

AIRPORT HAZARD AREA CONFLICT MITIGATION ORDINANCE NO. 68

AN ORDINANCE OF CATHARINE TOWNSHIP WHICH SETS FORTH ITS AUTHORITY TO ESTABLISH AN "AIRPORT HAZARD AREA" AND SAID ORDINANCE INCLUDES: PURPOSES OF THE DISTRICT; DEFINITIONS; AIRPORT HAZARD AREAS; AIRPORT HAZARD AREA HEIGHT LIMITATIONS; PERMITS REQUIRED; USE RESTRICTIONS; NONCONFORMING USES; VARIANCES; CONFLICTING REGULATIONS; AND AN OFFICIAL AIRPORT HAZARD AREA MAP.

WHEREAS, certain airport hazards, as defined, in effect reduce the size of the area available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Altoona-Blair County Airport (AOO), Blue Knob Valley Airport (7G4) and Cove Valley Airport (6G6) and the public investment therein; and

WHEREAS, the creation or establishment of an airport hazard, as defined, is a public nuisance and may injure the region served by the Altoona-Blair County Airport (AOO), Blue Knob Valley Airport (7G4) and Cove Valley Airport (6G6); and

WHEREAS, it is necessary in the interest of public health, public safety and general welfare that the creation or establishment of airport hazards, as defined, be prevented; and

WHEREAS, the prevention of these airport hazards, as defined, should be accomplished, to the extent legally possible, by the exercise of police power without compensation; and

WHEREAS, both the prevention of the creation or establishment of airport hazards, as defined, and the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards, as defined, are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land; and

WHEREAS, The Board of Supervisors of Catharine Township did hold public hearing on June 9, 2014;

NOW, THEREFORE BE IT ORDAINED by the Board of Supervisors of Catharine Township, pursuant to the authority conferred by 1984 Pa. Law 164, 74 Pa. C.S.A. Section 591 et seq., the following be and is hereby adopted as an ordinance of Catharine Township.

Section 1: Purposes. The purposes of this ordinance are: to create an airport hazard area map that considers safety issues around the Altoona-Blair County Airport (AOO), Blue Knob Valley Airport (7G4) and Cove Valley Airport (6G6); to regulate and to restrict the heights of constructed structures and objects of natural growth; to identify appropriate airport hazard areas; to establish the boundaries of airport hazard areas; to provide for changes in the restrictions and boundaries of such airport hazard areas; to

create the permitting process for use within said airport hazard areas; and to provide for enforcement, assessment of violation penalties, an appeal process, and judicial review.

Section 2: Definitions. The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise:

Airport Elevation: The highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the Altoona-Blair County Airport (AOO) is 1,503 feet above sea level, Blue Knob Valley Airport (7G4) is 1,270 feet above sea level and Cove Valley Airport (6G6) is 1,156 feet above sea level.

Airport Hazard: Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. C.S.A. Section 5102.

Airport Hazard Area: Any area of land or water upon which an airport hazard might be established if not prevented as provided in this Ordinance and the Act of 164 of 1984, 74 Pa. C.S.A. 5911 et seq.

Approach Surface (Area): An imaginary 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 the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface area, as shown on Figure 1, is derived from the approach surface.

Conical Surface (Area): An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface area, as shown on Figure 1, is based on the conical surface.

Department: Pennsylvania Department of Transportation.

FAA: Federal Aviation Administration of the United States Department of Transportation.

Height: For the purpose of determining the height limits in all hazard areas set forth in this Ordinance and shown on the hazard area map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface (Area): An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface area, as shown on Figure 1, is derived from the horizontal surface.

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.

Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

Non-Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Ordinance.

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.

Primary Surface Area: An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface area, as shown in Figure 1, is derived from the primary surface.

Runway: A defined area of an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

Transitional Surface (Area): An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface

at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface area, as shown on Figure 1, is derived from the transitional surface.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

Section 3: Establishment of Airport Hazard Areas: There are hereby identified hazard areas within the Airport Hazard Area Conflict Mitigation Ordinance, defined in Section 2 and depicted on Figure 1 and illustrated on the Airport Hazard Area Map(s), hereby adopted as part of this ordinance, which include certain airport hazard areas as defined in Section 2 of this ordinance and as depicted on Figure 1 of this ordinance and as illustrated on the Airport Hazard Area Map(s) as adopted as part of this ordinance include:

1. **Approach Surface Area**
2. **Conical Surface Area**
3. **Horizontal Surface Area**
4. **Primary Surface Area**
5. **Transitional Surface Area**

Section 4: Airport Hazard Area Maps. The Blair County Planning Commission has adopted an official airport hazard area map for each airport previously identified herein. Said map shall be used to implement this ordinance. The map may be amended in accordance with 74 Pa. C.S.A. Section 5914 . The official airport hazard area map shall be maintained on file in the office of the municipal secretary, with a copy available at the Blair County Planning Commission.

Section 5: Permit Applications. As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person or other entity who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in Catharine Township, *shall first notify the Department's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof.* Upon receipt of the Department's BOA response, said person or entity shall file a permit application with Catharine Township requesting permission to erect said new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade). The fee for filing the permit application shall be determined by the Board of Supervisors of Catharine Township by regulation and may be amended from time to time. The Department's BOA response must be included with this permit application for

it to be considered complete. If the Department's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of this Overlay Ordinance and a permit shall be issued by Catharine Township. If the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied. The project sponsor may seek a variance from such regulations as provided in Section 6.

No permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

Section 6: Variance. Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider into which of the following categories the FAA has placed the proposed construction:

- A. No Objection – The subject construction is determined not to exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.
- B. Conditional Determination – The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in Section 9 – Obstruction Marking and Lighting.
- C. Objectionable – The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.

Such requests for a variance shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this ordinance.

Section 7: Use Restrictions. Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water within the Airport Hazard Area in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Altoona-Blair County Airport (AOO), Blue Knob Valley Airport (7G4) or Cove Valley Airport (6G6).

Section 8: Pre-Existing Non-Conforming Uses. The restrictions prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the restrictions as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated, may only be reestablished consistent with the provisions herein.

Section 9: Obstruction Marking and Lighting. Any permit or variance granted pursuant to the provisions of this ordinance may be conditioned to require the person or entity requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

Section 10: Airport Planning Agency.

- A. The Blair County Planning Commission is hereby established as the Airport Planning Agency with the powers and duties ascribed to Airport Planning Agencies in 74 Pa. C.S.A. Section 5914(b).
- B. When considering formal amendments to either the ordinance or the Airport Hazard Area Map, the Airport Planning Agency shall convene a committee consisting of representatives of each affected municipality and each affected airport to advise on such amendments.
- C. Adoption of formal amendments of the Ordinance or the Airport Hazard Area Map shall be done by each of the local municipalities upon recommendation by the Airport Planning Agency.

Section 11: Violations and Penalties. It is unlawful to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade) without a permit under this ordinance or variance under this ordinance. It shall be unlawful to violate any provision of this Ordinance and any condition of any official and final decision hereunder. The penalty for violation shall be determined by the municipality, up to three hundred dollars (\$300.00) for each day of violation.

Section 12: Appeals.

- A. Right of appeal – Any person aggrieved or taxpayer affected by any decision of the municipality may appeal to the board as provided by law.
- B. Stay of proceedings – An appeal shall stay all proceedings in furtherance of the action appealed from unless the municipality certifies to the board, after the notice of appeal has been filed with it, that, by reason of the facts stated in the certificate, a stay would in its opinion cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the board with notice to the municipality and appellant.
- C. Board of appeals – An Airport Hazard Area Board of Appeals for Catharine Township is hereby created to hear and decide appeals, special exceptions and requests for variances pursuant to this Ordinance. The

Board shall consist of five members, each to be appointed for a term of three years by the Board of Supervisors of Catharine Township and said members shall be removable by the Board of Supervisors of Catharine Township, for cause, upon written charges and after public hearing. Upon the enactment of this Ordinance, one member shall have a term of one year, two members shall have a term of two years, and two members shall have a term of three years. The terms of each initial member shall commence upon the effective date of this Ordinance and shall extend to the date of reorganization for the Board of Supervisors of Catharine Township in the applicable year.

Section 13: Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

Section 14: Severability. If any of the provisions of this Ordinance or the application thereof to any person or circumstance are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 15: Effective Date. The effective date of this Ordinance shall be five (5) days after the enactment and ordaining thereof.



