

## **Airport Guiding Documents for Land Use**

### **October 15, 2024**

Airports are critical transportation infrastructure with significant investments of local, State and Federal resources and as a result, Airports are highly regulated. Protecting the land use on and around the Airport is one of the ways to protect the investment in the Airport, ensure safe operations of aircraft, and protect the safety of the public. Local and federal regulations are in place to ensure any use of Airport property will protect, advance or benefit the public interest in civil aviation. Federal regulations also prohibit non-aeronautical use of Airport property without approval from the Federal Aviation Administration so maintaining airport property for aviation related use helps keep the airport in compliance with federal regulations.

This page was created to assist with answering questions about regulations guiding airport land use. The following list includes documents that guide the use of airport property. This list may not be all inclusive and is subject to change with federal, state or local actions. Additional questions or information requests can be addressed by calling our office at 715-839-6241 or emailing [admin@chippewavalleyairport.com](mailto:admin@chippewavalleyairport.com). The public and residents living around the Airport play an important role in helping to ensure safe airport operations, public safety and helping to ensure federal regulations are complied with and we would like to thank you in advance for your assistance.

#### FAA Grant Assurances

- Airports that accept federal money through the Airport Improvement Program (AIP) must comply with all FAA Grant Assurances.
- Grant Assurance 5.b. - Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary.
- Grant Assurance 19 - The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
- Grant Assurance 20 - Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
- Grant Assurance 21 - It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of

the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.

- Grant Assurance 29 - Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing: (3) the location of all existing and proposed non-aviation areas and of all existing improvements thereon... Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the [FAA].

#### FAA Policy Regarding Land Use Changes on Federally Acquired or Federally Conveyed Airport Land

- Policy finalizes the FAA's policy on FAA procedures for processing land use changes on federally acquired or federally conveyed airport land or in situations where a land use change impacts the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations.
- Under the Airport Improvement Act, land is needed for an airport purpose "if the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land, and revenue from interim uses of the land contributes to the financial self-sufficiency of the airport."
- Federally conveyed or federally acquired land must be used for airport purposes until the FAA approves or consents to a change in land use.
- Limiting the use of aeronautical facilities to aeronautical purposes ensures that airport facilities are available to meet aviation demand at the airport.
- Section 163(a) limits the FAA's authority to directly or indirectly regulate an airport owner or operator's acquisition Section 163(a) limits the FAA's authority to directly or indirectly regulate an airport owner or operator's acquisition, use, lease, encumbrance, transfer, or disposal of land, any facility upon such land, or any portion of such land or facility. However, Section 163(b) contains three exceptions and provides that the limitations of Section 163(a) do not apply to the following:
  1. Any regulation ensuring the safe and efficient operation of aircraft or the safety of people and property on the ground related to aircraft operations; <sup>[3]</sup>
  2. Any regulation imposed with respect to land or a facility acquired or modified using Federal funding; <sup>[4]</sup>
  3. Any authority contained in a Surplus Property Act instrument of transfer, <sup>[5]</sup> or [section 40117 of title 49 United States Code](#) (Passenger Facility Charge statute). <sup>[6]</sup>
- Section 163 of the FAA Reauthorization Act of 2018 was revised by Section 743 of the FAA Reauthorization Act of 2024. Under Section 743, FAA retains the authority to regulate activities which fall under Section 163(b). Section 743 also clarifies that FAA retains jurisdiction over any property the was acquired with federal assistance, without exception.

#### FAA Order 5190.6 Airport Compliance Manual

- If the property is not used for aeronautical purposes directly, the property must be used to generate revenue for the benefit of the airport consistent with FAA's Policy and Procedures Concerning the Use of Airport Revenue, 64 Fed. Reg. 7696 (February 16, 1999) (Revenue Use Policy). Unless specifically permitted by the deed of conveyance, the FAA must approve the use for nonaeronautical purposes before such use is allowed.
- Section 15.13.j. Sponsor Nonaeronautical Use. Rental of land to, or use of land by, the sponsor for nonaeronautical purposes at less than fair market value rent is considered a subsidy of local government and is a prohibited use of airport revenue.
- Approval of an ALP showing future nonaeronautical land use does not constitute FAA approval for that nonaeronautical use when it may actually occur. The ALP is a planning document only. FAA approval will be required at the time the land is to be used for a nonaeronautical purpose.

#### Wisconsin Administrative Code Trans 55 Conditions of State Aid

- This is the State's version of the federal grant assurance.
- Specifically, Trans 55.06(2)(b) echoes the FAA requirement to prohibit any activity which would interfere with air transportation, while 55.06(3)(a) and (b) require clear and safe runway protection zones and protection of aerial approaches.

#### Eau Claire County Code Chapter 18.180

- The purpose of this subtitle is to: A. protect the approaches, airspace, physical, and hazard areas of the Chippewa Valley Regional Airport; B. regulate the use of property and restrict the height of structures and objects of natural growth in the vicinity of the airport; C. promote the public health, safety, convenience and general welfare; D. increase safety in the use of the airport; E. implement the recommendations of the airport master plan; and protect persons and property within the airport affected area and zoning districts.
- 18.180.070 Permitted, conditional, & prohibited uses. Uses are specified in Table 18.180.070-1. The only permitted use in Zone A is "Airports & related facilities".
- 18.180.080 Defines Zone A to include all county land owned for airport purposes.