



REPORT UPDATE : AIRPORT HEIGHT, SOUND AND RUNWAY PROTECTION ZONING ORDINANCE

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Draft of Airport Height, **Sound** and **Runway Protection** Zoning Ordinance

Report Update

Prepared for Berkeley County Council and Planning Commission for WV §8A-7-4

Initially Prepared by: Dana Keith, Planner, July 2018

Updated (in RED) by: Heather Williams, Planning Director, August 2019 & December 2019
(detailed timeline of events listed at end of report)

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Summary of Study

In September 2004, the county adopted the Ordinance to Limit Height of Objects and to Regulate Placement of Certain Structures within Specific Areas of Noise Level Around Eastern West Virginia Regional Airport. Between 2004 and 2018, land use surrounding the Eastern West Virginia Regional Airport has changed dramatically and has resulted in the need to protect the airport from development encroachment, specifically in relation to height and use restrictions. During the fall of 2017, Planning Commission staff was alerted to this need for protection and began studying the airport needs and Federal Aviation Administration (FAA) requirements. Early in 2018, staff, Planning Commission and County Council agreed an Airport Height and Zoning Ordinance was necessary to protect the Eastern WV Regional Airport and began compiling a study and subsequently this report per West Virginia State Code §8A-7-4.

Evaluation of Existing Conditions

Planning Commission staff reviewed the current ordinance, identified areas to revise and worked with the Airport Director, the Airport Master Plan consultants (Delta Airport Consultants) and the Berkeley County IT Department to develop draft revisions and maps for reference. Staff then evaluated current land use within the proposed zoned areas (within the noise contours) and found that the west side of the airport is predominantly industrial and commercial while the east side is mostly residential. Due to the increase in development in the county, and specifically around the airport, the study indicates a vital need to protect future uses of the airport, and current and future residents of Berkeley County.

Character of Buildings

The character of the buildings within airport airspace was not regulated in the 2004 Ordinance, nor will it be regulated in this proposed zoning ordinance.

Desired Land Use

In April 2018, Planner Dana Keith, attended a conference entitled “Challenges to Implementing Successful Land Use Strategies at Airports”, sponsored by the Transportation Research Board and the Airport Cooperative Research Program. The conference reinforced the need to protect not only the height of objects around the airport but also the use. Upon returning, resources were gathered, consulted and incorporated into the draft ordinance to comply with the FAA recommendations and requirements. The resources gathered are available for review as part of the study and also listed within this report. Sections of the draft ordinance pertaining to land use were revised and a permitted land use table and list were added.

Conservation of Property Values

The proposed ordinance has addressed property value conservation by permitting the repair and rebuilding of existing non-conforming uses. Structures in the most restricted areas, the runway protection zones, may be permitted to rebuild after review by Planning Commission, Staff, the Airport Director and FAA. The draft ordinance does not require the removal or alteration of any existing structure. Staff agrees these revisions have addressed concerns regarding property values and believes current property values have been conserved.

Map Resources and Land Use Evaluation

During the course of this study, Planning Commission staff, Eastern WV Regional Airport, Delta Airport Consultants and Berkeley County IT collaborated to create numerous maps to aid in land use evaluation. The various maps included aerial photography, parcel data, noise contour lines, height and runway protection zones. Once the noise contour map was generated, the IT department created a list of all affected parcels which was then submitted to the Tax Assessor to generate a list of all property owners and addresses. Due to federal labor disputes, the only available mapped noise contours were based on the C-5 aircraft, which is currently not in use. On July 17, 2018 the airport was able to provide staff with noise contour files and map based on the currently used C-17 aircraft, with the C-17 noise contours being smaller than the C-5 contours. The contour lines for both the C-5 and C-17 aircraft, illustrate the 65-75 DNL (day-night average sound level) which are generated by computer modeling and represent:

“a person’s cumulative exposure to sound over a 24-hour period, expressed as the noise level for the average day of the year on the basis of annual aircraft operation.” (FAA Fundamentals of Noise and Sound)

While staff acknowledges that proposed noise maps are for the older and louder aircraft, residents in the proposed 65 DNL have stated that the noise at a given time is substantially greater, as high as 90 decibels, when measured on their property. Due to concerns of high noise levels currently and the possibility of larger aircraft and/or more frequent flights and/or flights occurring around the clock, staff recommends planning based on the larger C-5 noise contours to protect the future development of the airport and its surroundings.

Public Notices and Publications

In early April 2018, County Council advertised with the Journal, 2 public hearings for April 26, 2018 and distributed copies of a draft ordinance in the libraries, County Council office, courthouse and on the county website. On June 18, 2018 Planning Commission advertised with The Journal 4 public meetings on July 10 and 11, 2018. Multiple articles were written and published by The Journal, Herald Mail and Local DVM in response to the public hearings and meetings. Copies of the proposed zoning ordinance have been made available to the public in the locations listed above, the Planning Commission office and emailed to the public meeting attendees.

Public Hearing and Meeting Comments and Results

During the April 26, 2018 public hearings, many in attendance were concerned because the draft provided prohibited uses but did not provide permitted uses. Staff has since provided a table of permitted uses in all noise contour lines and a list for the runway protection zones.

Certified letters (per WV §8A-7-8) were sent to all affected property owners on June 13, 2018 informing them of the proposed zoning ordinance and providing 4 public meeting times to allow staff to address concerns. Between July 10 and 11 from 11am-1pm and 5pm-7pm, staff met with approximately 50 property owners. The draft at that time did not allow for the repair or rebuilding of existing non-conforming structures (such as residential in the 65 decibel contour) and was the greatest concern during the meetings. Many residents understood the need to protect the airport and were in support of the changes. Since those meetings, staff has

revised the ordinance to allow the repair and rebuilding of existing structures that do not comply with the proposed zoning ordinance.

Staff agrees that this not only protects property values but also addresses the concerns of residents. County Council **held 2** public hearings on August 16, 2018 and the Planning Commission **held 1** public hearing on August 20, 2018 to address any final concerns. After the public hearings, staff **evaluated, addressed concerns and revised** the ordinance as necessary. Staff is anticipating **consideration and possible** adoption by County Council of the proposed zoning ordinance in **fall/winter 2019**.

References

In March 2018, staff began researching FAA regulations, Federal and State Code along with similar jurisdictions for resources on zoning and airport guidelines. The resources listed below were consulted and referenced as part of the study.

Federal

Title 14, Chapter 1, Subchapter E, Part 77 (14 CFR Part 77)
Title 14, Chapter 1, Subchapter I, Part 150 (14 CFR Part 150)
The FAR Part 150 Airport Noise Compatibility Planning Program
The FAR Part 150 Airport Noise Mitigation Measures

FAA-

Advisory Circular (AC 150/5300-13A)
Advisory Circular (AC 150/5190-4B) Draft
Airport Division 550 – Runway Protection Zones
Community Response to Noise
Environmental Desk Reference for Airport Actions, Chapters 5 & 17
FAA Form 7460-1, Notice of Proposed Construction or Alteration
Fundamentals of Noise and Sound
Interim Guidance on Land Use Within a Runway Protection Zone (Memo, 9/27/12)
Land Use Compatibility and Airports

Airport Cooperative Research Program-

Achieving Airport-Compatible Land Uses and Minimizing Hazardous Obstructions in Navigable Airspace
Report 15: Aircraft Noise: A Toolkit for Managing Community Expectations
Report 27: Enhancing Airport Land Use Compatibility, Volume 2: Land Use Survey and Case Study Summaries
Report 38: Understanding Airspace, Objects, and Their Effects on Airports.
Report 168: Runway Protection Zones (RPZs) Risk Assessment Tool Users Guide

American Planning Association-

Planners and Planes: Airports and Land-Use Compatibility

State

WV State Code, Chapter 8A

Local

Environmental Assessment for Conversion to the C-17 Aircraft, National Guard Bureau
Berkeley County 2016 Comprehensive Plan
Berkeley County Subdivision Ordinance
Eastern WV Regional Airport Authority FAR Part 150 Noise Compatibility Study
Eastern WV Regional Airport Authority Master Plan 2018 – Draft
Eastern WV Regional Airport Authority Strategic Business Plan

Similar Jurisdictions

Morgantown, WV Airport Overlay District
Jefferson County, WV Zoning Ordinance

Acknowledgements

The Planning Commission staff would like to thank Neil Doran, Eastern WV Regional Airport Director, Delta Airport Consultants, the Beckley Airports Field Office (FAA), and the Berkeley County IT department for their assistance in creating the proposed Airport Height and Zoning Ordinance.

Draft Zoning Ordinance

The draft included in this report is the final draft distributed to County Council, Planning Commission, Development Roundtable and the public.

Report Update

- September 2004: The County adopted the *Ordinance to Limit Height of Objects and to Regulate Placement of Certain Structures within Specific Areas of Noise Level Around Eastern West Virginia Regional Airport.*
- Fall of 2017: Planning Commission staff was alerted to the need to protect the area around the airport, by the EWVRAA.
- Early 2018: Staff, Planning Commission and County Council agreed that an Airport Height and Zoning Ordinance should be considered and, in April, Dana Keith, county planner, attended a conference entitled “Challenges to Implementing Successful Land Use Strategies at Airports” sponsored by the Transportation Research Board and the Airport Cooperative Research Program.
- April 26, 2018: County Council held 2 public hearings and distributed copies of the draft ordinance per state code.
- August 16, 2018: Ordinance was reviewed and considered by County Council.
- August 20, 2018: Ordinance was reviewed and considered by Planning Commission.

- September 17, 2018: Planning Department staff discussed Public Hearing Comments with Planning Commission and Mr. Bright spoke during Sunshine Laws on behalf of Grant Acres. Linda Barnhart requested that the Planning Commission have until the next meeting to provide a recommendation.
- October 1, 2018: Planning Commission determined a suggestion for how to move forward would be made after a meeting is held with Mr. Bright, Grant Acres representation, the Airport Authority and staff.
- October 19, 2018: Meeting held with Grant Acres HOA representatives, County Planning and County Counsel (Airport Authority representative accepted, then needed to tend to a last minute situation.) A possible solution was presented and discussed.
- May 31, 2019: Distributed to Planning Commission Members, the updated draft ordinance. This update was based upon the discussion with Grant Acres representatives and the Airport Authority and includes revisions based upon concerns presented at all public hearings.
- Grant Acres subdivision is no longer located in the Noise Zone.
A permissible uses table has been added.
This update also includes electronic overlay maps reflecting:
- Height Zone – parameters identical to previous versions
 - Noise Zone - the smallest available noise decibel overlay
Source: Renee Walker, Delta Airport Consultants, Inc., November 6, 2018 email
 - Runway Protection Zone (RPZ)
Source: Renee Walker, Delta Airport Consultants, Inc., April 3, 2019 email
- July 1, 2019: Added to agenda, updated Planning Commission on progress to date and requested permission to advertise again for a public hearing.
- July 15, 2019: Planning Commission voted to schedule Public Hearing to go through the process again, to share the ordinance, hear input, and make a recommendation on how to proceed with the document. Public Hearing scheduled for September 16, 2019.
- August 26, 2019: Public Hearing Advertised for September 16, 2019 Planning Commission meeting.
- September 16, 2019: Public Hearing held at Planning Commission meeting.
James Bright, President of Grant Acres HOA, spoke under Sunshine Law and shared his concerns.
Henry Slickr, Sheetz Inc. representative, spoke under the Public Hearing and shared his concerns.
- October 31, 2019: Redline edits of draft emailed to Planning Commission members. This draft contained edits in response to concerns expressed at the September 16, 2019 Public Hearing.
- November 4, 2019: Redline edits of draft color hardcopy provided to Planning Commission members at the Planning Commission meeting.
- December 2, 2019: Planning Commission voted to approve the redline edits of the draft ordinance and to send to County Council for Public Hearings and a decision.
- December 17, 2019: Feedback received from EWVRA Authority Executive Director
January 2, 2020: Feedback received from Sheetz, Inc. Real Estate Site Selector and Counsel