

**AN ORDINANCE AMENDING TITLE 17 OF THE
VANDERBURGH COUNTY CODE CONCERNING
LAND USE AND ZONING TO CREATE AN AIRPORT OVERLAY ZONE**

WHEREAS, Vanderburgh County seeks to promote the public health, safety and general welfare of persons who reside in or frequent the area surrounding the Evansville-Vanderburgh Airport Authority District; and to protect airport operations, facilities and the safety of aircraft flights to and from this public use airport;

WHEREAS, it is important to consider past growth trends in the area surrounding the Evansville-Vanderburgh Airport (the Airport), with some of the growth being the encroachment of incompatible land uses, and that development in this area is likely to continue into the future; while at the same time, the Airport has experienced runway expansions and improvements that are also expected to continue over time; and

WHEREAS, it is in the best interest of the community to protect the airport from further encroachments of land uses that are incompatible with the airport, and particularly to protect the approaches to airport runways and the surrounding airspace by preventing future land use conflicts for reduced exposure to the impacts of airport operations, by limiting the creation of new wildlife attractants and the height of encroachments into the runway approaches for enhanced aircraft safety; and

WHEREAS, in 2022 the Evansville-Vanderburgh County Area Plan Commission received a copy of Resolution NO. 288, A Resolution of the Evansville-Vanderburgh Airport Authority District in Support of the Adoption of an Airport Overlay Zone by the Evansville-Vanderburgh Area Plan Commission as a Zoning Ordinance amendment to accomplish the goals outlined above so that the airport can remain viable in the future, and take appropriate actions for meeting the Compatible Land Use grant assurances the Airport must follow to accept funding from the Federal Aviation Administration (FAA); and

WHEREAS, the Board of Commissioners of Vanderburgh County finds that it is in the best interests of the County overall, the airport, and the surrounding property to establish reasonable land use regulation for the airport impact area by adopting an airport overlay zone, as most other communities in Indiana with a public use, commercial passenger airport have done, to address incompatible land uses near the airport per the FAA guidance; and

WHEREAS, Title 17 of the Vanderburgh County Code, "Land Use and Zoning", regulates local land uses and contains general development standards (e.g. height limits) by zoning district, but does not currently have provisions specific to the needs of the airport and the airport impact area; and

WHEREAS, in response to the Airport Authority's request, the Board of Commissioners of Vanderburgh County desires to add land use controls to Title 17 specifically addressing the property surrounding the airport in the form of an airport overlay zone; and

WHEREAS, the Board of Commissioners of Vanderburgh County wishes to amend Title 17 of the Vanderburgh County Code in order to accomplish the foregoing goals.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Vanderburgh County, as follows:

SECTION 1. AMENDMENT OF SECTION 17.08.030 OF THE VANDERBURGH COUNTY CODE TO ADD NEW DEFINITIONS.

Section 17.08.030 of the Vanderburgh County Code entitled “Definitions” is hereby amended by interlineation of the following definitions in their respective alphabetized positions among the existing definitions in that section:

“Airport” means the Evansville-Vanderburgh Airport Authority District (EVAAD).

“Airport Comment Letter” means a letter provided by the Airport conveying their comments on a development application and addressing whether it would have the potential to create one or more of the public safety conditions listed in Subsection 17.18.030.C.2.

“Airport Hazard” means any structure, object, or natural growth located on or in the vicinity of the Airport, or any use of land near the Airport that obstructs the airspace required for the flight of aircraft landing or taking off at the Airport, or is otherwise hazardous to aircraft safety.

“Airport Land Use Compatibility” means the extent to which land uses surrounding the Airport can coexist with airport-related activities.

“Airport Land Use Compatibility Zones” means a set of sub-zones that divide the overall Airport Overlay Zone (AIR-O) into sub-zones intended to place additional land use restrictions on property under the influence of the Airport for the purpose of maintaining compatible land use around the Airport (the Airport Overlay Zone Map at the end of Section 17.18.040, illustrates the sub-zones, and Table 17.18.040 D. Dimensional Standards of Land Use Compatibility Zones, shows the sub-zone dimensions).

“Sub-Zone A” means the area closest to the ends of the individual runways that is free of above-ground obstructions and structures, and where nearly all land uses are prohibited for public safety.

“Sub-Zones B1/B2” means areas at the Airport extending outward from Zone A that are the critical surfaces reflecting aircraft approach and departure for each runway (the inner and outer approach zones), and where the size of these areas is based on the most demanding surface of each runway along with other factors such as the type/size of aircraft using each runway.

“Sub-Zones C1/C2” means the FAR Part 77 horizontal surface, which encompass the typical airport traffic area extending around the Airport in an elliptical shape depending upon the runway types and configurations.

“Airport Noise Impact Areas” means the 60 dBA, 65 dBA, 70 dBA, and 75 dBA noise sensitive areas as established in Section 17.18.090 Noise Standards, and derived from the periodically updated noise impact projections from aircraft flight operations.

“Airspace” means the space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.

“Compatibility” means for the purposes of this Title, the extent to which a development, building and/or land use is able to exist or occur without conflicting with its surroundings in terms of its use(s), scale, height, massing and location.

“Compatible Use” means an existing or proposed land use or activity that can co-exist with neighboring uses/activities, without either creating or experiencing one or more offsite, adverse effect(s).

“Day-Night Average Sound Level (DNL)” means a 365-day averaged, day-night average sound level measurement expressed in decibels, that is the metric designated to define airport noise impact for noise programs conducted under the provisions of the Federal Aviation Regulations, including FAR Part 150.

“Decibel” means A-Weighted Sound Level (dBA), as measured with a sound level meter, that is on a decibel scale and approximates the way the human ear responds to frequency levels.

“Federal Aviation Regulations” means regulations established by the Federal Aviation Administration, including, without limitation, 14 CFR Part 77 (also known as FAR Part 77) entitled, in full, “Objects Affecting Navigable Airspace - Part 77,” which (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

“Imaginary Surfaces” means areas established pursuant to Federal Aviation Regulation in relation to the Airport and to each runway that are height limits used to consider any object extending above these surfaces as an obstruction. The individual surfaces are defined as:

“Transitional surface” means the transitional surface that extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces; and that extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.

“Horizontal surface” means a horizontal plane located 150 feet above the established airport elevation that encompasses an area from the transitional surface to the conical surface; and the perimeter of which is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

“Conical surface” means the surface that extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet.

“Approach surface” means the surface that is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the runway primary surface; and having a runway approach slope at a ratio of 20:1, 34:1, or 50:1, depending on the approach type; and an approach surface length varying from 5,000 to 50,000 feet, depending upon the approach type (precision, non-precision or visual approach).

“Incompatible Land Use” means a use of land which is normally unable to co-exist with aircraft and airport operations without creating or experiencing adverse effects (e.g. noise sensitivity or safety hazards due to the potential for assemblage of people, structure height, creation of visual obstructions, etc.).

“Lighting and Marking of Hazards to Air Navigation” means installation of appropriate lighting fixtures, painted markings, or other devices upon objects or structures that constitute hazards to air navigation.

“Noise Exposure Contour” means lines drawn around a noise source indicating constant energy levels of noise exposure that is expressed as DNL, the measure used to describe community exposure to noise.

“Noise Impact” means a condition that exists when the noise levels occurring in an area exceed a level identified as appropriate for the activities in that area.

“Noise Reduction (NR) or Noise Level Reduction (NLR)” means reduction in sound level transmission between locations or rooms for the expressed purpose of lessening or mitigating the impact of noise in one of the locations (can also be expressed as Sound Level Reduction).

“Non-precision Approach Runway” means 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, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service airport planning document.

“Object” means any of the following, but is not limited to, above ground structures, people, equipment, vehicles, natural growth, terrain, and parked aircraft (see FAA Advisory Circular 150/5300-13).

“Obstruction” means any structure, tree, plant growth, or other object, including a mobile object, that exceeds a limiting height, specific to its geographic location relative to the runway/airport (see FAA Advisory Circular 150/5190-4A).

“Precision Approach Runway” means 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 by an FAA-approved airport layout plan; a military service approved military airport layout plan; any other FAA planning document, or military service airport planning document.

“Visual Approach Runway” means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

SECTION 2. AMENDMENT OF SECTION 17.16.010 OF THE VANDERBURGH COUNTY CODE TO AMEND THE ALLOWED USE GROUPS IN THE AIR DISTRICT.

Section 17.16.010 of the Vanderburgh County Code entitled “Airport districts” is hereby amended (underlined text is new wording) to make the list of use groups allowed in that Section to be more consistent with Federal Aviation Administration guidance and the restrictions of Chapter 17.18 Airport Overlay Zone (see Section 3):

17.16.010 Airport districts.

A. Uses in AIR District. A building or land may not be used except for one or more of the following uses:

1. Use group 5
2. Use group 7;
3. Use group 8;
4. Use group 9;
5. Use group 10;
6. Use group 11;
7. Use group 13 excluding Petroleum bulk storage;
8. Use group 14;
9. Use group 15;
10. Use group 17 excluding Agricultural operations specific to aquaculture (fisheries);
11. Use group 18;
12. Use group 19;
13. Special uses 1, 2, 4, 5, 6, 7, 10, 11, 12, 14, 21, 22, 23, 24, 25, 26, 27, 30, 47 and 48; and
14. Accessory uses to any of the above.

B. The uses in AIR are subject to the following requirements:

1. All uses shall conform to the rules and regulations of the Federal Aviation Administration, and Chapter 17.18 Airport Overlay Zone;

SECTION 3. ADDITION OF CHAPTER 17.18 OF THE VANDERBURGH COUNTY CODE TO ESTABLISH THE AIRPORT OVERLAY ZONE.

Chapter 17.18. of the Vanderburgh County Code, which constitutes the Airport Overlay Zone, is hereby created as a new chapter, to establish additional land use controls for a specific area surrounding the Evansville-Vanderburgh Airport, as follows:

17.18 Airport Overlay Zone.

17.18.010 Purpose.

A. The Airport Overlay Zone (AIR-O) is intended to protect the public health, safety, and welfare by regulating the development and land uses within the impact area of the Airport. Additional restrictions are needed for the Airport in conjunction with the existing AIR Zoning District to maintain the functionality of the Airport, promote the Airport as an economic development generator for the City and County, and minimize land use incompatibility between the Airport, any future airport expansion, and the land uses and natural environment in the airport overlay zone.

B. The AIR-O has been designed to accomplish these purposes by aligning the provisions of this Chapter with the existing provisions of state and federal law governing construction, alteration, or expansion of structures or uses in the vicinity of airports, including the Federal Aviation Regulations and Indiana statutes and regulations, as they may be amended or recodified from time to time. In the event of such amendment or recodification of statutes or regulations, it is intended that this Chapter be read in conformance and alignment with such amendments or recodification to the extent practicable, and in no event shall this Chapter be construed to conflict with or supersede any such federal or state regulation or statute.

17.18.020 Location.

A. The AIR-O is hereby established and located so as to include the Airport and its surrounding impact area. The airport overlay boundaries are shown on the Airport Overlay Zone and Sub-zone Boundaries Map at the end of Section 17.18.040 and on the official Vanderburgh County zoning map.

B. The boundaries of the AIR-O and its sub-zones are subject to change by amendment of this ordinance to reflect the type and extent of future aircraft activity, aviation operations or runway extensions at the airport.

17.18.030 Applicability.

A. The zoning classification of the underlying district remains unchanged by the AIR-O. All zoning requirements not mentioned herein as part of the AIR-O continue to apply along with all other requirements of the underlying zoning classification.

B. Any new structure or use or expansion of an existing structure or use will require submittal of a development application.

1. Development applications within the AIR-O will be reviewed through all applicable processes in this Title such as rezonings, subdivisions, special uses, variances, site plan reviews, etc.

2. In the review process for development applications within the AIR-O, an Airport Comment Letter must be provided to the APC by the Airport prior to any meeting scheduled to consider the development proposal for approval, and such letter shall be based on FAA Advisory Circular 150/5190- 4B for evaluation of the proposal.

- C. The provisions of this Chapter do not eliminate the need for development proposals to comply with all applicable federal and state standards and associated permit requirements pertaining to the Airport and its impact area, even if not referenced in the AIR-O.

17.18.040 Nonconforming Uses.

- A. Any existing structure or use that was in conformance with this Title prior to adoption of this Chapter shall be allowed to continue subject to the limitations of Section 17.12.150 Nonconforming uses, except as specifically provided by this section, which supersedes said Section 17.12.150 as to the matters covered in this section.

- B. No legal nonconforming use or associated structure in the AIR-O shall be enlarged, extended, or structurally altered to increase its nonconformity in a manner that would facilitate the assembly or occupancy of more people on the lot or parcel containing the nonconforming use. Structural alterations or enlargements that do not increase the capacity of the lot or parcel to accommodate the assembly or occupancy of more people are not prohibited.

- C. Enlargements, extensions, construction, reconstruction or structural alteration of such a nonconforming use that are not allowed in the AIR-O shall be interpreted to include, without limitation, the following:
 - 1. Expansions that increase the commercial occupant load or result in additional employment;
 - 2. Extensions of a use that would occupy land outside of the lot or parcel containing such use; and
 - 3. Expansions that would be anticipated to result in or increase the extent of an airport hazard.
 - 4. Undeveloped lots within the portions of any major residential subdivisions that have obtained primary plat approval may be developed in the B1 Zone as long as secondary plat approval has been or is obtained and the other requirements of the Zoning and Subdivision Codes are met for issuance of an Improvement Location Permit.

- D. Alterations that increase the height of an existing structure associated with a nonconforming use must comply with all applicable height restrictions referenced in this Chapter.

- E. In the event that a nonconforming structure or portion thereof is destroyed by any means, it shall be allowed to be reconstructed or repaired in conformity with this Title, subject to the federal and state height limitations referenced in this Chapter.

17.18.050 Land Use Compatibility Zones.

In order to carry out the purposes of the AIR-O, a set of sub-zones is hereby established which include certain areas and airspace within, around and above the Airport where the approach, departure and transitioning of aircraft occur. Subsection 17.18.050 D. Table -- Dimensional Standards of Land Use Compatibility Zones, and the Airport Overlay Zone and Sub-zone Boundaries Map at the end of this section, show these sub-zones and their dimensions. The sub-zones are a composite of and encompass the detailed surface definitions set forth in the Federal Aviation Regulations, including the current FAR Part 77 (see the "Imaginary Surfaces" definition in this Title), and are described as follows:

- A. Zone A – Runway Protection Zone (RPZ)
Zone A is closest to the ends of individual runways. This zone is intended to provide a clear area where most land uses are prohibited, and that is free of above ground obstructions and structures.

B. Zone B1 – Inner Approach Zone and Zone B2 – Outer Approach Zone

Zones B1 and B2 are critical overlay zone surfaces that reflect the aircraft approach and departure areas for a runway. Structures are allowed in these zones with some land use restrictions, and visual obstruction/height limitations. The size of these zones is predicated on the most demanding surface of the identified runway, and other factors such as the departure type and the aircraft type/size.

C. Zone C1 – Transitional Surface and Zone C2 -- Horizontal Surface

These zones encompass the typical airport traffic area near the Airport. It should be clear of uses that generate visual obstructions or tall structures/objects, in accordance with Indiana Code Chapter 8-21-10 “Regulation of Tall Structures” as it may be amended or recodified from time to time.

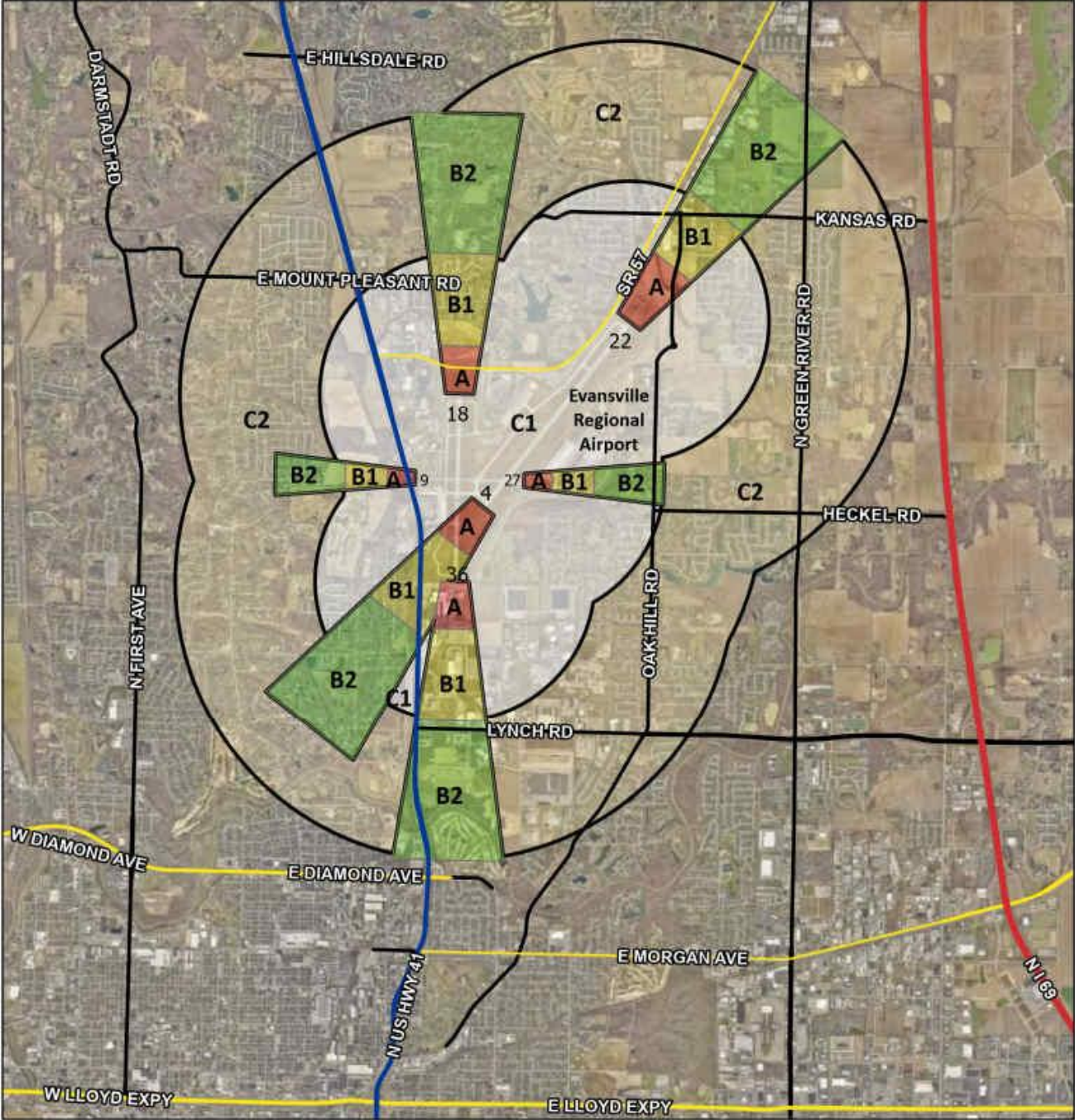
D. Table -- Dimensional Standards of Land Use Compatibility Zones

Zone Dimensions ¹		North/South Runway 18/36 (C-III)	Main Runway Runway 4 (C-IV)	Main Runway Runway 22 (C-IV)	East/West Runway 9/27 (B-II)
Zone A²	Inner Width of Zone A	1,000	1,000	1,000	500
	Outer Width Zone A	1,510	1,510	1,750	700
	Length of Zone A	1,700	1,700	2,500	1,000
Zone B1	Inner Width of Zone B1	1,510	1,510	1,750	700
	Outer Width Zone B1	2,500	2,500	2,500	1,000
	Length of Zone B1	3,300	3,300	2,500	1,500
Zone B2	Inner Width of Zone B2	2,500	2,500	2,500	1,000
	Outer Width Zone B2	4,000	4,000	4,000	1,500
	Length of Zone B2	5,000	5,000	5,000	2,500
Zone C1³	Radius	5,000	5,000	5,000	2,500
Zone C2³	Radius	10,000	10,000	10,000	5,000










Notes:

1. Dimensions are in feet.
2. Zone A begins 200 feet from the runway end.
3. Radii of Zones C1 and C2 begin at the middle of the inner width of Zone A.

Airport Overlay Zone and Subzone Boundaries



Legend

- | | | |
|--|--|---|
|  A |  C1 |  Streets |
|  B1 |  C2 |  Interstate |
|  B2 | |  US Highway |
| | |  State Highway |

17.18.060 Land Use Restrictions.

To minimize land use conflicts, the following restrictions shall apply in the zones and sub-zones listed below:

A. Use Restrictions in Zone A

1. Above-ground structures are prohibited.
2. All Use Groups and Special Uses are prohibited except for Crop farming in Use Group 17.

B. Use Restrictions in Other Zones and Sub-zones

1. The Table – Prohibited Land Uses in this Section lists uses and special uses that shall be prohibited in specific portions of the AIR-O. The table displays the uses by sub-zone, and by the following three types of problems they present for the Airport:

- a. Uses that are incompatible when near the Airport or that promote the assembly of people;
- b. Uses that present safety hazards including fire and explosion risks; and
- c. Uses that are known to be wildlife attractants.
 - i. The presence of wildlife at or near an airport can result in safety hazards for airport operations (e.g. bird strikes) and potentially for surrounding properties, or result in damage to airport facilities (e.g. from burrowing, nesting, etc.).
 - ii. Wildlife attractant uses include but are not limited to those listed in FAA Advisory Circular 150/5200-33C Hazardous Wildlife Attractants On or Near Airports.
 - iii. To protect public safety, wildlife attractant uses shall be regulated near the Airport, except when the Airport approves a mitigation plan submitted by the applicant that commits to proper mitigation through best management practices.

2. Uses with above-ground structures that are potential safety hazards due to height, glare, heat plumes, any interference with air traffic communications, visual approach, or other characteristics are prohibited.

3. Table – Prohibited Land Uses (X = prohibited)

	ZONES		
	B1	B2	C1
ASSEMBLAGE OF PEOPLE			
Major residential subdivisions	X		
Use Groups 4, 5 except for Photography studio, 6, 19.A. Campground only & 20	X		
Special Uses 3, 8, 25 Campground only, 28, 34 & 46	X		
Use Groups 4 when zoned R-5 only, 5 Business and professional offices zoned M-1 only, Child Care Center & Nursery or Nursery school		X	
Special Use 3 except when zoned A & R-4		X	
Use Groups 6, 8.B. Business School, Commercial Trade School, Dance/theatrical school or studio only; 8.E. Dance hall, meeting hall, or party house; Theater only; 8.H. when zoned M-1 & M-2 only, 8.I. & 19.A. Child care center only	X	X	
Special Uses 1, 2, 25 Child care center only & 30	X	X	
Special Uses 16 & 25 except for Campgrounds, Child care centers & Confined feeding	X	X	X
SAFETY HAZARDS			
Use Group 8.F.	X		
Use Groups 13. Petroleum bulk storage only; 16.A. Explosives, Fertilizer, Gas only; 16.B. Petroleum refining only & 16.C.	X	X	X
Special Uses 17 & 23 except for indoor firearms uses	X	X	X
WILDLIFE ATTRACTANTS			
Use Group 17. Agricultural operations specifically aquaculture (fisheries) only & 19.C.	X	X	X
Special Uses 9, 15, 20 & 25 Confined feeding only	X	X	X

C. Conflicting Use Regulations. If a conflict occurs between the permitted and prohibited uses (including Special Uses) in the AIR zoning district versus those listed in this Chapter, the more restrictive regulation shall apply.

17.18.070 Airspace Obstruction/Height Limitation

A. General.

1. To carry out the purposes of this Ordinance, the airport obstacle/height limitation regulations referenced in this Section restrict the height of new structures and objects that may be hazardous to the operational safety of aircraft approaching and departing from the Airport.
2. These airport obstacle/height limitations are contained in FAR Part 77 of the FAA guidance and are applicable to the AIR-O land use compatibility sub-zones as applied to the Airport.

3. In the development review process, if an Airport Comment Letter indicates that a proposed building or structure will exceed the Part 77 height limitations within the AIR-O zone (including the C2 Zone), the applicant shall provide documentation of FAA/Indiana Tall Structures Act permit approval prior to issuance of an Improvement Location Permit by the planning department.

B. Applicability of Height Restrictions.

1. All applicable federal and state height restrictions shall apply within the area of the AIR-O, as well as the height standards set forth in Table A, Section 17.38.010.

2. **Conflicting Regulations.** If a conflict between the height limitations of the underlying zoning district, IC 8-21-10 Regulation of Tall Structures, and Federal Aviation Regulations occurs, the more restrictive regulation shall apply.

3. Height Variances and Exceptions.

a. Height variances to the zoning standards are considered in public meeting by the Board of Zoning Appeals (BZA) and applications for height variances shall follow the procedures stated in Chapter 17.36 Administration and Enforcement.

b. If a height exception is also needed from Part 77 and the Indiana Regulation of Tall Structures, the applicant shall:

i. Follow the proper FAA and INDOT Office of Aviation procedures;

ii. As required in IC 36-7-4-918.5, submit to the planning department prior to any BZA approval of such a height variance in the AIR-O, a copy of the permit for the proposed structure issued by INDOT, a copy of the Determination of No Hazard to Air Navigation issued by the FAA, and evidence that proper notice was provided to the Airport pursuant to IC 8-21-10-3 Regulation of Tall Structures.

C. Prohibition of Airspace Zone Obstructions. No structure shall be constructed, altered, or maintained in excess of the airspace obstruction/height limitations of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance and included in the Definitions section of this Title, except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations.

17.18.080 Lighting Standards.

A. General.

1. All lighting for proposed site developments shall be prohibited from projecting upward or horizontally; shall be mounted on a pole, structure, or building; and shall utilize full-cutoff luminaires.

2. All signs shall be internally illuminated and shall not adversely impact aircraft safety or airfield operations as determined by the Airport.

3. With the exception of lighting for airport operations, no lighting (including any associated with signs) in the AIR-O shall spin, oscillate, or blink.

B. Hazard Marking and Lighting. The applicant must follow the appropriate procedures required by the FAA to obtain a Letter of Determination regarding Hazard Markings and Lighting. The Airport may inspect the property, from time to time, to ensure compliance with the Letter of Determination.

17.18.090 Performance Standards.

Development proposals that are anticipated to create any of the following conditions are prohibited:

- A. Impacts to visibility endangering aircraft operations by:
 - 1. The emission of air pollutants such as smoke, dust, and noxious fumes; or
 - 2. The creation of glare.
- B. Impacts to airport communications due to electrical interference; or
- C. Any other condition that could compromise aircraft safety.

17.18.100 Noise Standards.

- A. Applicability.
 - 1. This section applies to parcels within the following four established noise sensitive areas around the Airport as shown on the most recent version of the Noise Exposure Contour Map:
 - a. DNL 75 dBA Noise Impact Area
 - b. DNL 70 dBA Noise Impact Area
 - c. DNL 65 dBA Noise Impact Area
 - d. DNL 60 dBA Noise Impact Area
 - 2. Noise sensitive areas are based on projected yearly averaged, 24-hour day/night average noise level (DNL) impact projections arising from aircraft flight operations. The boundaries of these areas are shown on the most recent Noise Exposure Contour Map, which can be obtained from the Airport.
 - 3. Table -- Noise and Land Use Compatibility in this Section indicates whether various land uses are allowed within the four noise impact areas at the Airport.
 - 4. The boundaries of the noise impact area may change due to future updates of the Noise Exposure Contour Map. Upon approval of any new updated Map, the Airport shall provide a copy of the Map to the planning department for documentation of the new noise impact area boundaries.
- B. Noise Sensitive Area Sound Level Reduction Requirements. Buildings that exist and uses that are in operation at the time of adoption of this ordinance do not require conformance to these provisions, except as specifically provided below.

C. Table – Noise and Land Use Compatibility

Land Use	Yearly day-night average sound level (DNL) in decibels			
	60	65	70	75
RESIDENTIAL				
Use Groups 1, 3, 4, 6, 8.H. & 20	Y	N ¹	N ¹	N
Special Uses 3, 8, 31 & 46	Y	N	N	N
PUBLIC USE/INSTITUTIONAL				
Use Groups 8.I., 15.E., 18 Boarding/breeding kennel only & 19.D.	Y	N ²	N ²	N
Special Uses 1, 2, 5, 14, 16 & 30	Y	Y ²	Y ²	N
COMMERCIAL				
Use Group 5, 7, 8.A., B., C., D., F. & G., 9 (excluding Parking lot or garage & Off-track betting facility), 10 (excluding 10.C.), 11 (excluding 11.C.), 13 Boat sales, rental & repair only & 21	Y	Y	Y ²	N
RECREATIONAL/OPEN SPACE				
Use Groups 8.E. & 9 Off-track betting facility only, 11.C., 15.F., 18 Livery stable & Riding stables or guest ranches only & 19.A.	Y	Y	N	N
Special Uses 4, 7, 24 & 25	Y	Y	Y	N
TRANSPORTATION				
Special Use 11	Y	Y	Y ²	N

Table Key & Footnotes:

Y = Allowed N = Not Compatible

- Where the community determines that residential or school uses are allowed, measures to achieve outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB and 30 dB should be incorporated into building codes to be considered in individual approvals. Normal residential construction can be expected to provide a NLR of 20 dB, thus, the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation and closed windows year round. However, NLR design will not eliminate outdoor noise.
- Measures to achieve NLR 25 dB must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

Source: Derived from a similar chart in the FAA Part 150 Airport Noise Compatibility Planning document.

17.18.110 Prohibitions.

The following structures and uses are prohibited in the AIR-O:

- New structures that would exceed the height limits set forth in the applicable zoning district, unless the structure is approved for a variance by the Board of Zoning Appeals as discussed in Section 17.18.070.
- Uses listed as “N”, meaning “not compatible”, in Subsection 17.18.100 C., Table -- Noise and Land Use Compatibility, are not allowed unless any applicable noise level reduction requirements are met.

C. Any structure or use which is determined by the FAA to create a safety hazard for aircraft operations, through either an FAA 7460-1 airspace analysis or another FAA review process.

SECTION 4. AMENDMENT TO TABLE 17.28.070. OF THE VANDERBURGH COUNTY CODE TO ADD A ROW FOR THE AIRPORT ZONING DISTRICT SHOWING THE SPECIAL USES THAT CAN BE PERMITTED.

Section 17.28.070 Limitations on special uses, and specifically TABLE 17.28.070 at the end of that Section of the Vanderburgh County Code is hereby amended to add a row to the bottom of the table for the AIR zoning district, which indicates by marked Xs the special uses permitted within the AIR district, consistent with Federal Aviation Administration guidance as follows:

SPECIAL USES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35 42	43	44	45	46	47	48
AIR	X	X		X	X	X	X			X	X	X		X							X	X	X ²	X	X	X	X			X										X	X

2. Only indoor firearms uses can be permitted in the AIR District with Special Use #23 approval, as uses involving outdoor firearms are prohibited for aircraft safety.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall be in full force and effect after its passage by the Board of Commissioners of Vanderburgh County, Indiana. The schedule for the meeting(s) at which consideration/ordinance readings and final passage occur is subject to Ind. Code § 36-2-4-7, and the procedures contained in Ind. Code chapter 36-7-4.

Final passage by the Board of Commissioners of Vanderburgh County this _____ day of _____, 2023.

THE BOARD OF COMMISSIONERS OF VANDERBURGH COUNTY INDIANA

By: _____

Cheryl W. Musgrave, President

By: _____

Justin Elpers, Vice President

By: _____

Ben Shoulders, Member

ATTEST:

APPROVED AS TO LEGAL FORM:

By: _____

Brian Gerth, Vanderburgh County Auditor

By: _____

David L. Jones, Vanderburgh County Attorney