

ORDINANCE NO. 2013 - ____

**EAST FALLOWFIELD TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

AIRPORT DISTRICT OVERLAY ORDINANCE

AN ORDINANCE OF EAST FALLOWFIELD TOWNSHIP SETTING FORTH ITS AUTHORITY TO ESTABLISH AN "AIRPORT DISTRICT OVERLAY" TO INCLUDE: PURPOSES OF THE DISTRICT, DEFINITIONS, AIRPORT ZONES, AIRPORT ZONE HEIGHT LIMITATIONS; PERMITS REQUIRED; USE RESTRICTIONS; NONCONFORMING USES; VARIANCES; CONFLICTING REGULATIONS; AND AMENDING THE OFFICIAL ZONING MAP BY THE ADOPTION OF AN OFFICIAL SUPPLEMENTARY AIRPORT DISTRICT OVERLAY 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 to G. O. Carlson Airport and the public investment therein; and

WHEREAS, an "airport hazard" does not relate to hazards created by the presence of the G. O. Carlson Airport, but instead refers to tall structures that may endanger aircraft; and

WHEREAS, the creation or establishment of an airport hazard, as defined, is a public nuisance and may injure the region served by the G. O. Carlson Airport; 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 did hold a public hearing on the ordinance on February 26, 2013.

NOW, THEREFORE BE IT ORDAINED by the Board of Supervisors, pursuant to the authority conferred by 1984 Pa. Laws 1674 codified at 74 Pa. Cons. Stat. §§5912 et. seq., the following be and is hereby adopted as an ordinance of East Fallowfield Township:

Section 1. Chapter 27 of the Code of Ordinances of East Fallowfield Township is amended by adding a new Part 25 as follows:

**Part 25
Airport District Overlay**

§27-2501. Purpose. The purpose of this ordinance is to create an airport district overlay that considers safety issues around the G. O. Carlson Airport, regulates and restricts the heights of constructed structures and objects of natural growth, creates appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones, creates the permitting process for use within said zones and provides for enforcement, assessment of violation penalties, an appeals process, and judicial review.

§27-2502. Relation to Other Zoning Districts. The Airport District Overlay shall not modify the boundaries of any underlying zoning district. Where identified, the Airport District Overlay shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

§27-2503. Definitions. The following words and phrases when used in this part shall have the meaning given to them in this part 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 G. O. Carlson Airport is 660'MSL.

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. Cons. Stat. § 5102.

Airport Hazard Area: Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Part and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

Approach Surface (Zone): 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 zone, as shown on Figure 1, is derived from the approach surface.

Conical Surface (Zone): 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 zone, 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 zones set forth in this Part and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface (Zone): 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 zone, 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 Part 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 Part.

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 (Zone): 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 zone, as shown on 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 (Zone): An imaginary surface that extends outward and upward from the end 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 zone, as shown on the Airport District Overlay Map, 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.

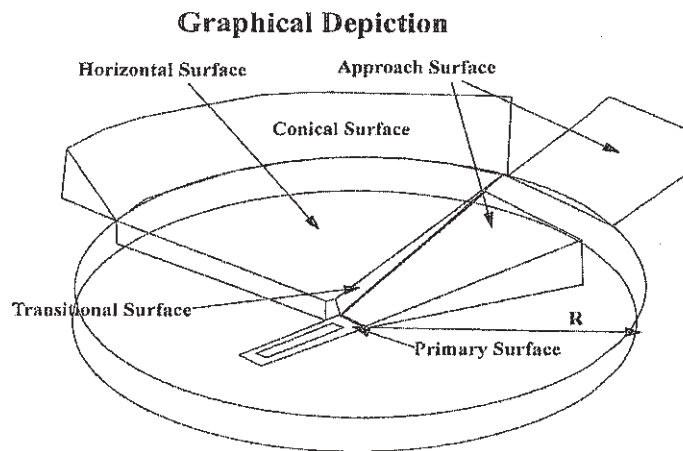


FIGURE 1

§27-2504. Establishment of Airport Zones. There are hereby created and established certain zones within the Airport District Overlay, defined in §27-2503 and depicted on the Airport District Overlay Map, being the hand annotated version of the Chester County G. O. Carlson Airport Surface Areas map created by URS Corporation on behalf of PennDOT Bureau of Aviation, May 27, 2010, hereby adopted as part of this part and incorporated herein as Appendix 27-2501-1, which include:

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

§27-2505. Permit Application. As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in the vicinity of the airport, *shall first notify the Department's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 (as amended or replaced) and the FAA by submitting FAA Form 7460-1 (as amended or replaced) to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof.* 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. If the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in §27-2506.

§27-2506. 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 which of the following categories the FAA has placed the proposed construction in:

- (1) 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.
- (2) 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 §27-2509 – Obstruction Marking and Lighting.
- (3) 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 variances 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 part.

§27-2507. Use Restrictions. Notwithstanding any other provisions of this Part, no use shall be made of land or water within the Airport District Overlay 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 G. O. Carlson Airport.

§27-2508. Pre-Existing Non-Conforming Uses. The regulations prescribed by this Part 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 Part, 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 (subject to the underlying zoning chapter,) may only be reestablished consistent with the provisions herein.

§27-2509. Obstruction Marking and Lighting. Any permit or variance granted pursuant to the provisions of this part may be conditioned according to the process described in §27-2506 to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

§27-2510. Violations and Penalties. Violations and penalties of the Airport District Overlay provisions shall be subject to §27-2101 of this chapter.

§27-2511. Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this part and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

§27-2512. Severability. If any of the provisions of this Part or the application thereof to any person or circumstance are held invalid, such invalidity shall not affect other provisions or applications of the Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

Section 2. This Ordinance shall be effective five days from adoption.

ENACTED AND ORDAINED this ____ day of _____, 2013.

**BOARD OF SUPERVISORS
EAST FALLOWFIELD TOWNSHIP**

Chris Makely, Chairman

Mark Toth, Vice Chairman

Chris Amentas, Supervisor

Edward Porter, Supervisor

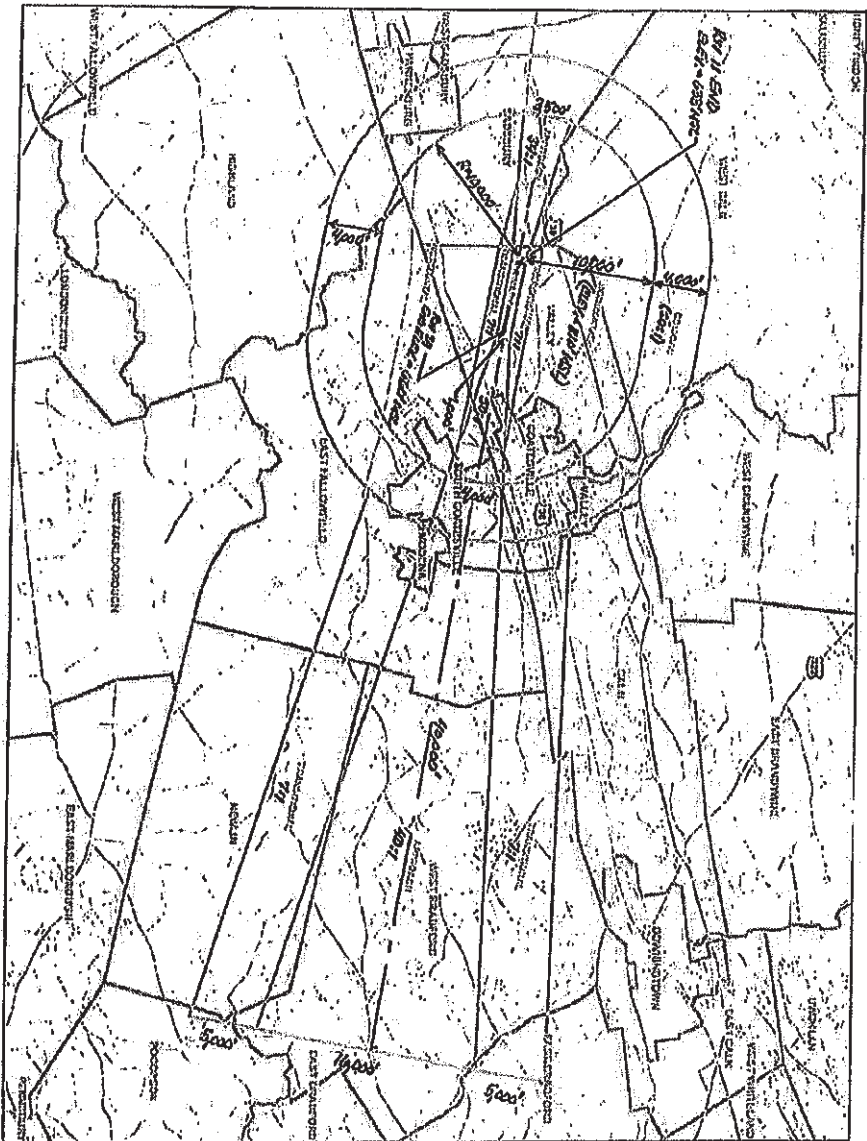
Joseph Pomorski, Supervisor

Attest:

**Denise Miller
Secretary**

APPENDIX 27-2501-1
AIRPORT DISTRICT OVERLAY MAP

[Being the hand annotated version of the
Chester County G O Carlson Airport Surface Areas map
Created by URS Corporation on behalf of PennDOT Bureau of Aviation
May 27, 2010]

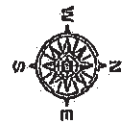
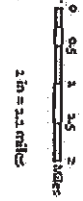


Chester County G O Carlson Airport Surface Areas

- Legend**
- Part 77 Surfaces
 - Municipal Boundary
 - County Boundary
 - Road

AIRAC EAS, 660' MSL

Direct Preliminary Use Only



Created by USGS Corporation on behalf
of Federal Aviation Administration
May 27, 2010