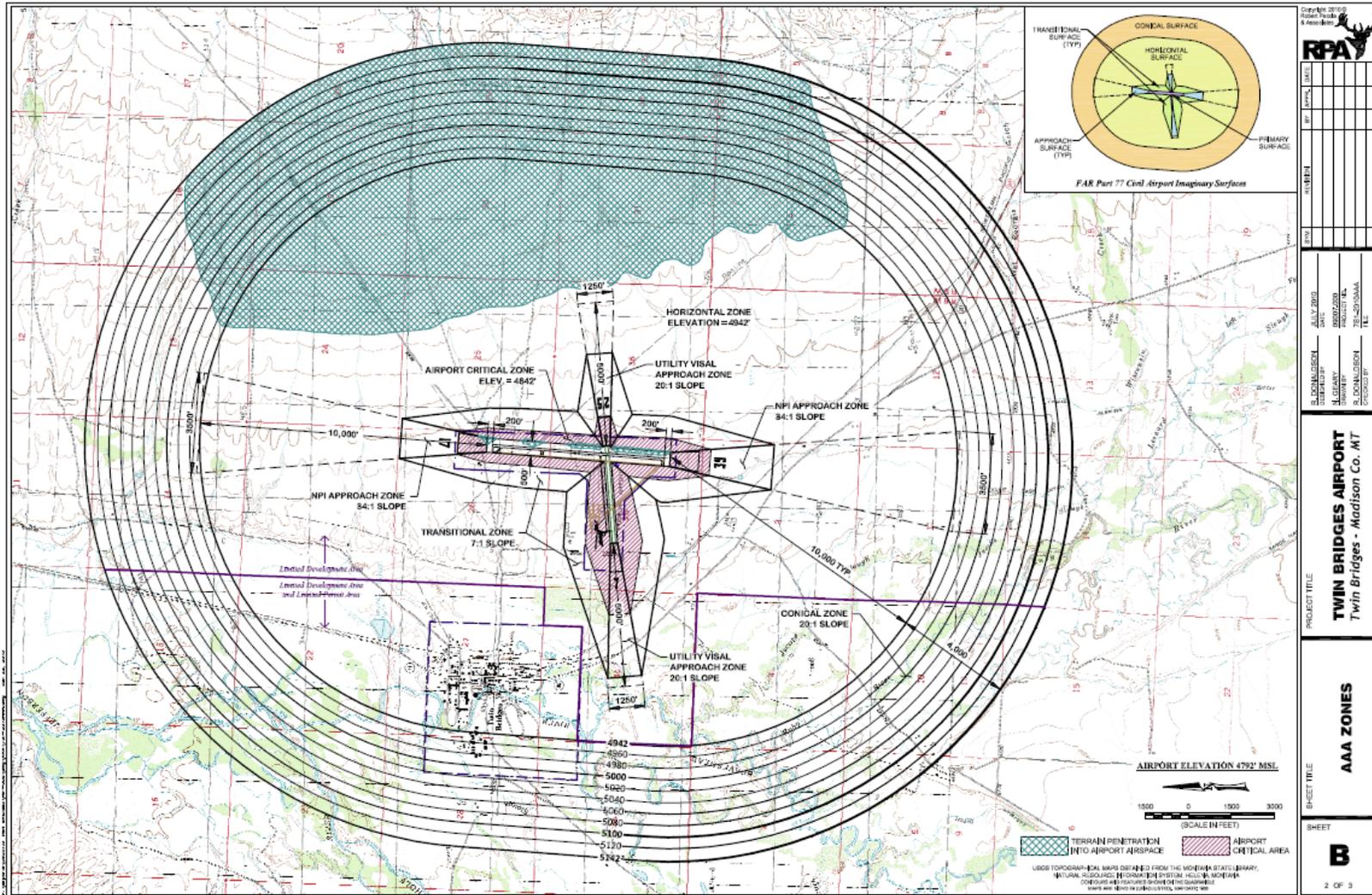


### Legend

- Twin Bridges
- Twin Bridges AAA Regulated Area
- Twin Bridges AAA Regulatory Exclusion
- MCS sections
- Township

Madison County AAA Regulations  
Adopted August 11, 2014

# Appendix B 4 - Twin Bridges AAA Zones



Madison County AAA Regulations  
Adopted August 11, 2014



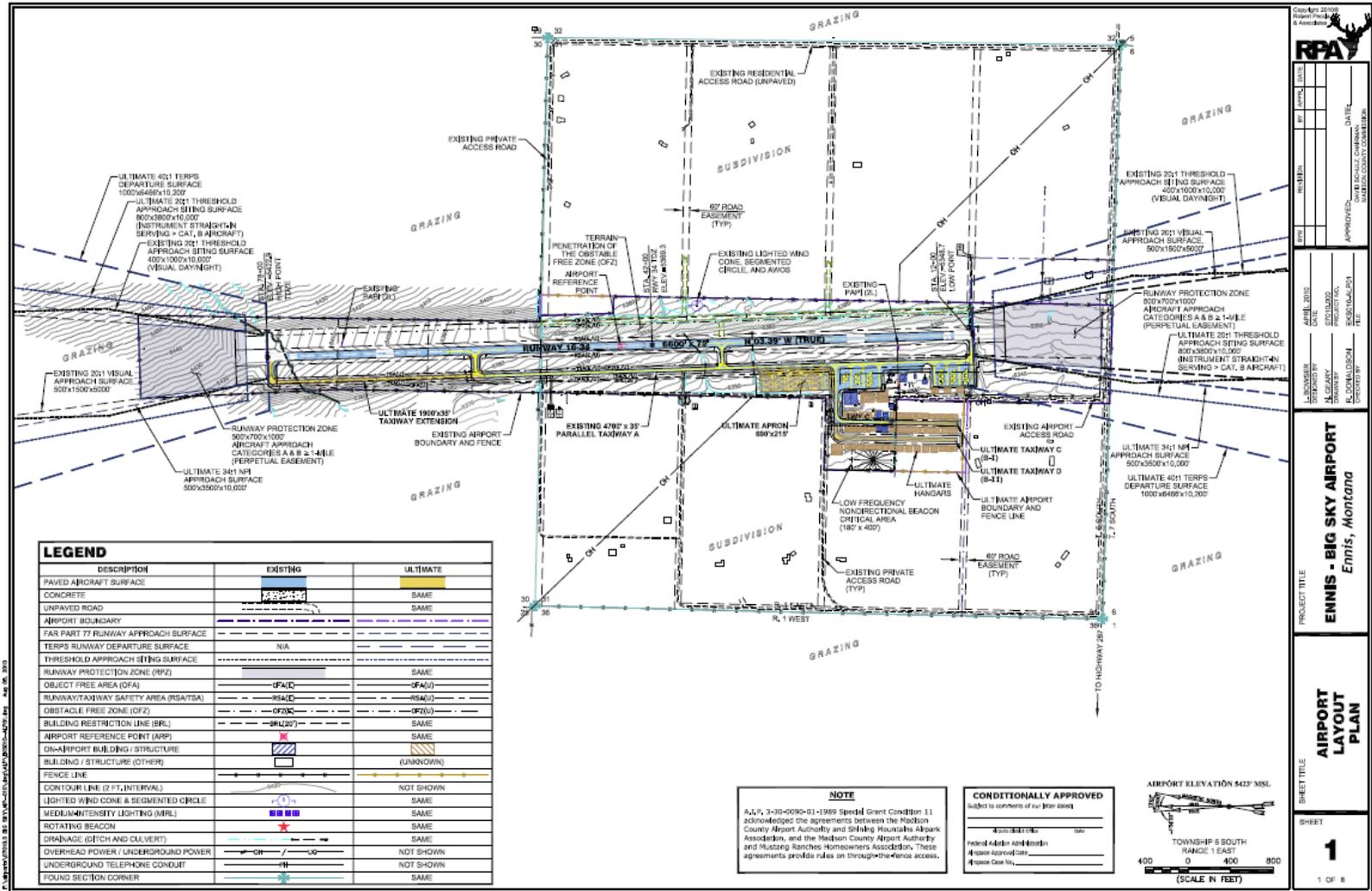
## **APPENDIX D. Airport Airspace Drawings**

Approved Airport Layout Plans are on file in the Madison County Clerk & Records office. The drawings provided in this document are those current at the time these regulations were adopted.

The figures consist of multiple drawings for each airport:

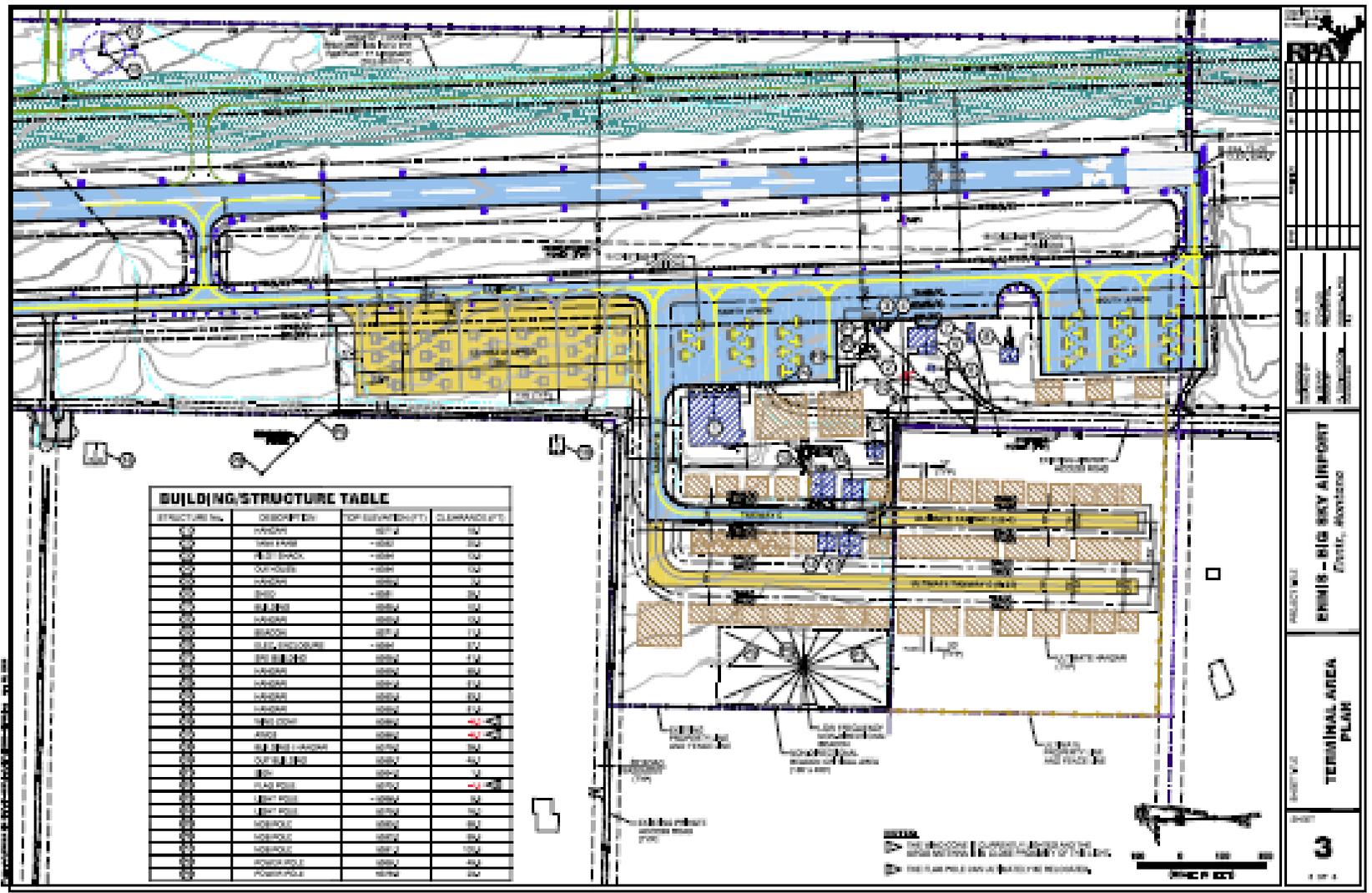
- D1. Ennis Big Sky Airport Layout Plan
- D2. Ennis Big Sky Airport Information Sheet
- D3. Ennis Big Sky Terminal Area Plan
- D4. Ennis Big Sky FAA Part 77 Airport Airspace Drawing
- D5. Ennis Big Sky FAA Part 77 Airport Airspace Profile
- D6. Ennis Big Sky Runway 16-34 Inner Approach Surfaces Drawing
- D7. Ennis Big Sky Runway 16-34 Departure Surfaces Drawing
- D8. Ennis Big Sky Exhibit A – Airport Property Map
- D9. Twin Bridges Airport Layout Plan
- D10. Twin Bridges Airport Information Sheet
- D11. Twin Bridges Terminal Area Plan
- D12. Twin Bridges FAA Part 77 Airport Airspace Drawing
- D13. Twin Bridges FAA Part 77 Airport Airspace Profile
- D14. Twin Bridges Runway 17-35 Inner Approach Surface Drawing
- D15. Twin Bridges Runway 7-25 Inner Approach Surface Drawing
- D16. Twin Bridges Exhibit A – Airport Property Map

# Appendix D 1 – Ennis Big Sky Airport Layout Plan



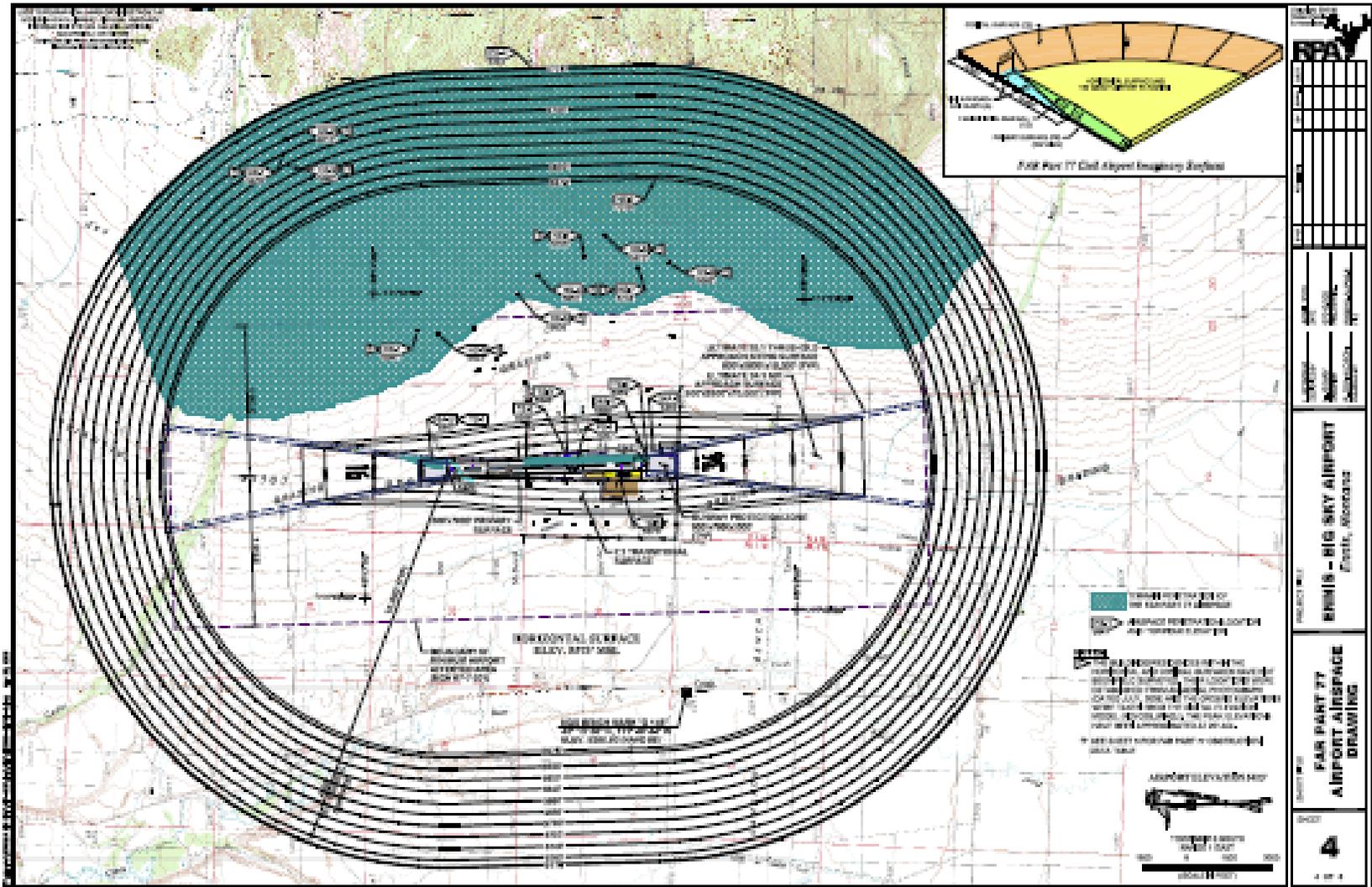


### Appendix D 3 – Ennis Big Sky Terminal Area Plan



Madison County AAA Regulations  
 Adopted August 11, 2014

Appendix D 4 – Ennis Big Sky FAA Part 77 Airport Airspace Drawing



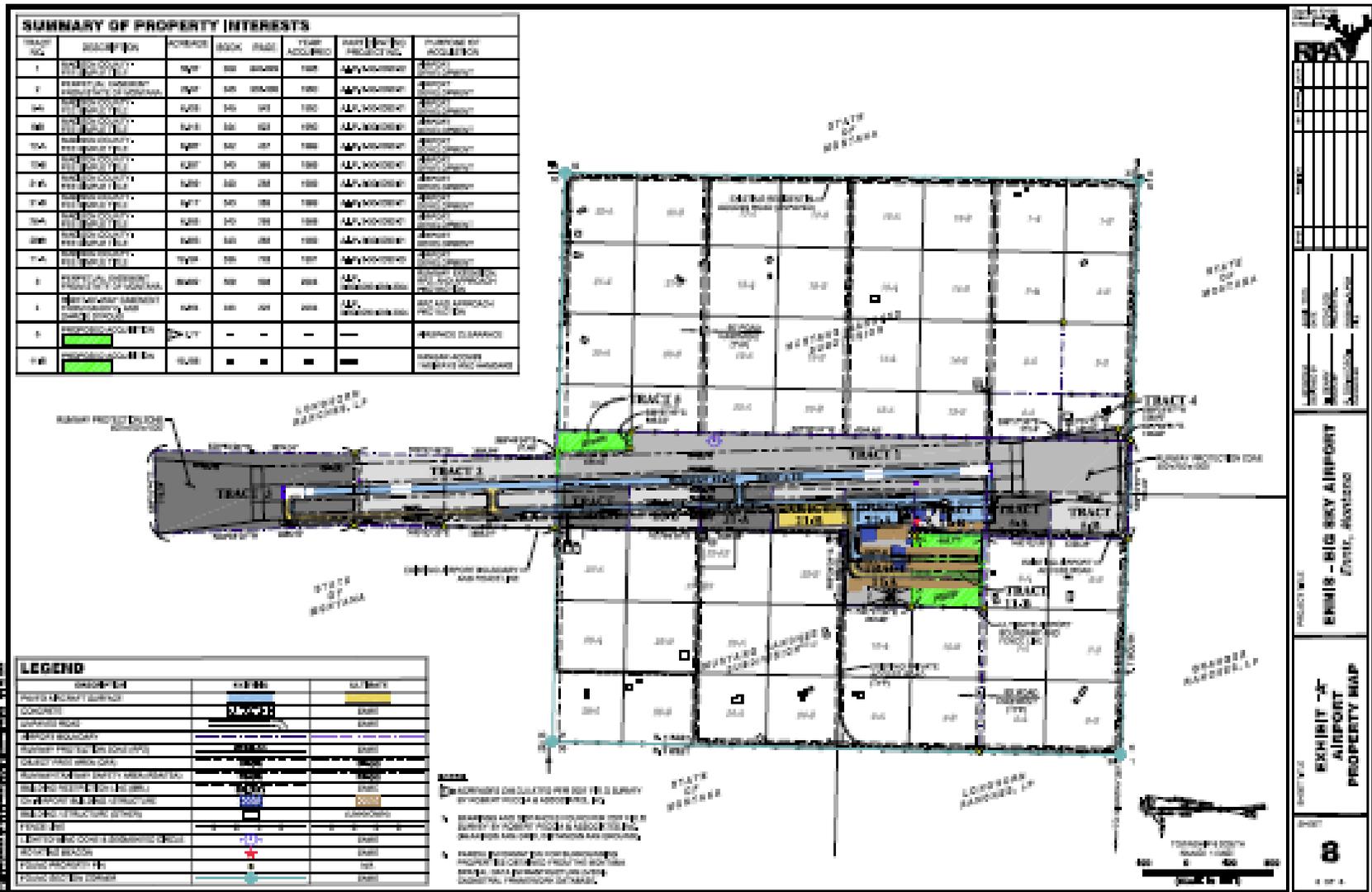
Madison County AAA Regulations  
Adopted August 11, 2014





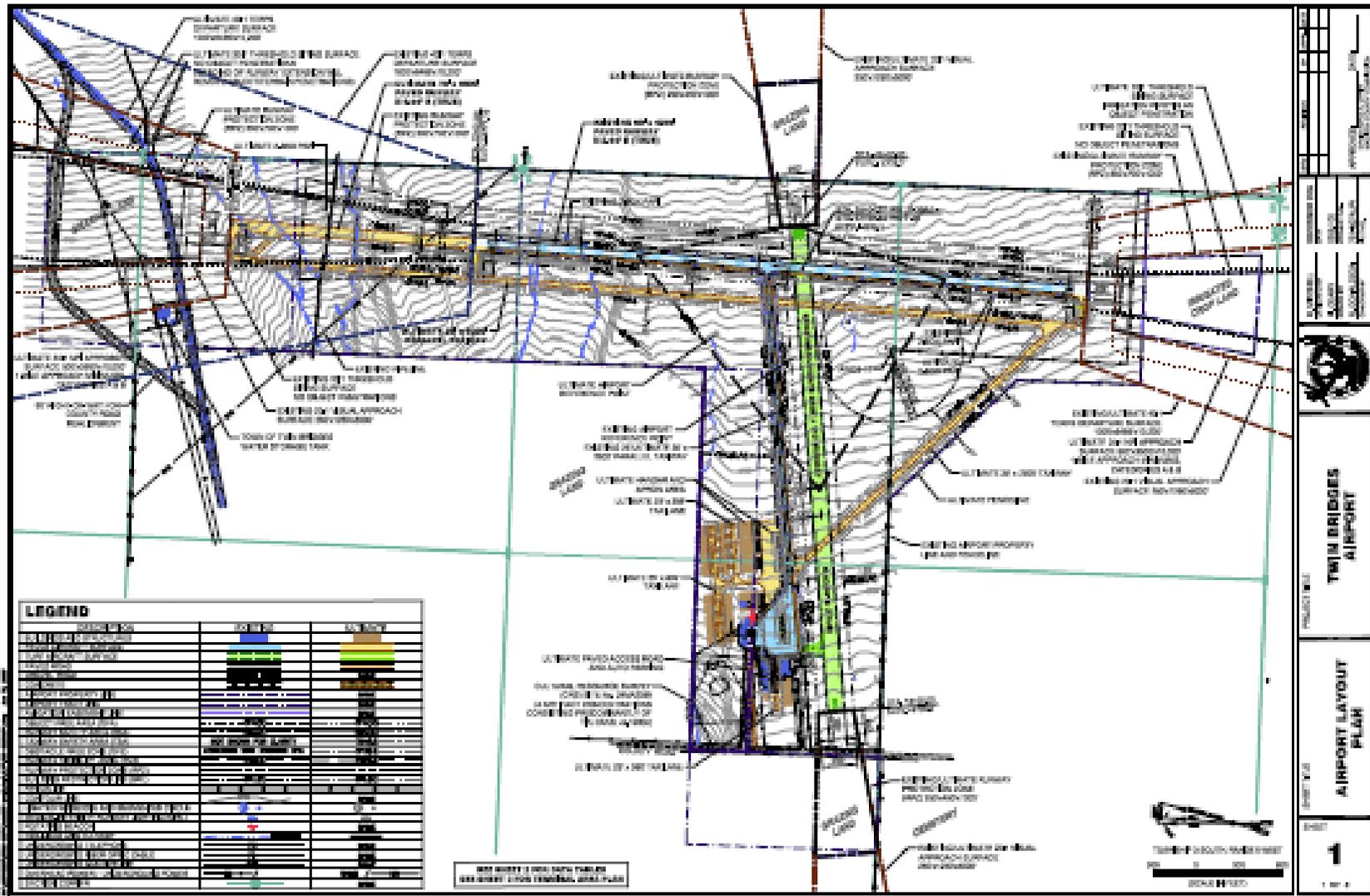


# Appendix D 8 – Ennis Big Sky Exhibit “A” Airport Property Map



Madison County AAA Regulations  
 Adopted August 11, 2014

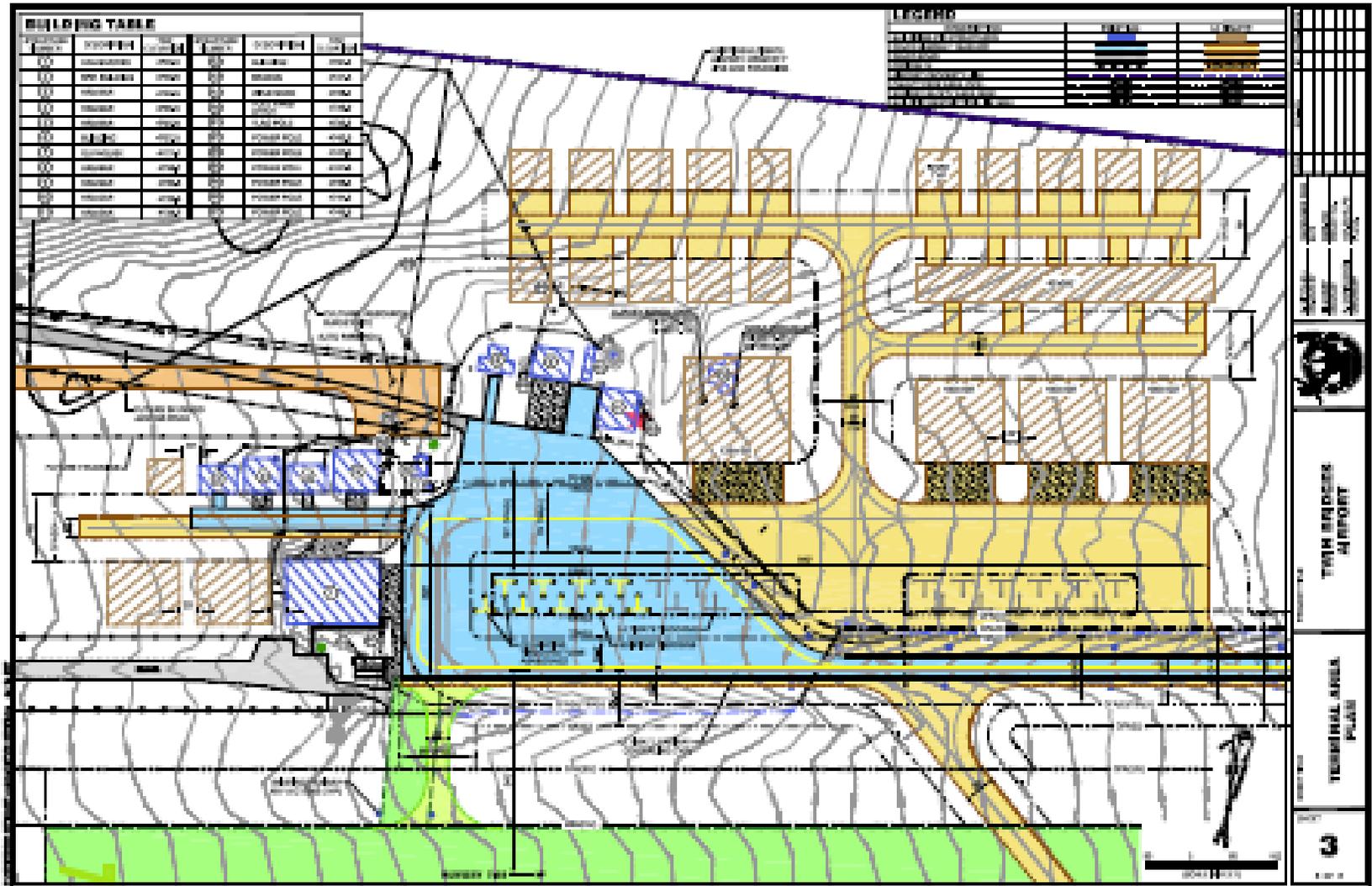
# Appendix D 9 – Twin Bridges Airport Layout Plan



Madison County AAA Regulations  
 Adopted August 11, 2014

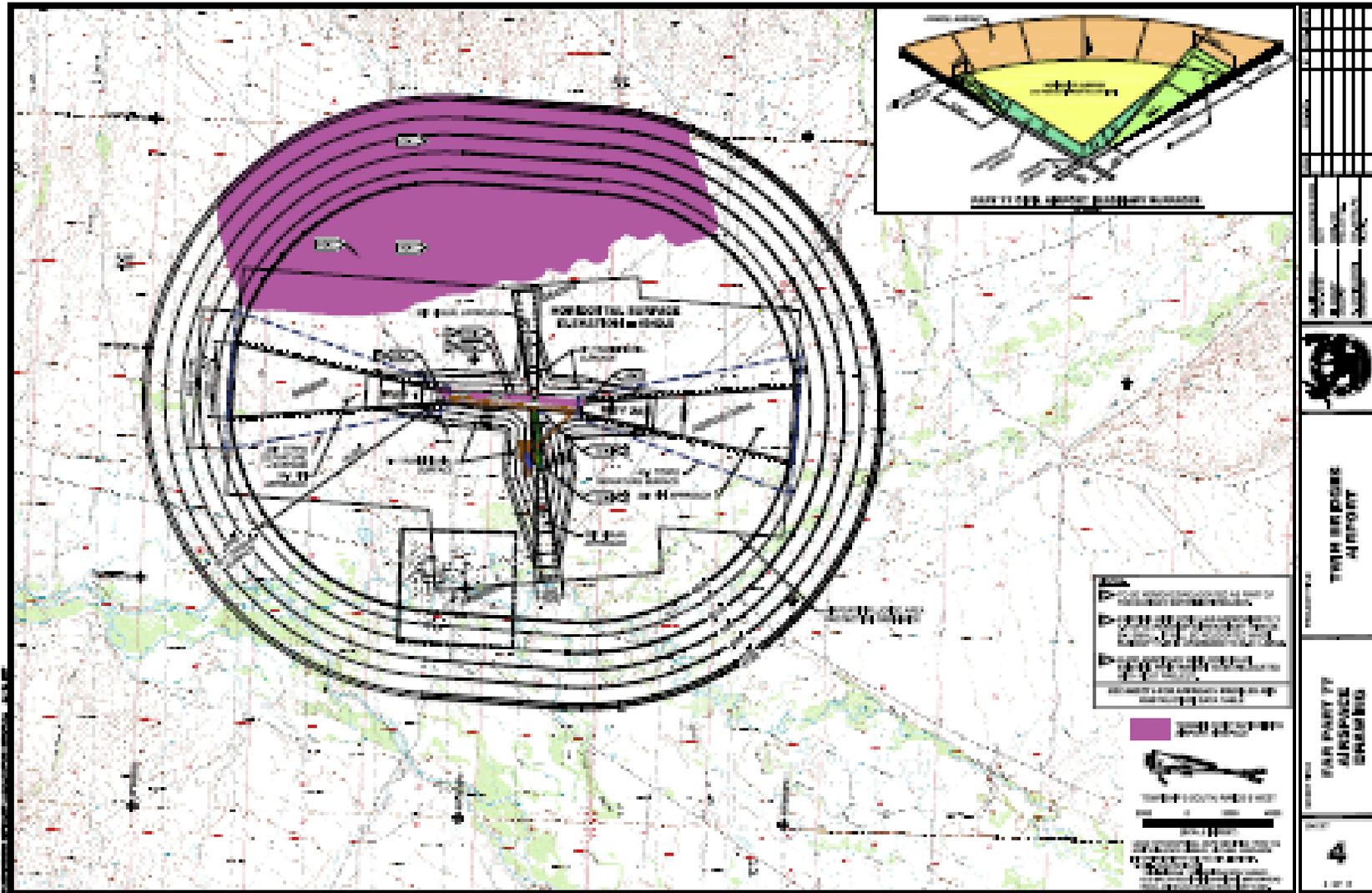


Appendix D 11 – Twin Bridges Terminal Area Plan



Madison County AAA Regulations  
 Adopted August 11, 2014

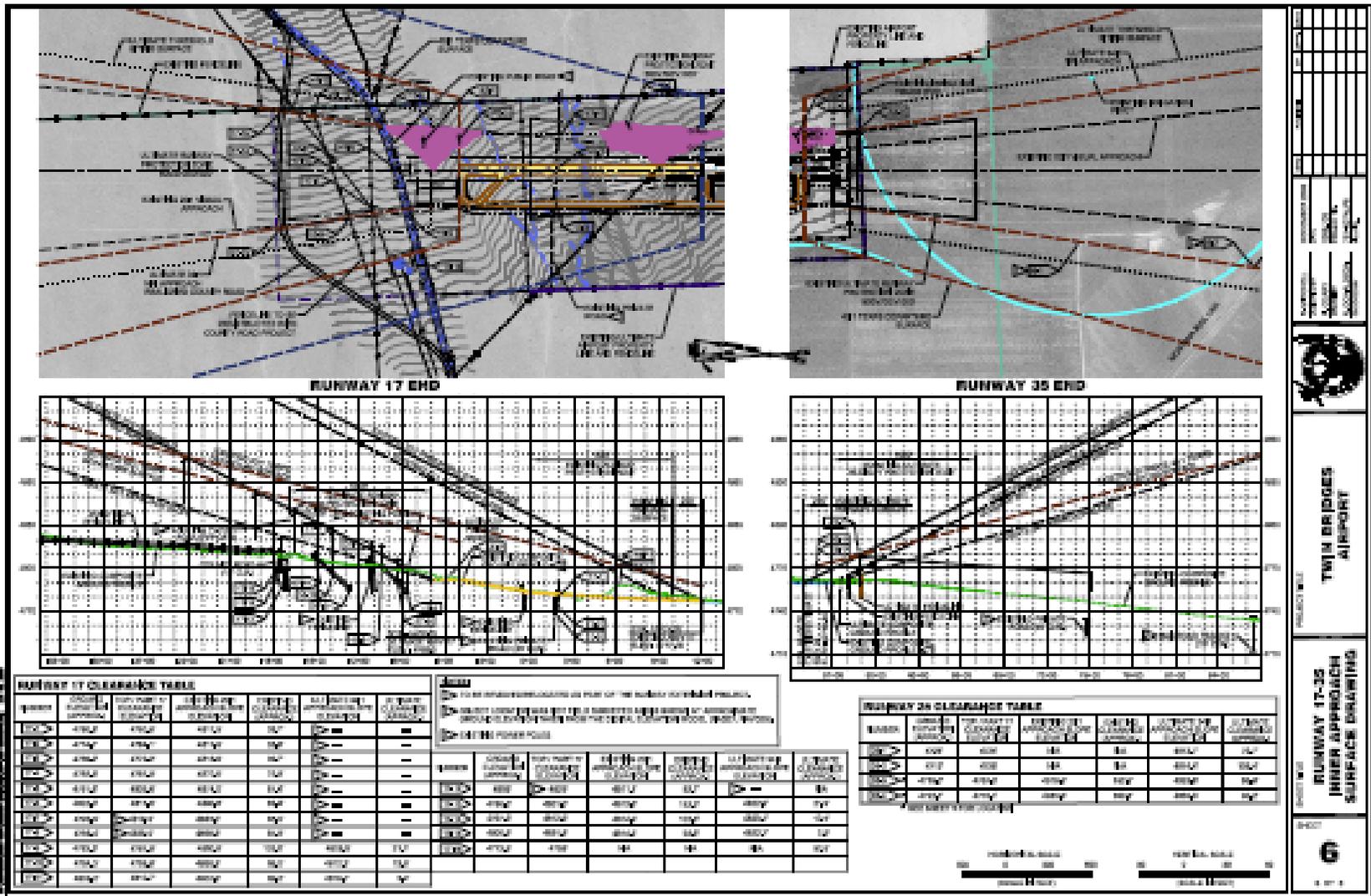
Appendix D 12 – Twin Bridges FAA Part 77 Airport Surfaces



Madison County AAA Regulations  
Adopted August 11, 2014



# Appendix D 14 – Twin Bridges Runway 17-35 Inner Approach Surfaces Drawing

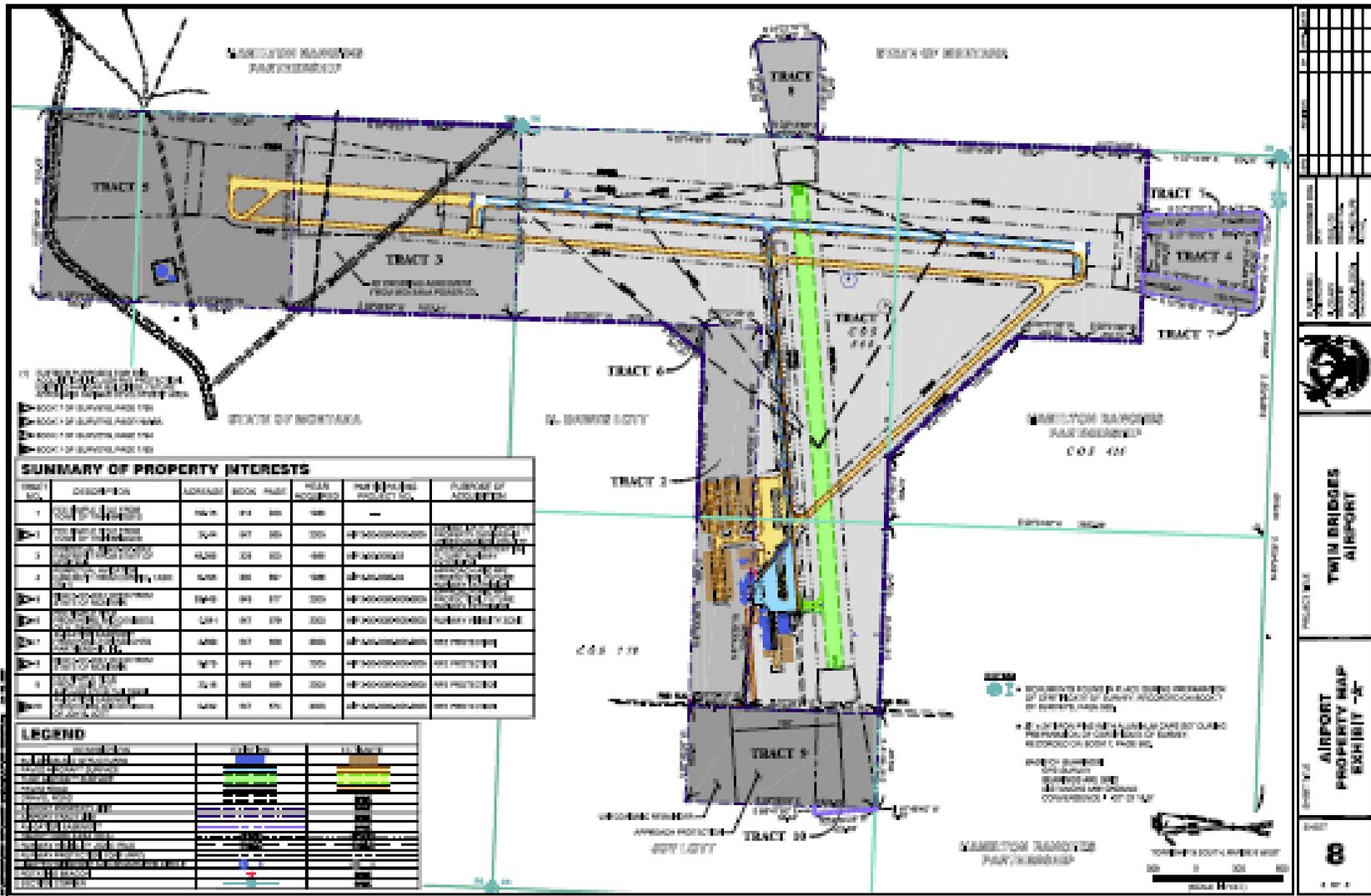


Madison County AAA Regulations  
 Adopted August 11, 2014





Appendix D 16 – Twin Bridges Airport Property Map Exhibit “A”



Madison County AAA Regulations  
 Adopted August 11, 2014

**APPENDIX E. Fee Schedule**

<b>Airport Affected Area Permit Fee Schedule</b>		
<b>Administrative Review</b>		
Trees	Trees, shrubs, vegetation	No charge
Structure and/or Use Change	Structures (including new, rebuilt, expanded) Change in Use of Structure Change in Use of Land	No charge
<b>Airport Board Review (Public Hearing Required)</b>		
Special Exception	Conditional permit or approval	\$500 per exception
Airport Affected Area Permit - Variance	Deviation in height and/or use	\$500 per exception