

**BRECKNOCK TOWNSHIP, BERKS COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 167**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF BRECKNOCK TOWNSHIP AMENDING THE BRECKNOCK TOWNSHIP ZONING ORDINANCE TO ADD A NEW SECTION 27-210 SETTING FORTH ITS AUTHORITY TO ESTABLISH AN “AIRPORT DISTRICT OVERLAY” TO INCLUDE: PURPOSES OF THE DISTRICT; DEFINITIONS; AIRPORT ZONES; HEIGHT LIMITATIONS; USE RESTRICTIONS; NONCONFORMING USES; VARIANCES; CONFLICTING REGULATIONS; AND AMENDING THE OFFICIAL ZONING MAP BY THE ADOPTION OF AN OFFICIAL SUPPLEMENTARY AIRPORT OVERLAY ZONING 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 Reading Regional Airport 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 Reading Regional 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;

**NOW, THEREFORE BE IT ORDAINED** by the Board of Supervisors of Brecknock Township, Berks County, Pennsylvania, pursuant to the authority conferred by 1984 Pa. Laws 164 codified at 74 Pa. Cons. Stat. §§5912 et. seq., the following be and is hereby adopted as an amendment to the Brecknock Township Zoning Ordinance:

**§ 27-210. ADO – Airport District Overlay**

**1. Purpose.**

The purpose of this ordinance is to create an airport district overlay that considers safety issues around the Reading Regional 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.

**2. Relation to Other Zone 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.

**3. 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 Reading Regional Airport is 344 feet MSL.

**Airport Hazard:** Any structure or object, natural or man-made, 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 Ordinance 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, attached hereto and made a part hereof, 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 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 Ordinance and shown on the zoning map, the datum shall be mean sea level (MSL) 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 is derived from the horizontal surface.

**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.

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

**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 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 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 zone, as shown on Figure 1, is derived from the transitional surface.

**Tree:** Any object of natural growth.

#### **4. Establishment of Airport Zones.**

There are hereby created and established certain zones within the Airport District Overlay, defined in Subsection 27-210.3 and depicted on Figure 1 entitled "Official Supplementary Airport Overlay Zoning Map hereby adopted as part of this ordinance, which includes:

- A. Approach Surface Zone
- B. Transitional Surface Zone

#### **5. Height Limitation.**

No material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted within the Airport Overlay District which exceeds one-hundred fifty feet (150') of vertical height above the ground.

#### **6. Variance.**

Any person who requests a variance shall first notify the Department of Transportation's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review. Applications for a variance shall not be deemed to be complete until a response is received from the Department's BOA. If the Department's BOA returns a determination of no penetration of airspace, the variance request should be considered in compliance with the intent of the Airport Overlay District.

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 by the Zoning Hearing Board of whether to grant a variance will depend on the determinations made by the FAA and the 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:

- 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 Subsection 27-210.9 - 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 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 ordinance.

**7. Use Restrictions.**

Notwithstanding any other provisions of this Ordinance, 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 Reading Regional Airport.

**8. Pre-Existing Non-Conforming Uses.**

The regulations prescribed by this Section 27-210 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 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 (subject to the underlying zoning ordinance,) may only be reestablished consistent with the provisions herein.

**9. Obstruction Marking and Lighting.**

Any permit or variance granted pursuant to the provisions of this Section 27-210 may be conditioned according to the process described in Subsection 27-210.6 to require the owner of the structure or object of natural growth in question to permit Brecknock Township, 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 ensure both ground and air safety.

**10. Violations and Penalties.**

Subject to the process in the Brecknock Township Zoning Ordinance, Part 4, entitled “Administration and Enforcement”.

**11. Appeals.**

Subject to the process in the Brecknock Township Zoning Ordinance, Part 4, entitled “Administration and Enforcement” and Section 601 entitled “Appeals”.

**12. Conflicting Regulations.**

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

**13. 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.

**14. Effective Date.**

This Ordinance shall become effective five (5) days after enactment, as provided by law.

ENACTED AND ORDAINED as an Ordinance of Brecknock Township, Berks County, Pennsylvania, this 1st day of February, 2011.

BOARD OF SUPERVISORS OF BRECKNOCK  
TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

Jeffrey M. Fiant,  
Chairman

Richard K. Burkhart,  
Member

F. Mark Weber,  
Member

ATTEST:

Dorothy L. Martin, Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 167 adopted by the Board of Supervisors of Brecknock Township, Berks County, Pennsylvania at a regular meeting held on February 1, 2011, pursuant to notice as required by law.

Dated: February 1, 2011

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Township Secretary

**Figure 1:  
Official Supplementary Airport Overlay Zoning Map**