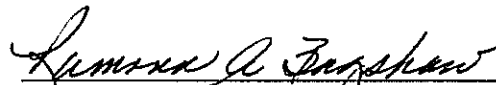


ORDINANCE NO. 16-2012

REPORT OF CLARK COUNTY PLAN COMMISSION'S
RECOMMENDING RESTATED AMENDMENT NO. 7 TO THE ORDINANCE NO.
17-2007 FOR CLARK COUNTY, INDIANA

LET IT BE KNOWN, that the Clark County, Indiana Plan Commission on March 14, 2012, at its regular stated meeting voted to recommend to the Board of Commissioners for Clark County that Ordinance No. 17-2007, the County's Zoning Ordinance, be amended as submitted.

I do hereby certify that a copy of this report has been provided to the office of the Clark County Commissioners and the office of the Clark County Auditor on this 19th day of March, 2012.



Ramona A Bagshaw, Executive Director
Clark County Plan Commission

TO THE BOARD OF COUNTY COMMISSIONERS
OF CLARK COUNTY, INDIANA

ORDINANCE NO. _____
AMENDMENT NO. 7
TO ORDINANCE NO. 17-2007

AN ORDINANCE AMENDING THE ZONING ORDINANCE
FOR CLARK COUNTY, INDIANA

WHEREAS, the Board of Commissioners of Clark County, Indiana, adopted the County's Zoning Ordinance as Ordinance No. 17-2007; and

WHEREAS, since the adoption of said Ordinance, the Executive Director has made a recommendation that the Zoning Ordinance be modified; and

WHEREAS, both the Clark County Plan Commission and the Commissioners of Clark County have reviewed such recommendation, and believe such recommendation should be followed.

The following is a summary of the Amendments No. 7 to Ordinance No. 17-2007:

1. That under Article IV "Establishment of Districts and Official Maps" (page 5) under Zoning Districts add the following:

AOD Airport Overlay District

2. Add a new Article XXVIII entitled "Airport Overlay District" which shall read:

Section I: Intent of District

The intent of the Airport Overlay District is regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of the property, in the vicinity of the Clark Regional Airport by creating the appropriate zones and establishing boundaries thereof; defining certain terms used herein; referring to the Clark Regional Airport Zoning Map which is incorporated in and made a part of this Ordinance.

It is hereby found that an obstruction and certain uses have the potential for endangering the lives and property of users of Clark Regional Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Clark Regional 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 Clark Regional Airport and the public investment therein. Accordingly, it is declared:

(1) that the creation or establishment of an obstruction and certain uses have the potential of being a public nuisance and may injure the region served by Clark Regional 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 and certain uses be prevented; and

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.

Section II: Definitions

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

1. AIRPORT – Clark Regional Airport
2. AIRPORT ELEVATION – 474 feet above mean 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. 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 Article.
5. 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.
6. HAZARD TO AIR NAVIGATION – An obstruction determined to have a substantial adverse effect on the safe and effective utilization of the navigable airspace.
7. HEIGHT – For the purpose of determining the height limits in all zones set forth in this Article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
8. HORIZONTAL SURFACE – A horizontal plane 150 feet above the established airport elevation, the perimeter of the horizontal surface is determined by swinging the arcs of the specified radii of the applicable zone under Section III herein from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.
9. LARGER THAN UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft (currently runway 36).
10. NONCONFORMING USE – Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto.

11. OBSTRUCTION – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Article.
12. 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.
13. 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 runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document (currently runway 18).
14. 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 runways without a 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 Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
15. RUNWAY – A defined area on an airport prepared for landing and takeoff of aircraft along its length.
16. Runway Protection Zone (RPZ) shall mean that area defined as RPZ in Federal Aviation Administration Advisory Circular No: 150/5300 as amended from time to time for the Clark County Indiana Regional Airport.
17. STRUCTURE – An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, silos, 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 (currently runways 14 and 32).

SECTION III: AIRPORT ZONES

In order to carry out of the provisions of this Article there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Clark Regional Airport. Such zones are shown on Clark Regional Airport Zoning map consisting of one (1) sheet, prepared by JTL, Inc., and dated January 5, 2011, which is attached to this Article and made a part hereof. An

area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet to a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. Precision Instrument Runway Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet to a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the center – line of the runway.

4. Transitional Zones – The transitional zones are the areas beneath the transitional surfaces.

5. Horizontal Zone – The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

6. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Article to a height in excess of the applicable height limit herein established for such zone. Such, applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone – Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. Runway Larger Than Utility Visual Approach Zone – Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3. Precision Instrument Runway Approach Zone – Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the

primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

4. Transitional Zones – Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 474 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

5. Horizontal Zone – Established at 150 feet above the airport elevation or at a height of 624 feet above mean sea level.

6. Conical Zone – Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

7. Excepted Height Limitations - Nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to fifty (50) feet above the surface of the land based upon elevations as they exist as of the date of this ordinance.

SECTION V: USE RESTRICTIONS

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article 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. Furthermore, the following uses are prohibited in a RPZ: (1) uses that attract wildlife, (2) churches, (3) schools, (4) hospitals, (5) office buildings, (6) shopping centers, and (7) storage or maintenance of above ground flammable liquids or explosive materials in excess of the amount of such liquids or materials normally used at a single family dwelling.

SECTION VI: NONCONFORMING USES

Regulations Not Retroactive – The regulations prescribed by this Article 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 Article, 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 Article, and is diligently prosecuted.

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 Clark County Board of Aviation Commissioners 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 Clark County Board of Aviation Commissioners.

SECTION VII: PERMITS

1. 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 therefore 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 Article shall be granted unless a variance has been approved in accordance with law.
2. Existing Uses- No permit shall be granted that would allow the establishment or creation of any 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 Article or any amendments thereto or than it is when the application for a permit is made.
3. Nonconforming Uses Abandoned or Destroyed – Whenever the Clark County Plan Commission 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 application for variance from the terms of this Article shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Zoning Appeals unless Notice of the application has been furnished to the Clark County Board of Aviation Commissioners for advice as to the aeronautical effects of the variance.
5. Obstruction Marking and Lighting – Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article 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 Zoning Appeals, this condition may be modified to require the owner to permit the Clark County Board of Aviation Commissioners at its own expense, to install, operate, and maintain the necessary markings and lights.

SECTION VIII: CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Article and any other regulations applicable to the same area,

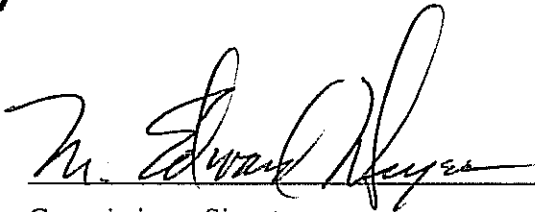
whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION IX: SEVERABILITY

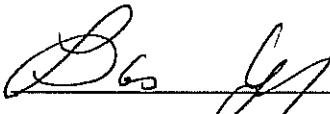
If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions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

EFFECTIVE DATE OF ORDINANCE AMENDMENT. This Ordinance shall become effective immediately from and after its passage.

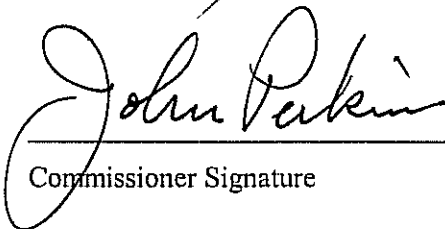
ADOPTED this 12th day of APRIL, 2012.



Commissioner Signature



Commissioner Signature



Commissioner Signature

ATTEST:

