

BUTLER COUNTY REGIONAL AIRPORT ZONING ORDINANCE

SECTIONS 1.0 TO 13.0, INCLUSIVE, SHALL APPLY TO ZONING FOR COMPATIBLE LAND USES IN THE PROXIMITY OF THE BUTLER COUNTY REGIONAL AIRPORT IN ACCORDANCE WITH THE AIRPORT COMPREHENSIVE PLAN AND THE PROVISIONS OF CHAPTER 4563, OHIO REVISED CODE, DIVIDING THE AIRPORT SAFETY AREA INTO ZONES, THEREIN, ENCOURAGING, REGULATING, AND RESTRICTING THE LOCATION, CONSTRUCTION, RECONSTRUCTION, ALTERATION AND USE OF STRUCTURES AND LAND; PROVIDING FOR THE COMPATIBILITY OF DIFFERENT LAND USES AND THE MOST APPROPRIATE USE OF LAND; PROVIDING FOR THE ADMINISTRATION OF THIS ZONING PLAN, DEFINING THE POWERS AND DUTIES OF THE ADMINISTRATIVE OFFICERS AS PROVIDED HEREAFTER, AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS IN THIS ZONING PLAN OR ANY AMENDMENT THERETO, ALL FOR THE PURPOSE OF PROTECTING THE PUBLIC HEALTH, SAFETY, COMFORT, AND GENERAL WELFARE; AND FOR THE REPEAL THEREOF.

THEREFORE, BE IT RESOLVED BY THE AIRPORT ZONING BOARD OF BUTLER COUNTY, STATE OF OHIO:

1.0 Purpose

It is the purpose of section 1.0 to 13.00, inclusive, to regulate land uses within the airport safety area of the Butler County Regional Airport in order to minimize injury, loss of life, and hazards to the safety of persons or to the security of property within such zones, and to assist in the implementation of policies and recommendations of the Hamilton, Fairfield and Butler County comprehensive plan, the airport master plan, the OKI Managing Mobility: Year 2010 Regional Transportation Plan and the State of Ohio's multi-modal transportation plan,

Accordingly, it is declared that:

- I. The creation or establishment of non-compatible land uses which have the potential to reduce the area available for taking off, maneuvering, and landing of aircraft, thus, tending to impair or destroy the utility of the airport, and the public investment therein, is a public nuisance and an injury to the region served by the Butler County Regional Airport.
- II. Certain other land uses in the vicinity of the airport also have the potential for being hazardous to normal aircraft operations or to increase the potential for personal and property damage in the event of an aircraft accident; therefore, it is necessary in the interest of the public health, public safety, and general welfare that the incompatible use of land within certain airport zones be prevented, and
- III. The prevention of these incompatible land uses should be accomplished to the extent legally possible, by the exercise of the police power.

2.0 Definitions

The following definitions shall apply in the interpretation of this Ordinance:

"Airport" means any area of land designated and set aside for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings, and open spaces, designated for the storage, repair, and operation of aircraft, and utilized or to be utilized in the interest of the public for such purposes.

"Airport Hazard" means any use of land within an airport safety area which obstructs the air space required for flight of aircraft in landing or taking off at any airport or is otherwise hazardous to such air navigation.

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"**Airport Safety Area**" means any area of land adjacent to an airport which includes any of the following zones:

Primary Surface- for Runway 11-29 is a 1000 feet wide surface, longitudinally centered on the runway, extending 200 feet beyond each usable end of the runway. The elevation of the primary surface is the same as the nearest point on the runway centerline.

Approach Surface – a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The surface dimensions are based on the type of approach available, and include the following three sections:

APPROACH SURFACE PROTECTION FOR RUNWAY APPROACH END 29

Inner approach - commonly known as the Runway Protection Zone (RPZ), or a trapezoid centered about the extended runway centerline beginning 200 feet beyond the end of the runway and extending upward and outward with a slope of 50:1 having a horizontal distance of 2500 feet, an inner width of 1000 feet and an outer width of 1750 feet.

Middle approach - a trapezoid centered about the extended runway centerline beginning at the outer width of the runway protection zone and extending upward and outward with a slope of 50:1 having a horizontal distance of 5650 feet having an outer width of 3445 feet.

Outer approach - a trapezoid centered about the extended runway centerline beginning at the outer width of the middle approach surface and extending upward and outward with a slope of 50:1 having a horizontal distance of 1850 feet and an outer width of 4000 feet with an additional horizontal distance of 40,000 feet at a slope of 40:1 and an outer width of 16,000 feet.

FOR RUNWAY APPROACH END 11

Inner approach - commonly known as the Runway Protection Zone (RPZ), or a trapezoid centered about the extended runway centerline beginning 200 feet beyond the end of the runway and extending upward and outward with a slope of 34:1 having a horizontal distance of 1700 feet, an inner width of 1000 feet and an outer width of 1425 feet.

Middle approach - a trapezoid centered about the extended runway centerline beginning at the outer width of the runway protection zone and extending upward and outward with a slope of 34:1 having a horizontal distance of 3400 feet and an outer width of 2275 feet.

Outer approach - a trapezoid centered about the extended runway centerline beginning at the outer width of the middle approach surface and extending upward and outward with a slope of 34:1 having a horizontal distance of 4900 feet and an outer width of 3500 feet.

"Transitional Surface" means - Surfaces extending upward and outward 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. This surface is divided into the following three sections:

Inner-transitional - that part of the transitional surface beginning at the edge of the primary surface and extending outward and upward to a horizontal distance of 350 feet.

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Middle-transitional - that part of the transitional surface beginning at the outer edge of the inner-transitional area and extending outward and upward to the horizontal surface.

Outer transitional - that part of the transitional surface for runway 29 which projects through and beyond the limits of the conical surface and extends a distance of 5000 feet measured horizontally from the edge of the approach surface.

Horizontal Surface - a horizontal plane located at an elevation of 783 feet Mean Sea Level, the perimeter of which is constructed by swinging an arc having a horizontal radius of 10,000 feet from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

Conical Surface - a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4000 feet.

Building Restriction Line - a line defining the limits at which suitable buildings may be constructed at or surrounding the airport. The building restriction line encompasses the runway protection zone, the primary surface and the inner transitional surfaces. On or surrounding airport land a building restriction line has been defined beginning at the primary surface and extending outward to a horizontal distance of 250 feet except where this line intersects with a radius extending 500 feet from the center of the Automated Surface Observation System Combined Sensor Group, in which case the building restriction line shall include that radius for all buildings. Additionally, all vegetation located within the building restriction line shall be limited to ten (10) feet unless the vegetation falls within the limits of other defined criteria located within this zoning ordinance in which case the lesser of the height limits shall prevail.

"Airport Zoning Board" means the legislative authority of the political subdivisions, inside which territorial limits the airport safety area is located, which adopts, administers, and enforces the airport zoning regulation. The Board of County Commissioners of Butler County is the Airport Zoning Board, as the airport safety area is located within the political subdivisions of Butler County, City of Hamilton, City of Fairfield, West Chester Township, Fairfield Township, St. Clair Township, and Liberty Township.

"Airport Zoning Board of Appeals" means that the body appointed by the airport zoning board for the purpose of hearing and deciding appeals from any order, requirement, decision, or determination made by the Governing Jurisdiction in the enforcement of the airport zoning regulations, hearing and allowing, refusing, or allowing with modification or condition, any variance from the term of the airport zoning regulation, and affirming, reversing, or modifying any order, requirement, decision, or determination of the airport zoning board. That five (5) member body shall be appointed by the Airport Zoning Board and shall include one (1) member from each of the following: City of Hamilton, City of Fairfield, Fairfield Township, and West Chester Township, the fifth member shall be appointed alternatively from St. Clair Township and Liberty Township. The members of the Zoning Board of Appeals shall serve for terms of three (3) years, subject to removal as set for in Section 4563.313 of the Ohio Revised Code. The first members of the board shall be so designated that two shall serve one year, two shall serve two years, and one shall serve three years.

"Airport Zoning Commission" - means that body appointed by the airport zoning board to recommend the boundaries of the various zones and the uses permitted herein. That body shall include the Butler County Planning Commission members, a representative from the City of Hamilton, and a representative from the City of Fairfield.

"Blanket Approval" - means approval by the FAA, given to a local jurisdiction, to waive FAA approval requirements for buildings or structures located within the boundaries of specifically defined area(s). The waiver of FAA approval shall only apply if a building or structure does not exceed a maximum height detailed in an FAA Blanket Approval Agreement for a specifically defined area. Transmitting devices and/or buildings or structures which exceed the maximum height shall not be

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included in a "Blanket Approval" and proof of FAA Approval must be provided before any building permit may be issued.

"**FAA**" - the Federal Aviation Administration and any legally appointed, designated or elected agent or successor.

"**FCC**" - the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

"**Feed Lot**" - an area of land for the fattening or finishing of animals, generally beef cattle, in which the stocking densities - the number of animals per unit of land at a particular time - exceed 6 cattle per acre.

"**Fish Processing**" - a factory or other place where fish are prepared for canning, or other commercial uses.

"**Landfill**" - a place where waste material is disposed by the process of reclaiming areas of the ground.

"**Person**" - means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

"**Political Subdivision**" - means any municipal corporation, township, or county.

"**Pond**" - a small, natural, or man made body of standing fresh water filling a surface depression, usually smaller than a lake, where the detention of water takes place.

"**Sewage Pond**" - a shallow pond where sunlight, bacterial action, and oxygen work to purify wastewater.

"**Slaughter House**" - a building or place where animals are butchered for food.

"**Sludge Disposal**" - the collection and removal of the concentration of solids removed from sewage during wastewater treatment in conjunction with the use of a spread area.

"**Transfer Station**" - means any site, location, tract of land, installation or building that is used or intended to be used primarily for the purpose of transferring solid wastes that are generated off the premises of the facility from vehicles or containers into other vehicles or containers for transportation to a solid waste disposal facility. The term does not include any facility that consists solely of portable containers that have an aggregate volume of 50 cubic yards or less, nor any facility where legitimate recycling activities are conducted.

"**Water Fowl Production**" - any activity or plan which promotes and/or aides the reproduction or breeding of water fowl species.

"**Water Reservoir**" - a multipurpose project which may generate hydro-electric power, controls floods, provides recreational benefits and supplies water.

"**Wildlife Sanctuary**" - an area of land set aside for, among other purposes, providing a refuge for wildlife species, or a small area in private ownership for breeding purposes.

3.0 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. In the event of conflict between the requirements of this Ordinance and any other requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions applicable to the same area, the most

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restrictive limitations or requirements best calculated to insure safety, or that imposing higher standards, shall govern.

4.0 Separability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

5.0 Adoption

The Board of County Commissioners of Butler County, State of Ohio, acting as the Airport Zoning Board of the Butler County Regional Airport, the City of Hamilton, and the City of Fairfield, adopts the provision set forth in this Ordinance, specifying permitted land uses within each zone of the Airport Safety Area.

6.0 Airport Zoning Districts

The following Airport Zoning Districts are hereby established for the Butler County Regional Airport Overlay Zoning, and shall be governed by the accompanying regulations:

(A) Airport Zoning District One (AZD-1)

- (1) AZD -1 encompasses land lying within the runway primary surface.
- (2) Permitted uses within AZD-1 include open space and permitted airport uses.

(B) Airport Zoning District Two (AZD-2)

- (1) AZD-2 encompasses land underlying the inner approach, the middle approach and the inner transitional surface.
- (2) Permitted uses within AZD-2 include open space, agriculture and airport related uses, and those uses permitted by the local zoning of jurisdiction, unless prohibited herein.
- (3) Those uses specifically prohibited include landfills, transfer stations, sewage ponds, sludge disposal, water reservoir, feed lots, slaughter houses, waterfowl production, wildlife refuge/sanctuary, fish processing. Lakes or ponds intended to attract or harbor waterfowl are prohibited, unless it is an integral part of the site's storm drainage system which is required by the local jurisdiction.
- (4) Those uses specifically prohibited from the "Approach Surface" area in AZD-2 include those uses in section 6.0, part B-3, residential uses, nursing care facilities, hospitals, and schools.

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- (C) Airport Zoning District Three (AZD-3)
- (1) AZD-3 encompasses land underlying the outer approach surface and the middle transitional surface.
 - (2) Permitted uses within AZD-3 include open space, agriculture, airport related uses, and those uses permitted by the local zoning of jurisdiction, unless prohibited herein.
 - (3) Those prohibited uses include landfills, transfer stations, sewage ponds, sludge disposal, water reservoir, feed lots, slaughter houses, waterfowl production, wildlife refuge/sanctuary, fish processing. Lakes or ponds intended to attract or harbor waterfowl are prohibited, unless it is an integral part of the site's storm drainage system which is required by the local jurisdiction. For the purposes of this section, prohibited uses shall not include existing public or private wastewater treatment facilities. These facilities shall not be considered non-conforming and shall not be limited or constrained as to the future use, operation, maintenance, expansion, and or upgrading of the facility.
- (D) Airport Zoning District Four (AZD-4)
- (1) AZD-4 encompasses land underlying the horizontal surface, conical surface, and the outer transitional surface.
 - (2) Permitted uses within AZD-4 include open space, agricultural, airport related uses, and those uses permitted by the local zoning of jurisdiction unless prohibited herein.
 - (3) Those prohibited uses include landfills, transfer stations, sewage ponds, sludge disposal, water reservoir, feed lots, slaughter houses, waterfowl production, wildlife refuge/sanctuary, fish processing. Lakes or ponds intended to attract or harbor waterfowl are prohibited, unless it is an integral part of the site's storm drainage system which is required by the local jurisdiction. For the purposes of this section, prohibited uses shall not include existing public or private wastewater treatment facilities. These facilities shall not be considered non-conforming and shall not be limited or constrained as to the future use, operation, maintenance, expansion, and or upgrading of the facility

Notwithstanding any other provision of this section, no use may be made of land within any zone established by this section in such a manner as to create electrical interference with radio communication between the airport and aircraft, to make it difficult for pilots to distinguish between airport lights and other lights, to create glare in the eyes of pilots using the airport, to impair visibility in the vicinity of the airport or to otherwise endanger the landing, taking off, or maneuvering of aircraft.

Notwithstanding any other provision of this section, no use may be made of and no installation may be placed on land within any airport zone that will produce smoke, fumes, gases, or odors that would interfere with the safe use by aircraft of the airport. Notwithstanding any other provisions of this section, no use may be made of and no installation may be placed on land within any airport zone for rifle ranges, public or private, or private aircraft landing fields, which would interfere with the safe use by aircraft of the airport.

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7.0 Zoning Map

The districts established in Section 6.0 are shown on an official map, which, together with all data, references, explanatory material and notations thereon, are hereby officially adopted as part of this Ordinance and hereby incorporated by reference herein, thereby having the same force and effect as if herein fully described in writing. This map shall remain on file in the Planning/Zoning Office of the City of Fairfield, City of Hamilton, Fairfield Township, Liberty Township, St. Clair Township, West Chester Township and Butler County.

The Zoning Map indicates the maximum elevations for buildings and structures within each district. The height of any building, structure or aperture shall not exceed the elevations indicated on the map except as provided by a "Blanket Approval" from the FAA and described in Section 11 of this ordinance.

8.0 Non conforming Uses

Where, at that time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed herein, the uses may be continued so long as they remain otherwise lawful, provided:

1. No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption of this Ordinance;
1. No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such used at the lot or parcel other than that occupied by such used at the effective date of adoption of this Ordinance;
2. If any such non conforming uses of land are discontinued or abandoned for more than two (2) years (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located, and the nonconforming use may not thereafter be resumed.
3. No additional use not conforming to the requirements of this Ordinance shall be commenced in connection with such nonconforming use of land.

9.0 Amendments

The Board of County Commissioners of Butler County, State of Ohio, at the recommendation of the Airport Zoning Commission, Airport Zoning Board of Appeals, or the Office of Aviation, may amend or change the provisions of this Ordinance after a public hearing in relation thereto, at which all parties in interest and citizens shall have the opportunity to be heard. At least thirty (30) days notice of the hearing shall be published in a newspaper of general circulation in the political subdivision in which the Airport Safety Area to be zoned is located.

10.0 Appeals

Any person desiring to use property in any manner in conflict with the provisions set forth in this Ordinance may apply to the Airport Zoning Board of Appeals for a variance from the zoning regulations in question. The board of appeals may subject any variance to any reasonable conditions that they deem necessary.

Any person aggrieved by any decision of the Governing Jurisdiction made in its administration of the provisions set forth in this Ordinance may appeal to the Airport Zoning Board of Appeals authorized to hear and decide appeals from the decisions of such administrative agency, as follows:

- a) All appeals shall be filed with the Butler County Department of Development within twenty (20) days after receiving written refusal of Zoning Certificate from the Airport

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Zoning Inspector, and shall specify the grounds of such appeal. Subsequently, after an appeal is filed with the Butler County Development Director and with the Airport Zoning Board of Appeals, the Development Department shall transmit to the Airport Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

- b) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Butler County Development Department certifies to the Airport Zoning Board of Appeals that a stay would cause imminent peril to life or property.
- c) The Airport Zoning Board of Appeals shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time.
- d) The Airport Zoning Board of Appeals may reverse, affirm wholly or partly, or modify the order, requirement, decision, or determination appealed from.

Any person aggrieved, or any taxpayer, or any legislative authority, or any Airport Zoning Board affected by any order of the Airport Zoning Board of Appeals may appeal within thirty (30) days to the court of common pleas of Butler County, and upon appeal thereof a trial de novo shall be had.

11.0 Administration

Any parcel of land located within any of the aforementioned "Airport Zoning Districts" is subject to the administration and polices set herein with. Any persons or person seeking to modify in any way the land within the aforementioned zones shall comply with the following steps:

- (1) Any person or persons who seeks to modify in any way, any parcel of land or the use of any parcel of land, except for owner transfers and or lot line reorganization, must first apply for a zoning certificate from the local zoning jurisdiction, (City of Hamilton, City of Fairfield, Fairfield Township, Liberty Township, West Chester Township, St. Clair Township, Butler County).
- (2) Concurrent to local zoning certificate application, FAA Form 7460-1 (5-94) must be submitted to the Ohio Department of Transportation, Office of Aviation, thirty (30) days prior to construction. The application must include two (2) copies of FAA form 7460-1 and two (2) copies of a 7.5 minute quadrangle topographic map with "X" marking the proposed modification site. The originals must be sent to the FAA Great Lakes Region.

This shall apply to all construction on property within the airport zoning districts except for property within "Blanket Approval" area determined by the FAA. Towers or facilities which would transmit signals via a device regulated by the FCC or FAA still require specific ODOT and FAA approval regardless of "Blanket Approval" status.

- (3) Once approval of FAA Form 7460-1 (5-94) is granted, the applicants must apply to the appropriate building departments through the procedures outlined herein.
- (4) After approval by the local zoning jurisdictions, building permits shall be issued by the Governing Jurisdiction only after approval of FAA form 7460-1 (5-94).

11.01 Enforcement by Zoning Inspector

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The City of Hamilton, City of Fairfield, and Butler County are hereby designated as the Airport Zoning Inspectors and are authorized to enforce this ordinance in accordance with its terms.

11.02 Filing Plans

Every application for a Zoning Certificate shall be accompanied by plans in duplicate, drawn to scale, in black line or blueprint, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size, and height of any building or structure to be erected or altered; the existing and intended use of each building or structure or part thereof; and, when no buildings or structures are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighborhood lots as may be necessary to determine applicable standards and provide for the enforcement of this ordinance. One copy of such plans shall be returned to the owner when such plans have been approved by the Airport Zoning Inspector, together with such Zoning Certificate as may be granted.

11.025 Fees

A fee schedule may be adopted by the local zoning jurisdiction to cover costs of administering this ordinance.

11.03 Zoning Certificate

It shall be unlawful for any owner, lessee, or tenant to begin any excavation, or the construction, reconstruction, extension, conversion, or structural alteration of any building or structure, or any part thereof, without first obtaining a Zoning Certificate from the Airport Zoning Inspectors.

The Zoning Inspectors shall act upon an application for a Zoning Certificate within five (5) business days after the application is filed in compliance with this ordinance. The Inspector shall either issue a Zoning Certificate within those five (5) days or shall notify the applicant in writing of his refusal to issue a certificate and the reasons therefor.

11.04 Power of Zoning Board to Enforce

The Butler County Regional Airport Zoning Board may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this Ordinance. The courts shall adjudge to the plaintiff such relief, by way of injunction, which may be mandatory, or otherwise, as may be proper under all the facts of and circumstances of the case, in order fully to effectuate the purposes of the regulations adopted through this Ordinance and orders and rulings made pursuant thereto.

12.0 Penalties

Whoever violates the provisions set forth in this Ordinance shall be fined not more than one hundred dollars. Each day's willful continuation of such violation is a separate offense. Butler County will be responsible for the issuance and collection of fines.

13.0 Effective Date

This Ordinance shall become effective sixty (60) days from and after the date of its approval and adoption by the Airport Zoning Board, as provided by law.