

ORDINANCE NO. 2014- 09

AN ORDINANCE ESTABLISHING AN AIRPORT OVERLAY DISTRICT

RECITALS

WHEREAS, the Indiana General Assembly has adopted laws regulating the height of structures developed and existing within the vicinity of an airport, which law allows local governments to adopt ordinances implementing such regulations; and

WHEREAS, the Indiana General Assembly has adopted legislation in 1983 regarding the conditions for obtaining a permit for the construction of a residence, school, church, childcare facility, medical facility, retirement home, or nursing home within a "Noise Sensitive Area" in the vicinity of an airport; and

WHEREAS, the operation of an airport brings with it certain hazards to existing structures and persons in the vicinity of its operations as well as to the operations of the airport and those using the airport when structures in the vicinity may interfere with such operations; and

WHEREAS, Washington County, Indiana has now established a zoning ordinance for Washington County but has not adopted local regulations implementing the height restrictions and noise sensitive area regulations established by said laws; and

WHEREAS, the City of Salem, in Washington County, Indiana, is undertaking a major project at the Salem Municipal Airport, involving a change in the direction of, and significantly increasing the length of, the airport's runway, thereby making it accessibly to more types of, and larger aircraft; and

WHEREAS, the Plan Commission of Washington County, Indiana considered, approved, and has now certified to the Board of Commissioners of Washington County, Indiana with a favorable recommendation the following Ordinance Establishing an Airport Overlay District.

IT IS NOW, THEREFORE, ORDAINED AS FOLLOWS:

I. DEFINITIONS

The following definitions are used herein and shall be added to the Washington County Zoning Ordinances; said new definitions to appear therein in alphabetical order with the existing definitions:

AIRCRAFT. Any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

AIRPORT. The Salem Municipal Airport, together with all of its structures, services, and improvements.

AIRPORT BOARD OF AVIATION COMMISSIONERS. The Salem, Indiana Board of Aviation Commissioners.

AIRPORT BOUNDARY. The property line of the Airport existing in fee simple and depicted on the Airport Facilities Plan.

AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet from mean sea level, and established to be 816 feet above mean sea level (MSL).

AIRPORT HAZARD. Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport which obstructs the airspace required for the ascent, descent or glide path of aircraft in landing or takeoff at the airport or is otherwise hazardous to such landing or takeoff of aircraft.

APPROACH, HORIZONTAL, AND CONICAL ZONES. These zones are more fully described in Sections II(B) and (C), below.

HEIGHT (AIRPORT OVERLAY DISTRICT). The purpose of determining the height limits in the Airport Overlay District, the datum shall be mean sea level elevation unless otherwise specified.

HELIPORT. Any airport designed and designated for the exclusive use of rotary wing and vertical takeoff and landing (VTOL) aircraft.

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 (AIRPORT OVERLAY DISTRICT). Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of the Airport Overlay District standards.

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, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

OBSTRUCTION (AIRPORT OVERLAY DISTRICT). Any structure, growth, or other object, including a mobile object, which exceeds a limiting height in the Airport Overlay District.

PERSON (AIRPORT OVERLAY DISTRICT). An individual, firm, partnership; corporation, company, association, joint stock association or government entity; includes any trustee, receiver, assignee, or a similar representative thereof.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a precision approach using the Global Positioning System (GPS) Wide Area Augmentation System (WAAS) with Localizer like with Precision Vertical guidance (LPV). It also means a runway for which a precision approach system is planned and is so indicated on approved airport layout plan or any other planning document.

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 military runways or when the runway has no 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 Article III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

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

STRUCTURE (AIRPORT OVERLAY DISTRICT). 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.

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 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.

ZONES. The zones established in the Airport Overlay District are imaginary horizontal or inclined surfaces in compliance with Federal Aviation Regulation, the Salem Comprehensive Plan and LC. 8-21-10 as amended by the State of Indiana.

II. AIRPORT OVERLAY DISTRICT

The Salem Municipal Airport Overlay Zoning District (AO) shall include all zones as indicated in the Airport Layout Plan approved by the Federal Aviation Administration on August 4, 2009. The centerline of Runway 8-26 of this airport plan is described as set out in

“Exhibit A” attached hereto. All land so indicated is hereby zoned and classified as the Salem Municipal Airport Overlay Zoning District.

(A) *Purpose and Intent.* It is hereby found that the airport hazard has the potential for endangering the lives and property of users of Salem Municipal Airport, and property or occupants of land in its vicinity; that an airport hazard may affect existing and future instrument approach minimums of Salem Municipal Airport; and that an airport hazard may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Salem Municipal Airport and the public investment therein. Accordingly, it is declared:

- (1) That the creation or establishment of an airport hazard has the potential of being a public nuisance and may injure the region served by Salem Municipal Airport;
- (2) That it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented; and
- (3) 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 marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(B) *Airport Zones.* In order to implement and enforce restrictions relating to the Salem Municipal Airport Overlay District, there are hereby created and established certain zones which include all of the land lying within the approach zones, conical zone, horizontal zone, transitional zones, a noise sensitive zone and wildlife attractant zones as they apply to Salem Municipal Airport. Such zones are shown on the two attached exhibits, the first showing the Airport Overlay District and Airport Noise Sensitivity Area (Exhibit A), dated June 2, 2014. And the second being the Federal Air Regulations (FAR) Part 77 Obstruction Plan, of January 19, 2009, which are attached to this Ordinance and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with more restrictive height limitation as defined in Section 155.243. The various zones are hereby established in accordance with FAR part 77 and defined as follows:

- (1) Runway Approach Zones, with Non-Precision Instrument Approaches—The inner edge of this approach zone coincides with the width of the primary surface which is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.
- (2) Conical Zone—The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there

from a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zone and the transitional zones.

- (3) **Horizontal Zone**—The horizontal zone is hereby established and shall consist of that area within an arc of 10,000 feet radii from the center of each end of the primary surface of Runway 8-26, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (4) **Transitional Zones**—These zones are hereby established as the area beneath the transitional surfaces, which extend outward and upward perpendicular to the runway centerline and the runway extended centerline.
- (5) **Noise Sensitive Zone**—This zone is hereby established and shall consist of the areas lying 1,500 feet on either side of the centerline and extended centerline of the runways for a distance of one (1) nautical mile from the point of which the extended runway centerline crosses the airport boundary.

(C) *Airport Overlay District Height Limitations.* Within the Airport Overlay District, the following height limitations apply.

- (1) Nothing in this Ordinance shall be construed as prohibiting the planting, growth, construction or maintenance of any tree or structure to maximum height of 50 feet above the ground, Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, or maintained, or be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limits herein established for such zone. The applicable height limitations are hereby established for each of the zones in question as follows:
 - (a) **Runway 8-26 Approach Zones, with Non-Precision Instrument Approaches** — Slopes upward thirty-four (34) feet horizontally for each foot vertically 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.
 - (b) **Conical Zone** — Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of three hundred and fifty (350) feet above the airport elevation.
 - (c) **Horizontal Zone** — Elevated one hundred and fifty (150) feet above the airport elevation at a height of 1076.11 feet above mean sea level.
 - (d) **Transitional Zones** — Slopes upward and outward seven (7) feet horizontally for each foot vertically, beginning at the sides of and at the same elevation as the primary surface and the approach surfaces and

extending to a height of one hundred and fifty (150) feet above the airport elevation which is 1076.11 feet above mean sea level.

(2) Additional Height Limitations-Except as otherwise provided in the Airport Overlay District, no structure or tree shall be erected, altered, or maintained, or be allowed to grow in any zone created by the Airport Overlay District to a height in excess of the additional height limits herein established by I.C. 8-21-10-7 and defined as follows:

(a) A height that is five hundred (500) feet above ground level or 1426.11 feet above mean sea level at the site of the object.

(b) A height that is two hundred (200) feet above ground level or 1126.11 feet above mean sea level, within three (3) nautical miles of the established reference point of the airport, and that height increases in the proportion of one hundred (100) feet for each additional nautical mile of distance from the airport up to a maximum of five hundred (500) feet.

(D) *Noise Sensitive Zone.* The attached "Exhibit A" notes certain lands shown in yellow, to be known as the "Noise Sensitive Area", around the Airport. Except as provided below, the underlying district land usage specified in this Chapter of this Ordinance shall be met in the Noise Sensitive Zone.

(1) Schools, libraries and hospitals are prohibited.

(2) New residential uses are subject to written acknowledgement which must be recorded for the subject property prior to the issuance for an Improvement Location Permit.

The owners of subject property shall be aware that they are in the vicinity of the Airport. It shall be made known by this notification that there are activities at this Airport which produce noise, vibration, light, glare and odor at all hours of the day and night and which are used or intended to be used for the taking off and landing of aircraft and any appurtenance areas which are used or intended to be used for airport buildings or facilities, including runways, taxiways, hangars and tie-downs areas that go on during the operation of an airport. Each owner and his or her heirs, assigns, and successors in interest shall refrain from initiating or supporting any action in any court or before any governmental agency and such persons are precluded from protest, objection, interference with, restriction of or reduction of the operation of the airport, complaining, seeking damages and/or attempting to enjoin the use of property (land) for such purpose. This condition and agreement shall also run with the land as is irrevocable".

(E) *Relation To Underlying Zoning.* This district is created as a special overlay district to be superimposed on underlying primary zoning districts. Development standards provided herein are intended to supplement those permitted in the underlying primary zoning district and in some cases may be more restrictive than those of

the underlying zoning district. When the requirements of the underlying zoning district and the overlay district appear to be in conflict, the more restrictive shall apply.

(1) Except as specified by subsection (D) above, all uses which are permitted by right or are permitted by special exception in the underlying primary zoning districts are permitted by right or by special exception, as applicable, in the Airport Overlay District.

(2) Uses which are prohibited in the underlying primary zoning district are prohibited in the Airport Overlay District.

(F) *Communication and Visibility Interference Prohibited.* Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within the established Airport Overlay District 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 create a hazard, endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(G) *Miscellaneous Provisions.* The following miscellaneous provisions apply to the Airport Overlay District.

(1) *Regulations Not Retroactive* — The regulations prescribed in the Airport Overlay District 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 adoption of the Airport Overlay District, or otherwise interfere with the continuance of a 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 adoption of the Airport Overlay District, and is diligently prosecuted.

(2) *Existing Uses* — No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation, than it was on the effective date of adoption of the Airport Overlay District or any amendments thereto or than it is when the application for a permit is made.


(H) *Administration and Enforcement.* It shall be the duty of the Washington County Building Inspector to administer and enforce this ordinance as to those areas falling outside the jurisdiction of the City of Salem. No material change shall be made in the use of land, no structure shall be erected, altered or otherwise established in any zone hereby created unless a permit shall have been applied for and granted by the Building Inspector. Prior to issuance of the permit, the Board

of Aviation Commissioners shall be notified on a form approved by the Plan Commission and Board of Aviation Commissioners.

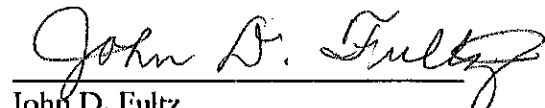
- (l) *Variances.* The Washington County Board of Zoning Appeals shall consider variance request from the provisions of this section according to Ind. Code §36-7-4-918.5. In addition, the application for variance shall be accompanied by a determination from the Board of Aviation Commissioners as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.
- (j) *Obstruction Marking and Lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure 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 Aviation Commissioners, this condition may be modified to require the owner to permit the Airport Board of Aviation Commissioners, at its own expense, to install, operate, and maintain the necessary markings and lights.

ALL OF WHICH IS APPROVED AND ORDAINED BY THE WASHINGTON COUNTY BOARD OF COMMISSIONERS THIS 15 DAY OF July 2014 AND SHALL BECOME EFFECTIVE IMMEDIATELY UPON THE UNANIMOUS CONSENT OF THE UNDERSIGNED, THE BOARD OF COMMISSIONERS, COUNTY OF WASHINGTON, INDIANA.

BOARD OF COMMISSIONERS,
WASHINGTON COUNTY,
INDIANA


Phillip Marshall, President


David Brown


John D. Fultz

ATTEST:

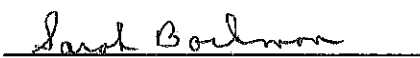
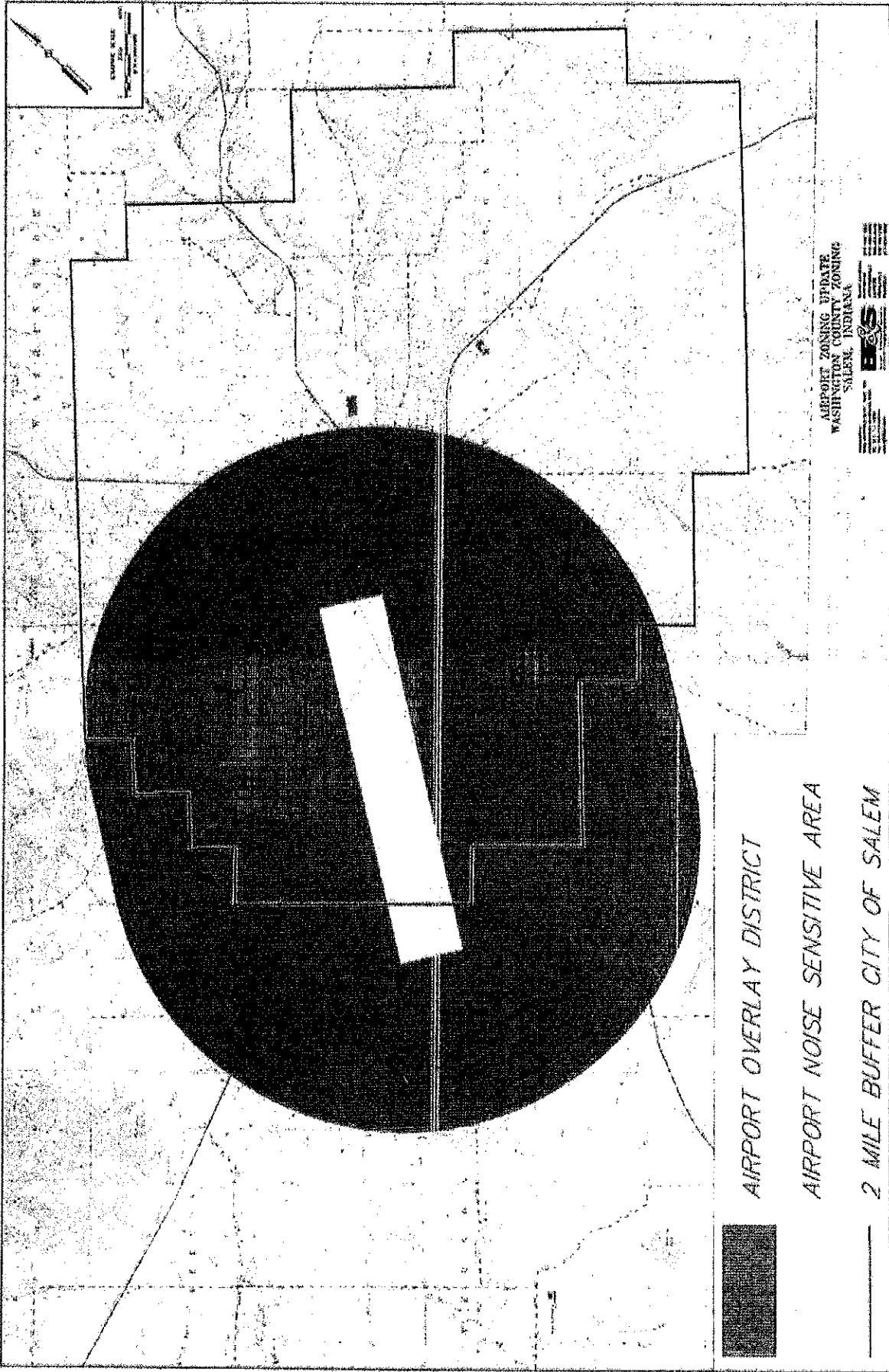

Sarah Bachman, Auditor

Exhibit "A"



AIRPORT OVERLAY DISTRICT

AIRPORT NOISE SENSITIVE AREA

2 MILE BUFFER CITY OF SALEM

AIRPORT ZONING UPDATE
WASHINGTON COUNTY ZONING
SALEM, INDIANA



Exhibit "B"

