

ORDINANCE No. 2007-5

**AN ORDINANCE OF THE TOWN OF EATONVILLE,
WASHINGTON, ADOPTING FINDINGS OF FACT AND
AMENDING THE DEVELOPMENT REGULATIONS,
SPECIFICALLY THE AEROSPACE ZONE AND THE
AIRPORT OVERLAY ZONE AND ORDINANCE 2006-6**

WHEREAS, the Washington State Growth Management Act of 1990, RCW 36.70A (GMA) requires that cities and towns adopt development regulations (as described in RCW 36.70A040), and periodically update them to implement the Comprehensive Plan and any changes thereto; and

WHEREAS, the Town Council amended the Comprehensive Plan Goals and Policies as they relate to regulating development at and around the Eatonville Airport on 12 February 2007; and

WHEREAS, the Central Puget sound Growth Management Hearings Board, on 18 December 2006, invalidated Chapter 18.04.185 Aerospace Zone and Chapter 18.04.187 Airport Overlay Zone, of the Eatonville Municipal Code and ordered revisions be submitted to the Hearings Board by 16 March 2007; and

WHEREAS, the Town of Eatonville Planning Commission on 20 February 2007, after having received a report and a recommendation from a Mayor appointed committee composed of aircraft owners, pilots, residents, home and land owners, airport manager, representatives from the Aviation Division of the Washington State Department of Transportation, Puget Sound Regional Council, Pierce County, and others, and having heard from the public in a formal public hearing; voted unanimously to recommend that the Town Council adopt findings of fact and a set of revisions to Chapters 18.04.185 and 18.04.187; and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. The Eatonville Town Council, having considered the Planning Commission recommendations, and having heard from the public, finds that the Planning Commission proposed revision to the Aerospace District and the Airport Overlay Zone Chapters of the Development Regulations of the Town of Eatonville, meets the requirements of the Growth Management Act and furthers the public health, safety, and general welfare of the citizens of Eatonville and adopts the recommended Findings of Fact as attached to this Ordinance as Appendix A and revisions to Chapters 18.04.185 Aerospace District and Chapter 18.04.187 Airport Overlay Zone and codifies the revised

Chapters 18.04.185 and 18.04.187 into the Eatonville Municipal Code as attached to this Ordinance as Appendix B.

Section 2. If any section, sentence, or clause of this Ordinance is ruled invalid by a court of competent jurisdiction, the remaining portion of this Ordinance shall remain valid and be in full force and effect.

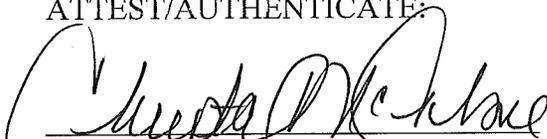
Section 3. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as required by law.

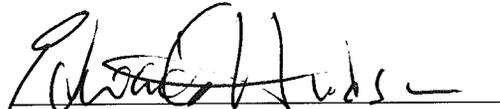
PASSED by the Town Council this 26 day of February, 2007.

APPROVED by the Mayor this 26 day of February, 2007.


Tom Smallwood, Mayor

ATTEST/AUTHENTICATE:


Chrystal McGlone, Town Clerk


Edward G. Hudson, Town Attorney

Eatonville Planning Commission

PO Box 309, 201 Center St. West
Eatonville, Washington 98328

February 22, 2007

The Honorable Mayor and Town Council
Town of Eatonville
Town Hall, 201 Center Street West
Eatonville, Washington 98328

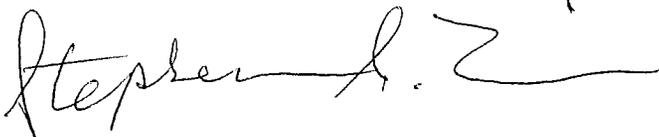
RE: Planning Commission Recommended
Amendments to the Eatonville Development
Regulations, Chapters 18.04.185 and 18.04.187
Related to Land Use Planning And Aviation
Safety at and Around the Eatonville Airport

Ladies and Gentlemen:

Attached to this letter is the Eatonville Planning Commission recommended amendments to the Eatonville Development Regulations relating to land use planning and aviation safety at and near the Eatonville Airport / Swanson Field, including the Findings of Fact.

The Eatonville Planning Commission arrived at its recommended changes at its 20 February 2007 public hearing, after having received a report from an ad-hoc committee composed of aircraft pilots, aircraft owners, home owners near the Airport runway, property owners at and adjacent to the Airport, representatives from the Aviation Division of the Washington State Department of Transportation, the Puget Sound Regional Council, Pierce County, and others. The ad-hoc committee met twice, once on 29 January and again on 12 February 2007, to formulate its recommendations to the Planning Commission.

Sincerely,



Stephen G. Lind, PE
Chair
Eatonville Planning Commission

Attachments: Appendix A and B

APPENDIX A

Findings

State Laws and Planning Guidelines

The Growth Management Act in Section 36.70A.510 calls out the following: **“General aviation airports.** Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547.”

RCW 36.70.547 states the following: **“General aviation airports – Siting of incompatible uses.** Every county, city and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent such general aviation airport. Such plans and regulations may only be adopted or amended after formal consultation with: Airport owners and managers, private airport operators, general aviation pilots, ports, and aviation division of the department of transportation. All proposed and adopted plans and regulations shall be filed with the aviation division of the department of transportation within a reasonable time after release for public consideration and comment. Each county, city, and town may obtain technical assistance from the aviation division of the department of transportation to develop plans and regulations consistent with this section. Any additions or amendments to comprehensive plans or development regulations required by this section may be adopted during the normal course of land-use proceedings. This section applies to every county, city, and town, whether operating under chapter 35.63, 35A.63, 36.70, [or] 36.70A RCW, or under a charter.”

RCW 14.12.030 states the following: **“Power to adopt airport zoning regulations.** (1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulation for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.....”

RCW 14.12.090 states the following: **“Airport zoning requirements.** (1) Reasonableness. All airport zoning regulations adopted under this chapter shall be reasonable and none shall impose any requirement or restriction which is not reasonably

necessary to effectuate the purposes of this chapter. In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider among other things, the character of the flying operation expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the use to which the property to be zoned is put and adaptable. (2) Nonconforming uses. No airport zoning regulations adopted under this chapter shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in RCW 14.12.110(3).”

In addition to the above listed Washington State law requirements, the Aviation Division of the Washington State Department of Transportation published and advocated adoption of set of planning guidelines. The planning guidelines are published in a booklet entitled “Airports and Compatible Land Use, Volume 1, Washington State Department of Transportation, Revised February 1999.” The above noted guidelines are not mandatory but are recommended to be followed by counties and municipalities in adopting or revising development regulations at and around airports.

Aviation Division WSDOT

The mission of the Aviation Division of the Washington State Department of Transportation is to advocate for the development of an adequate system of public use airports in Washington State, implemented through local government; promote aviation safety, airmark towns and cities; provide tourist information; activate and manage air search and rescue for civilian aircraft; promote aviation legislation; and promote aviation in general, through close liaison with aviation clubs and associations. The authorizing language in RCW 47.68 drives the Aviation Division’s role in aviation advocacy through the Airports Program (Local Airport Grants and Aid), State Airports, Aviation Planning, Air Search and Rescue Management, Pilot and Aircraft Registration, Aviation Education, State Aircraft Fleet Management, Aviation Outreach, and Administration. Further, the Aviation Division’s task is to perform state functions in air transportation, in cooperation with federal authorities and local governments in the state.

The Aviation Division does not approve or disapprove local government Comprehensive Plans and/or Development Regulations. Local governments under RCW 36.70.547 are required to consult with the Aviation division prior to adopting comprehensive plans and development regulations dealing with airports. Local governments are also required to file copies of locally adopted comprehensive plans and development regulations with the Aviation Division.

Although the Aviation Division does not have oversight authority to approve or disapprove local government plans and regulations, they do have significant clout over the actions of local government. The comments offered or opinions stated by the

Aviation Division in disputed situation carry significant weight in the outcome of the dispute. Further, the Aviation Division administers state grant funds for general aviation airport construction and renovation. Grant awards are made on the basis of criteria that include the existence and status of planning and development regulations.

Federal Aviation Administration

The Federal Aviation Administration (FAA) through Congress has been granted a number of responsibilities, the main ones being the regulation of navigable airspace and looking after aircraft passenger safety, including the oversight of the operation of commercial passenger airports. In Eatonville's case, the role of the FAA is to regulate the navigable airspace above the airport and to manage any aircraft noise problems associated with aircraft take-offs and landings.

To assure aircraft safety at take-offs and landings, the FAA has designated a set of imaginary surfaces above the airport that needs to be kept free of obstructions or penetrations. These imaginary surfaces are specified in FAR part 77 regulations. The FAA requires that any proposed penetration of the FAR part 77 imaginary surfaces needs to be reported to the FAA on form 7460-1. The FAA does not approve or disapprove the proposed penetration but only comments on its impact on safety. The FAA leaves it up to the local government to approve, disapprove or approve with conditions the proposed penetration. In severe cases, FAA has gone to federal courts to petition that the proposed penetration be denied on the grounds of aircraft and passenger safety.

As an example, the FAA was sent form 7460-1 by the developers of Aviator Heights 23-lot subdivision near the Eatonville airport runway informing FAA of the developer's intent to build residential structures on the lots, some of which would penetrate the FAR part 77 imaginary surfaces. The response from the FAA was that they do not consider the penetration of 17 feet above the FAR part 77 imaginary surfaces at the highest point in the subdivision to be an aircraft operations safety hazard.

The FAA does not regulate the ground operations nor exercise control over the layout of the Eatonville Airport. Nor is the Eatonville Airport eligible to receive FAA grant funds for airport improvements. The reason for the above conditions is that the Eatonville Airport, due to its small size, predominantly recreational flying uses, and low intensity of operations, is not listed on the National Plan of Integrated Airport Systems (NPIAS). The closest NPIAS airport to Eatonville Airport is Pierce County's Thun Field, located along SR-161 at South Hill.

Puget Sound Regional Council

Puget Sound Regional Council (PSRC) is a federally chartered and state appointed Metropolitan Planning Organization responsible for regional transportation planning in the four-county region, including Pierce, King, Snohomish and Kitsap counties. One of their tasks is to certify local government comprehensive plans to assure that they meet certain federal and state multi-modal transportation planning and coordinating requirements, including airports. The Eatonville Comprehensive Plan has been certified by the PSRC as having met the federal and state multi-modal transportation planning requirements. With the invalidation of two chapters in the Eatonville Development Regulations dealing with regulating development at and adjacent to the Eatonville Airport, the PSRC is considering reevaluating the Eatonville Comprehensive Plan.

PSRC's authority to certify local governments Comprehensive Plans comes from **WAC 365-195-325 Growth Management Act** which states the following: "A regional transportation planning organization shall certify that the transportation element of the adopted county, city, and town comprehensive plans within the region confirm with RCW 36,70A.070. Regional transportation plans, state transportation plans, and county and city comprehensive plans shall be consistent with one another." Further, additional authority comes from **WAC 365-195-325** which states the following: "Consideration of the current and projected surrounding land uses should be made with respect to uses that are compatible and available for projected airspace needs."

Achieving certification by the PSRC means that the Town of Eatonville is eligible to receive federal transportation related grant funds. The Town has been granted a federal Rural Town Centers and Corridors grant to revitalize the Eatonville downtown area. The Town intends to file for follow-up grant funds. For Eatonville to remain eligible for receiving additional federal funds for the downtown revitalization, the Town must assure that the Towns planning at the Airport remains in good standing with the PSRC.

Pierce County

Pierce County plays a significant role in planning and regulating land development at the north end of the Eatonville Airport runway. The north runway approach safety zone is almost entirely in Pierce County, outside the corporate limits of the Town of Eatonville. Therefore, any zoning and land development decisions in the north approach safety zone are being made by Pierce County. At this time, Pierce County does not have any airport zoning regulations in place for Eatonville Airport north approach zone. Their comprehensive plan states that airport planning and regulation

issues will be dealt with in the next round of updates of the Pierce County Comprehensive Plan and corresponding Development Regulations.

Growth Management Hearings Board

On 18 December 2006, the Central Puget Sound Growth Management Hearings Board invalidated Chapters 18.04.185 and 18.04.187 of the Town of Eatonville Development Regulations. The decision to invalidate was based on the finding that the Development Regulations did not implement the Comprehensive Plan and that the Development Regulations regulating development at and adjacent to the Eatonville Airport was internally inconsistent.

To remedy the inconsistency between the Comprehensive Plan and Development Regulations, the Town has proceeded to amend both the Comprehensive Plan and Development Regulations. The amendments to the Comprehensive Plan have been presented in a memorandum to the Airport Committee, dated 26 January 2007 and the proposed amendments to the Development Regulations are presented in this memorandum.

Airport Committee

RCW 36.70.547 calls for formal consultation with airport owners and managers, private airport operators, general aviation pilots, ports, and aviation division of the department of transportation prior to adopting or amending development regulations at and around airports. In Eatonville, the Planning Commission has created an Airport Committee composed of aircraft owners, general aviation pilots, airport land owners, airport site residents, major land owners of adjacent parcels of land to the Eatonville Airport, Pierce County Planning and Land Services, the Puget Sound Regional Council and the Aviation Division of the Washington State Department of Transportation. The first meeting of the Airport Committee took place on 16 January 2007, followed by a scheduled second meeting on 29 January 2007. At the 16 January 2007 Airport Committee meeting the Committee settled on a general course of action on how to amend the Comprehensive Plan. The agenda for the Airport Committee meeting for 29 January 2007 calls for a consensus decision on settling the proposed amendments to the Comprehensive Plan. The Airport Committee needs to meet at least one more time to settle on the proposed amendments to the Development Regulations. The report or reports of the Airport Committee will be presented to the Eatonville Planning Commission and the Town Council in public hearings dealing with emending the Comprehensive Plan and Development Regulations.

Airport Commission

Chapter 2.35 of the Eatonville Municipal Code enables the Town Council to establish an Airport Commission. Section 1.23.010 reads as follows: “Established. An airport commission is established which shall consist of not less than three nor more than five members. Commission members shall be appointed by the mayor and shall serve for a three year term. The initial appointment shall be staggered. One of the members of the commission shall serve as director of the airport. There shall be no salary for these positions; however, expenses which commission members incur, with preauthorization of the mayor, may be reimbursed. (Ord. 90-8 § 1, 1990). Section 2.35.020 reads as follows: “Duties. The airport commission shall make recommendations to the council concerning the overall operation of the airport, and shall suggest rules and regulations governing the airport for consideration and adoption of the council. (Ord. 90-8, 1990).”

Existing Conditions – Eatonville Airport

Eatonville Airport is referred to as Swanson Field and it appears under that name in various publications, manuals, and maps of the Federal Aviation Administration (FAA) and the Washington State Department of Transportation (WSDOT), Aviation Division. The Airport is classified as a General Aviation Airport, owned by the Municipality of Eatonville, and operated by a private operator. On a national level, the Airport is classified as Non-NPIAS Airport, meaning that the Airport is not part of or on the National Plan of Integrated Airport Systems. The latter classification means that the Airport is not eligible for FAA funding for capital improvements. However, the Airport does fall under the jurisdiction of the FAA for airspace operations, safety, and aircraft noise control.

The Airport consists of a three tax parcels that are 200 feet wide and extend to a total length of about 3,000 feet, amounting to about 15 acres. A map of the Airport and the surrounding area is shown in Attachment A. One of the three parcels is owned by the Town of Eatonville, while the other two parcels are in private ownership. The private owner has granted the Town of Eatonville an easement on their property for the installation of a runway and for aircraft operations. On the 200 by 3,000 feet airport property is located an airport runway that is 36 feet wide and extends to a length of 2,990 feet. The runway and apron pavement condition is rated good. There is no terminal building, no restrooms, no fueling operations, nor ground transportation. Landings and take-offs are visual. There are no electronic navigational aids. The runway is lighted and lights have also been installed, marking the ends of the runway. The elevation of the airport is about 843 feet above sea level. Road access from the west is via Lynch Creek Road. Road access from the east is via Weyerhaeuser Way North.

In 2002, there were 22 single engine aircraft based at the Airport, making 594 operations. A takeoff and a landing amount to two operations. Most of the flights (takeoffs and return landings) by resident aircraft are made for recreational purposes, amounting to less than one per day. Transient or out of the area aircraft made 2,015 operations, of which 15 were by military aircraft. Most of the itinerant operations are made by student pilots with an instructor on board, practicing visual landings and takeoffs.

The airport came into existence sometime in the 1940's. It consisted of a grassy runway of about 2,000 feet long. The airport property extends 100 feet on each side of the center of the runway. Residences and hangars were built along the runway as close as 130 feet from the center of the runway as shown in Attachment A. At the time, the airport was in the County and all land subdivisions and building permits were issued by Pierce County. Annexation of the airport property into the Town of Eatonville took place sometime in 1980s.

In the mid 1990's the Town received a capital construction grant from the Washington State Department of Transportation, Aviation Division. With the grant money, the Town lengthened the airport runway to 2,990 feet and paved it to a width of 36 feet with turnaround bulbs at each end. Runway lights were installed shortly thereafter.

The 1993 Comprehensive Plan designated an area around the Airport as an Aerospace District. Zoning regulations were also adopted that regulated development in the Aerospace District. For example, the minimum lot size was 21,500 square feet. The unusually large lot size was established to allow a resident to construct an aircraft hangar on the lot. Other restrictions such as a prohibition of utility poles and street lights were put in place to allow aircraft to be taxied unimpeded between the airport runway and a hangar, located on a particular residential lot. In 2005-2006, the Comprehensive Plan and Development Regulations were amended to add an overlay zone to control height of buildings and structures and to prohibit incompatible land uses. Responding to a complaint, the Central Puget Growth Management Hearings Board invalidated two chapters of the Development Regulations and ordered it rectified by 16 March 2007.

Safety and Risk Management

Risk is generally defined as exposure to chance of loss. Risk can be voluntary, such as lifestyle choices, such as choosing to fly and aircraft, or involuntary, such as people at risk on the ground under airspace.

Zero risk is impossible to achieve. In case of aviation, if all uses and people were removed from the airport influence area, risk to an airplane pilot and its occupants would still exist. Zero risk from aircraft flying would only be possible if no aircraft flying took

place. The best that can be achieved is to reduce risk to a level that is acceptable to the jurisdiction and their citizens. In Eatonville, the Airport Committee is best equipped to recommend an appropriate risk level to the Planning Commission.

Given that risk cannot be completely eliminated, the objective is to reduce risk by adopting an airport overlay zone that regulates land development in the proximity of the airport runway. The Federal Aviation Administration regulates for safe operations of airplanes and airports by limiting the height of objects at and around airports. The Federal Aviation Administration, however, does not have jurisdiction over land uses at and around the size and classification of an airport such as the Eatonville Airport / Swanson Field. The airport overlay zone is intended to increase safety and land use compatibility outside the boundaries of the airport. In Eatonville, the airport boundary is a strip of land 200 feet wide and about 3,000 feet long containing a 36 foot wide paved runway, located approximately in the middle of this strip of land.

National Transportation Safety Board data indicates that the Eatonville Airport has experienced one accident since year 2000. The accident was caused by the pilot practicing acrobatic maneuvers where the aircraft crashed to the ground off the airport property. The accident was fatal to the pilot. The accident had nothing to do with the Eatonville Airport. The Safety Board identifies and records accidents to the closest airport. In the year 2000 incident, the closest airport happened to be Eatonville.

National Transportation Safety Board also shows that there were fifteen (15) accidents accredited to the Eatonville Airport / Swanson Field. Four of the fifteen accidents resulted in fatalities. It is unclear whether these accidents happened on the airport property or outside the area. According to anecdotal reports by long-time airport residents and pilots, none of the above mentioned fatal accidents took place on the airport property. The closest fatal accident to the airport property occurred in 1973 when an aircraft ran out of fuel while attempting to land.

Both the National Transportation Safety Board data for 1982 through 1989, and the data from the Aircraft Owners and Pilots Association for the years 1964 through 1982, indicate that few aviation accidents involve residences or other buildings. The data average of these two sources resulted in the conclusion that the annual percentage of building-airplane accidents over the years studied equal to less than one (1) percent or precisely 0.65 percent of all accidents.

Strategies to reduce risk and increase safety are based on several principles and should be addressed in the airport overlay zone. In summary the principles are as follows:

- Intensity of land use measured by the number of people expected to be attracted to the use on a per acre basis.

- Intensity of residential uses measured by the number of dwelling units per net developable acre. Although residential buildings have not been involved in a significant percentage of off-airport accidents, residential uses generally provided more protection than non-residential uses.
- Protection for special populations, such as schools age children or those who have reduced mobility, such as elderly or ill.
- Control of hazardous materials, such as above ground storage of moderated to large quantities of flammable or other hazardous materials.
- Hazard to flight, such as obstructions of the airspace, danger to aviation from wildlife and interference to navigation or communication.
- Aircraft occupants' survivability rate, the provision of open space provisions increases the opportunity for pilot-controlled emergency landings in the vicinity of the airport.

In concluding the discussion on safety and risk, the thing to remember is that the primary purpose of an airport overlay zone is to increase safety and land use compatibility outside the boundaries of the airport and within the airport influence area.

Height Restrictions

Title 14 of the Code of Federal Regulations (“CFR”) Part 77 “Imaginary Surfaces” establishes the boundaries, dimensions and configurations (airspace protection thresholds), to reduce airspace obstruction and hazard to aviation in proximity to an airport. Part 77 defines a system of imaginary surfaces (three dimensional space) around airports through which no fixed object or structure (including trees) should penetrate. These imaginary surfaces are designed to protect the critical airspace around airports and allow for safe operation of aircraft.

Public agencies or private developers proposing to construct structures or locate objects that would penetrate the Part 77 imaginary surfaces must notify the Federal Aviation Administration using FAA Form 7460-1, “Notice of Proposed Construction or Alteration.” The Federal Aviation Administration review will then determine whether the object should cause hazard to aircraft operations, and if so, how it should be marked and/or lighted so it can be seen by pilots. Of course, the best approach to maintaining the safety of navigable airspace around airports is to prohibit the construction of tall structures, regulate their location in relation to the extended runway centerline, and/or strictly limit their height.

The Aviation Division of the Washington State Department of Transportation is advocating that local jurisdictions within whose territory lies an airport, must adopt development regulations that prohibit the penetration of FAR 77 imaginary surfaces. It should be pointed out that the Code of Federal Regulations, Title 14, Part 77, does not prohibit penetration but requires that a notification on Form 7460-1 be filed with the Federal Aviation Administration.

To do what the Aviation Division of the State Department of Transportation wants Eatonville to do causes severe problems for the Town. The Airport was constructed in 1950's while the land at and around the airport was in Pierce County. Residences were constructed thereafter with proper permits obtained from Pierce County, some of them being 125 to 130 feet from the centerline of the runway. FAR 77 surfaces begin at the 125 foot line and extend outward at a slope of seven feet horizontal to one foot vertical. By overlaying the FAR 77 height regulations on the existing development along both sides of the runway would render about eight or nine residential structures nonconforming to the FAR 77 height regulations. A number of platted lots would also become unbuildable for the same reason. Owners of residential structures that are classified as being nonconforming uses will have difficult time selling their properties because banks generally do not want to mortgage nonconforming uses. Further, the homeowners will also find it difficult to obtain homeowners insurance. In case of natural disaster or fire, the Eatonville Development Code does not permit a nonconforming use to be rebuilt if the loss is more than 50 percent in value.

The Aviation Division of the State is suggesting that these properties be bought out by the Airport. The Airport is owned by the Town of Eatonville. The Town does not have the financial resources to purchase these properties. For the Town to adopt regulations that would render these residential structures as nonconforming uses without compensation would diminish their property rights to the extent that the Town, most likely, would find itself in Pierce County Superior Court defending itself in a "takings" case. Therefore, a prohibition of penetration of FAR 77 imaginary surfaces is not an option to the Town. If the prohibition of penetration is an uncompromising requirement, laid on the Town by the authority of a higher form of government, then the Town has no other course but to shut down the airport. However, there is a compromise. The compromise is to allow certain penetrations to occur under a variance procedure adjudicated by the Town of Eatonville Board of Adjustment.

Incompatible Land Uses

The Aviation Division of Washington State Department of Transportation publishes technical guidelines on airport compatible land uses in a handbook entitled "Airports and Compatible Land Use - Volume I, 1999." The handbook identifies six aircraft accident safety zones as shown in Map A, attached to this memo. The handbook presents a table of incompatible land uses for each of the six aircraft accident safety

zones, identified in Map A. The Aviation Division of the State is advocating that local governments adopt the listed incompatible land uses in their development regulations.

The Town of Eatonville has a problem with adopting the State Aviation Division proposed incompatible land use designations, particularly when it comes to residential uses. The State Aviation Division prohibits residential development in five of the six aircraft accident safety zones 1 through 5. It permits residential development in zone 6 only provided the residential lot size is five acres as a minimum. For example, schools are prohibited in all six aircraft accident safety zones.

For the Town of Eatonville to adopt State Aviation Division proposed incompatible land use guidelines for each of the six aircraft accident safety zones, the Town would have to declare a great number of existing residences as nonconforming uses. The problems associated with having one's property declared nonconforming use is discussed in the Height Restrictions section of this memo. Further, Eatonville high school, middle school and an elementary school would have to be declared nonconforming uses. By applying the State Aviation Division proposed rule for aircraft accident zone 6 (one residence per five acres) would render about 80 percent of the Town of Eatonville, including the downtown area unbuildable. A compromise has to be found.

Comprehensive Plan Goals and Policies

10.7.5 Airport Area Land Use

Goal LU-5

Protect the airport from incompatible land uses and height hazards through provisions in the Comprehensive Plan and Development Regulations.

Policies

1. Encourage a balance between infrastructure preservation and quality of life.
2. Protect the viability of the airport as a significant economic resource to the community and the State.
3. Enhance coordination and consistency between comprehensive plans, implementing regulations and airport plans.
4. Reduce hazards that may endanger the lives and property of the public.

5. The Town is in the process of revising its Development Regulations that identify incompatible land uses adjacent to the Eatonville Airport / Swanson Field. The Planning Commission is working in cooperation with the aircraft owners, operators, property owners, aviation interests, residents in the Town of Eatonville, the Washington State Department of Transportation, Aviation Division and the Puget Sound Regional Council. Special attention will be paid to safety issues at approach and departure zones, located at the ends of the airport runway.
6. Encourage aviation related land uses, commercial and industrial development within the Aerospace zone.
7. Within 2,500 feet outward of runway ends, discourage new residential and new intensive commercial and industrial development. .
8. Encourage the protection of the Eatonville Airport / Swanson Field from adjacent incompatible land uses and activities that could impact the present and future operations of the airport.
9. Discourage the siting of uses adjacent to airports that attract birds, create visual hazards, or emit transmissions that would interfere with aviation communications.
10. Adopt Federal Aviation Administration (FAR) Part 77 "Imaginary Surfaces" regulations to protect the airport from height hazards so as to be subject to a case by case modification only obtainable with an approved variance.

Conclusions

The Aviation Division of the Washington State Department of Transportation proposed development regulations of restricting height by prohibiting the penetration of the FAR 77 imaginary surfaces and the insistence of adopting the incompatible land uses as presented in handbook, Airport Compatible Land Use Matrix, as presented in the WSDOT, Aviation Division publication entitled "Airports and Compatible Land Use, Volume I, Revised February 1999," for each of the six aircraft accident safety zones are unacceptable to the Town of Eatonville because they cause unnecessary and significant damage to the Town at the expense of gaining a very small increment of safety for the flying aircraft. Further, the State Aviation Division proposed development regulations, if implemented, would significantly reduce the property rights of a great number of residences, would render three schools as nonconforming uses and preventing residential development to take place in most areas of the Town. The State Aviation Division proposed development regulations seem to be designed and are quire appropriate to be applied to the construction of a new airport in a rural area or in a built up urban area

where the airport authority has sufficient financial means to purchase the surrounding properties in order to provide the prescribed safety. These conditions do not exist in Eatonville and therefore, a compromise has to be found that takes into consideration the existing development pattern, the unique geographic features of Eatonville and the Town's ability or inability to finance major undertakings at the Eatonville Airport.

The Development Regulations should be designed to implement the goals and policies found in the recently amended Eatonville's Comprehensive Plan.

APPENDIX B

Development Regulations

18.04.185 AP – Aerospace district.

This district is intended to allow airport related activities such as runway, flight operations, aircraft storage, aircraft repair and maintenance, aircraft modification, commercial land uses, industrial land uses, and residential land uses.

A. Permitted Uses. The following uses are permitted, provided they do not violate the restrictions identified and listed in Chapter 18.04.187.

1. Airport, heliport and aircraft tie-down areas;
2. Hangars, fuel depots, aircraft sales and repair facilities, and similar facilities pertaining to aircraft;
3. Single-family residential use as permitted in Chapters 18.04.010;
4. Commercial uses as permitted in Chapter 18.04.140.
5. Industrial uses as permitted in Chapter 18.04.180;
6. Any structure customarily accessory to the above uses shall be permitted;
7. Flight instruction;
8. Aircraft rental;
9. Air taxi service; and
10. Aircraft and parts manufacturing.

B. Conditional Use. Other uses as determined by the Board of Adjustment to be of a similar and compatible nature are permitted upon application and approval of a conditional use permit. In reviewing and granting a conditional use permit, the Board of Adjustment shall follow the conditional use permit procedures outlined in Chapter 18.09.030.

C. Variances. The Board of Adjustment may grant a variance upon application and approval of a variance permit, provided that the granted variance does not significantly endanger the operation of an aircraft and the lives and property in the aerospace district and its surrounding area. In reviewing and granting a variance, the board of adjustment shall follow the variance procedures outlined in Chapter 18.09.040 and Chapter 18.04.187.

D. Restrictions. It is found that airport operations may create potential hazards that may endanger the lives and property of users of the airport and of occupants of land or property in its vicinity. Therefore, it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented by overlaying certain restrictions on development as specified below and further specified in Chapter 18.04.187 Airport Overlay Zone.

1. No use may be made of land within the aerospace district in such manner as to create electrical interference with radio communication between the aircraft and the airport and air traffic control, making it difficult for fliers using the airport, impair

visibility in the vicinity thereof, or otherwise endanger the landing taking off or maneuvering of aircraft.

2. The Planning Commission may attach any reasonable restrictions and requirements to any parcel of land within the aerospace district and any parcel of land adjacent or in the vicinity of the aerospace district as the Planning Commission deems necessary to protect the public health, safety and general welfare and to mitigate any adverse effects of proposed development that in the judgment of the Planning Commission is incompatible with the operation of the airport.

3. Any commercial use within the aerospace district shall provide for a six-foot-wide buffer on each side of the commercial use when it abuts residential property. If the adjacent residential properties are not as yet developed, the Planning Director may require, as a condition of issuing a building permit, a landscaping plan to be completed at a future date set by the Planning Commission. The Planning Commission shall have the authority to require a bond to secure performance of the future landscaping requirement.

4. No landscaping higher than one (1) foot above ground shall be permitted in an area extending from the edge of the runway to a distance of 100 feet. Landscaping along streets and taxiways shall not exceed two feet in height in order to allow unobstructed taxiing of aircraft. Light poles and street signs are not permitted. Any lighting along streets and taxiways shall be at ground level, not exceeding one foot in height.

5. No building or structure in the aerospace district shall have a height greater than 28 feet for a residential structure and 38 feet for a commercial or industrial structure. No building or structure in the aerospace district is permitted to penetrate the height limitation set forth in Chapter 18.04.187 without a Board of Adjustment approved variance as specified in Chapter 18.04.187. ~~An applicant that receives a board of adjustment approved variance for exceeding height limitation shall file a FAR Part 77 notification with the Federal Aviation Administration.~~

E. Minimum lot size. No lot within the aerospace district shall be less than 21,500 square feet. The minimum lot width shall be 100 feet. All lots in this district shall abut a dedicated public street or shall have such other access as held suitable by the Planning Commission, meeting required road standards for private roads, or, if applicable, subdivisions.

F. Setback requirements. Every front yard shall have a minimum setback requirement of 25 feet, and a minimum side yard setback of eight feet except for corner lots which shall have minimum side yard setback of 25 feet for the side yard facing another street. There shall be a minimum 25 foot setback from the rear property line. An accessory building which is detached and located within 10 feet of a rear or side property line provided said property line does not front on a street. All attached accessory structures shall comply with the setback requirements for the main structure.

G. Parking. All lots shall provide parking spaces in accordance with lot usage as set forth in Chapter 18.05 EMC. Hangars do not qualify as required parking spaces for automobiles.

H. Signs. No sign erected in the aerospace district shall exceed two feet in height, measured from ground level.

Chapter 18.04.187 Airport Overlay Zone

A. PURPOSE AND INTENT

The purpose and intent of this chapter is to establish an airport overlay zoning district on properties located on, adjacent to, and in the vicinity of Eatonville Airport (Swanson Field), Washington, in order to protect the health, welfare, safety, and quality of life of the general public, property owners, airport operators, and aviation community; and also to ensure compatible land uses in the vicinity, of the affected environments of the airport overlay zoning district.

B. STATUTORY AUTHORITY

This chapter is adopted pursuant to RCW, 36.70A.547 and 36.70A.200 which requires a county, city or town to enact development regulations, to discourage the siting of incompatible land uses adjacent to general aviation airports.

The incompatible land use regulations presented in this Chapter differs from ~~the Federal Aviation Administration FAR 77 height regulations and the State of Washington Department of Transportation, Aviation Division suggested planning guidelines regulating that identify a set of suggested incompatible land uses adjacent to general aviation airports.~~ The departure, however insignificant, is necessitated by the fact that Eatonville Airport (Swanson Field) was built and later expanded before the incompatible land use regulations adjacent to general aviation airports came into existence. Residential development was permitted close to the airport runway and other developments, such as schools, were permitted to be built adjacent to the airport property. At the time, these developments were considered to coexist safely with the airport operations. Today, the view at the Federal and State level has changed. Many of the early permitted developments are now being judged unsafe by the Federal and State agencies. However, the Town of Eatonville has the obligation to accommodate the Federal and State desires and the rights of property owners at and near the airport. This Chapter attempts to find a compromise that recognizes the Federal regulations and State planning guidelines and protects the rights and values of property owners at and around the airport. By adopting this Chapter, the airport is safer than having done nothing. .

The Federal regulations and State planning guidelines have been written to fit all airports, regardless of their size and geographic setting. What is good for Sea-Tac International Airport is unrealistic and unworkable in Eatonville. Eatonville Airport (Swanson Field) ~~has been, continues to be, and is projected to be~~ is a twenty two (22) aircraft recreational air park with fewer than one resident aircraft taking off and returning per day. This Chapter is designed to meet the State requirement that a town shall enact development regulations to discourage the siting of incompatible land uses adjacent to

general aviation airports by taking into consideration the Federal regulations, the State planning guidelines, rights of property owners, the safety of aircraft operators, the safety of persons residing at and near the airport, the operators and patrons of businesses, the past development history at and near the airport, and the size and characteristic of the airport itself as a recreational air park with low level activity.

C. DEFINITIONS

DEFINITIONS: As used in this chapter, unless the context otherwise requires:

1. "Airport" means Eatonville Airport (Swanson Field).
2. "Airport Elevation" means eight hundred forty three (843) feet above mean sea level.
3. "Airport Overlay Zoning District" shall include the Runway Protection Zone 1, Inner Safety Zone 2, Inner Turning Zone 3, Outer Safety Zone 4, Sideline Safety Zone 5, and the Traffic Pattern Zone 6 as depicted on ~~Map B~~ Map A – Aircraft Accident Safety Zones and numbered Zones 1-6, respectively, ~~and shall also encompass the area identified Height Restriction Zones as depicted on Map A.~~
4. "~~Airport Approach~~ Surface" means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and along the same slope as the approach zone height limitation slope set forth in Section D.1. ~~The perimeter of the approach surface coincides with the perimeter of the approach zone.~~
5. "Approach, transitional, horizontal, and conical zones" These zones are set forth and defined in Section D.1, a through e.
6. "Conical Surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet outward to one (1) foot upward for a horizontal distance of four thousand (4,000) feet.
7. "Flammable and Combustible Liquids" shall be defined as the type and design of underground and above ground liquid storage tanks; the location and design of the fuel dispensers and dispenser nozzles; the design and specifications for related piping, valves and fittings; the location and classification of electrical equipment, including emergency fuel shutdown devices; and specifications for fuel storage and pressure-relief components, and shall be in accordance with Article 52(5201.3.2(#1) Motor Vehicle Fuel- Dispensing Stations), Article 79 (Flammable and Combustible Liquids, specifically Special Options 7904), Standard of the Uniform Fire Code and all other applicable codes.

8. "Hazard to Air Navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
9. "Height" for the purpose of determining the height limits in all zones set forth in this chapter and shown on the airport overlay zoning district ~~map "A"~~ Map C, the datum shall be mean sea level elevation unless otherwise specified.
10. "Horizontal Surface" means a horizontal plane one hundred fifty (150) feet above the established airport elevation reaching a height of 993 feet above sea level, extending outward from all points on the centerline of the Primary Surface, a distance of five thousand (5,000) feet.
11. "Non-Conforming Use" means any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this chapter.
12. "Obstruction" means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section D.1.
13. "Person" means an individual, firm, partnership, corporation, company, association, joint stock association or government entity. Person includes a trustee, a receiver, an assignee, or a similar representative.
14. "Primary Surface" means a surface longitudinally centered on a runway. The primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface is two hundred fifty (~~200~~ 250) feet, one hundred twenty five feet on each side of the center of the paved runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
15. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
16. "Structure" means 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.
17. "Transitional Surfaces" beginning at the edge of the Primary Surface, center of the paved runway and at the same elevation as the paved runway, extending outward at ninety (90) degrees to the center of the runway, ~~for one hundred twenty five (125) feet, and rising to a vertical height of twenty eight (28) feet, then extending further outward at a defined slope of five seven (5 7) feet outward~~ for each one (1) foot upward until it meets the horizontal surface which is one hundred fifty (150) feet above the airport elevation of eight hundred forty three

(843) feet, or nine hundred ninety three (993) feet above sea level. ~~HEIGHT RESTRICTIONS: No object shall penetrate the imaginary line created by a slope seven (5) feet outward for each one (1) foot upward.~~

18. "Tree" means any object of natural growth.

19. "Utility Runway" means a utility runway that is constructed for and intended to be used by propeller-driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less.

20. "Visual Runway" means a runway intended solely for the operation of aircraft using visual approach procedures.

D. Airport Overlay Zoning District

In order to carry out the provisions of this chapter, there is hereby created an Airport Overlay Zoning District that is composed of the following height restriction and aircraft accident safety zones. The zones cover a geographic area that is affected by airport activities and are defined on the basis of factors including, but not limited to, aircraft noise, aircraft flight patterns, airport safety zones, local circulation patterns and area development patterns. The boundaries of the airport height restriction and aircraft accident safety zones are shown on ~~Airport Overlay Zoning District Map "A" Height Restriction Zones and Map "B" "Airport Aircraft Accident Safety Zones, Map A and Height Restriction Zones, Map C"~~, which are attached hereto and incorporated by reference, and which shall also be on file and open for inspection in the Town of Eatonville Public Works Department offices. The height restriction and aircraft accident safety zones are overlaid on top of the existing underlying zoning, which remains in full force and effect. Where the requirements imposed by the height restriction and aircraft accident safety zones conflict with the requirements of the underlying zoning, the more restrictive requirement shall be enforced.

1. HEIGHT RESTRICTION ZONES. In order to carry out the provisions of this chapter, there are created and established certain height restriction zones which include all of the land lying beneath the primary surface, approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Eatonville Airport (Swanson Field) as promulgated in Title 14 of the Code of Federal Regulations ("CFR") Part 77 "Imaginary Surfaces" establishes the boundaries, dimensions and configurations (airspace protection thresholds), to reduce airspace obstruction and hazard to aviation in proximity to an airport.

. Such zones are shown on Eatonville Airport (Swanson Field) Overlay Zoning Map "A" Map C. Within each of the height restriction zones there are hereby established certain height restrictions for structures and trees. The height restriction zones are established and defined as follows:

a). Primary Surface Zone. Primary Surface, as defined in Section C.14, is a surface longitudinally centered on a runway. The primary surface zone extends two hundred (200) feet beyond each end of the runway. The width of the primary surface is two hundred ~~fifty~~ (200 250) feet, one hundred ~~twenty five~~ (100 125) feet on each side of the center of the paved runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. HEIGHT RESTRICTIONS: No structure, other than a runway and runway associated aprons can be constructed in the primary surface zone. Any landscaping outside the paved runway shall be limited to native or seeded grasses.

b). Approach Surface Zone. The two hundred ~~fifty~~ (200 250) foot inner edge coincides with the width of the primary surface and slopes twenty (20) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and expands to a horizontal distance of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet along the extended runway centerline. Its centerline is the continuation of the runway centerline as depicted on Map "A" Map C. HEIGHT RESTRICTIONS: ~~No object shall penetrate the imaginary line created by a slope twenty (20) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet (5,000) along the extended runway centerline.~~

c). Transitional Surface Zones. Beginning at the center of the paved runway and at the same elevation as the paved runway, extending outward at ninety (90) degrees to the center of the runway, for one hundred twenty five (125) feet ~~and rising to a vertical height of twenty eight (28) feet~~, then extending further outward at a defined slope of ~~five seven~~ (5 7) feet outward for each one (1) foot upward until it meets the horizontal surface which is one hundred fifty (150) feet above the airport elevation of eight hundred forty three (843) feet, or nine hundred ninety three (993) feet above sea level. HEIGHT RESTRICTIONS: ~~No object shall penetrate the imaginary line created by a slope seven (5) feet outward for each one (1) foot upward.~~

d). Horizontal Surface Zone. The zone is established at one hundred fifty (150) feet above the airport elevation or at a height of nine hundred ninety three (993) feet above mean sea level. The zone begins at the terminus of the transitional zone and extends outward ~~one thousand five hundred five thousand~~ (1,500 5,000) feet and connects to the approach zone at the one hundred fifty (150) foot elevation level. The horizontal zone does not

include the approach and transitional zones. ~~HEIGHT RESTRICTIONS: No object shall penetrate the imaginary horizontal surface created at one hundred fifty (150) feet above the airport elevation or at a height above the airport of nine hundred ninety three (993) feet above mean sea level.~~

e). Conical Surface Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward for a horizontal distance of ~~three~~ four thousand five hundred (3,500 4,000) feet as depicted in ~~Map "A" Appendix C~~ Map C. ~~HEIGHT RESTRICTIONS: No objects shall penetrate the imaginary line created by a slope twenty (20) feet outward for each one (1) foot upward beginning at the outer periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height up to three hundred twenty five (325) feet above the airport surface.~~

2. SAFETY ZONES. In order to carry out the provisions of this chapter and to promote land use compatibility on lands within and adjacent to and in the vicinity of the Eatonville Airport (Swanson Field), there are created and established certain aircraft accident safety zones. Such aircraft accident safety zones are shown on Eatonville Airport (Swanson Field) Overlay Zoning District ~~Map "B"~~ Map A. Within each of the aircraft accident safety zones, certain land use limitations are established and certain development standards are imposed in addition to the land uses and development standards of the underlying zoning. Where the requirements imposed by these aircraft accident safety zones, conflict with the requirements of the underlying zoning, the more restrictive requirement shall be enforced. The aircraft accident safety zones are established and defined as follows:

a). Runway Protection Zone 1. An area extending beyond the centerlines of runway as depicted on ~~Map "B"~~ Map A. This zone begins from the outer boundaries of the primary surface, two hundred fifty ~~200~~ 250 feet from the ends of the runways and extends out nine hundred (900) feet to its widest point, which measures four hundred thirty (450) feet across, two hundred fifteen (225) feet on either side of the runway centerline.

b). Inner Safety Zone 2. An area extending beyond the centerline of the runway as depicted in ~~Map B~~ Map A. This zone begins at the end of the Runway Protection Zone land extends out one thousand six hundred (1,600) feet. The zone measures five hundred fifty (550) feet across, two hundred twenty five (225) feet on either side of the runway centerline.

c). Inner Turning Zone 3. A fan shaped area extending beyond the center line of runway as depicted on ~~Map B~~ Map A. This zone begins at the primary surface, two hundred (200) feet from the end of the runway

centerline and extends out with a sixty (60) degree radius arc on either side of the runway centerline to two thousand five hundred (2,500) feet and connects to the centerline of the Inner Safety Zone with sweeping arcs.

d). Outer Safety Zone 4. Area extending beyond the center line of the runway as depicted on ~~Map B~~ Map A. This zone begins at the end of the Inner Safety Zone and extends out two thousand five hundred (2,500) feet. The zone measures five hundred fifty (550) feet across, two hundred twenty five (225) feet on either side of the runway centerline.

e). Sideline Safety Zone 5. An area adjacent to the runway as depicted on ~~Map B~~ Map A. This zone begins from the outer boundaries of the primary surface, and extends out five hundred (500) feet perpendicular to the primary surface and connects to the sixty (60)-degree sector of the Inner Turning Zone.

f). Traffic Pattern Zone 6. This zone is depicted on ~~Map "B"~~ Map A and begins from the outer boundaries of the Sideline Zone and extends out to four thousand (4,000) feet perpendicular to the primary surface and at an arc four thousand feet (4,000) feet radius from the end of the runway, connecting to the Outer Safety Zone.

E. USES, DEVELOPMENT REQUIREMENTS AND RESTRICTIONS

1. General Development Requirements and Restrictions Applicable to All Zones.

a). **UNDERLYING ZONING REQUIREMENTS.** In addition to the Airport Overlay Zoning District development requirements and restrictions set forth in subsections 2 below and in TABLE 1, all uses and activities are at all times subject to the requirements of the underlying zoning district. Where the requirements and restrictions imposed by the Airport Overlay Zoning District height restriction and aircraft accident safety zones conflict with the requirements of the underlying zoning district, the more restrictive requirement shall be applied.

b). **HEIGHT.** ~~All uses shall be subject at all times to the height restrictions set forth in Section D above. Any proposed structure or object that is likely to penetrate FAR 77 imaginary surfaces in any zone as identified in Subsection D.1.a through D.1.e shall be submitted to the Federal Aviation Administration on Form 7460-1 for review and comment by the applicant. Prior to the issuance of a building or land development permit, the Town Planner shall consider the comments made by the Federal Aviation Administration in response to the applicant having filed~~

~~Form 7460-1 and may deny or condition the approval of the application by requiring the applicant to implement any or all the comments made by the Federal Aviation Administration. The applicant may appeal the decision of the Town Planner to the Town of Eatonville Board of Adjustment under the variance procedures as identified in Section 18.09.040 EMC. The decision of the Board of Adjustment is final unless appealed to the Pierce County Superior Court.~~

All uses shall be subject at all times to the height restrictions set forth in Section D above. Any proposed structure or object that is likely to penetrate FAR 77 imaginary surfaces in any zone as identified in Subsection D.1.a through D.1.e can be granted a building or land development permit only after the applicant has filed a notice on Form 7460-1 with the Federal Aviation Administration, and having received a written statement that applicant's proposal "Would not be a hazard to air navigation," but if one or more hazards to air navigation are identified, then upon the applicant having filed and received a response from the Federal Aviation Administration, and having filed and received approval for a variance from the Town of Eatonville Board of Adjustment, under the variance procedures identified in Section F.3 of this Chapter. The decision of the Board of Adjustment is final unless appealed to the Pierce County Superior Court.

- c). SIGNAL AND RADIO COMMUNICATION INTERFERENCE. Electrical interference with navigational signals or radio communication between the airport and aircraft is prohibited and will be regulated in accordance with rules and regulations promulgated and enforced by the Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) regulations.
- d). LIGHTING AND GLARE. Activities or uses that create lighting which make it difficult for pilots to distinguish between airport lights and non-airport lights or that create glare in the eyes of pilots using the airport is prohibited. All outdoor lighting fixtures shall be arranged and shielded so that area lighting shall not shine into the sky.
- e). VISIBILITY. Activities or uses that create excessive amounts of dust, smoke, or other emissions that may result in impairment of visibility in the vicinity of the airport are discouraged and will be regulated in accordance with rules and regulations promulgated and enforced by the Washington State Department of Ecology under the Clean Air Act and other state and federal regulations.

f). FLAMMABLE AND COMBUSTIBLE MATERIAL. Flammable and combustible liquids and specifications for fuel storage shall be in accordance with the Uniform Fire Code and all applicable codes as adopted in the Town of Eatonville Building Code.

g). SUBDIVISION. When any division of land including short plats, plats, cluster subdivisions, and planned unit developments, occur on any land within the airport overlay zoning district aircraft accident safety zones 1-6, a note located on the first page of the plat, shall be recorded with the County Auditor as follows: "This property is located within the Airport Overlay Zoning District in which a variety of airport aviation activities occur. Such airport aviation activities may impact the use of your property."

~~h). FAA REVIEW. A proposed development application, as determined by the Town Planner, that appears to penetrate the Federal Aviation Administration (FAA) FAR 77 height regulations, shall be submitted to FAA for review and comment on form 7460-1 by the applicant. The Town Planner shall review and evaluate the comments made by FAA and as a result may condition the application by imposing FAA proposed safety requirements such as installation of warning lights, flashing beacons, painting buildings in red and white patterns, and other safety features specified by FAA. In the event that the Town Planner, upon reviewing the comments made by the FAA, determines that the proposed development application, if implemented, has a probable substantial adverse effect on public health and safety and the safety of the flying aircraft, the Town Planner is authorized to present the proposed development application together with the FAA comments to the Town of Eatonville Planning Commission for the review and determination under Chapter 18.04.185.D.2. The decision of the Planning Commission under Chapter 18.04.185.D.2 is final unless appealed to the Town Council.~~

~~h).~~ h). FRONT YARD SETBACKS. All development adjoining the primary surface is considered to have their front yard facing the primary surface. Therefore, a twenty five (25) front yard setback from the edge of the primary surface is required of all development, adjoining the primary surface.

i. PRIOR EXISTING USES. All development, existing prior to the adoption of this regulation, shall be deemed as outright permitted uses.

2. Incompatible Land Uses. The Town Planner shall apply the following restrictions on land development, in addition to restrictions specified in Chapter E.1. a through ~~g~~h.

**Table 1
Incompatible Land Uses**

Airport Overlay Zones	Incompatible <u>Land</u> Uses
<p>Zone 1 – Runway Protection Zone</p>	<p>1. Land uses which by their nature will be relatively unoccupied by people should be encouraged (mini storage, small parking lots, etc.) <u>All residential uses.</u></p> <p>2. Schools, hospitals, nursing homes, churches, day care centers, mobile home parks are prohibited.</p>
<p>Zone 2 – Inner Safety Zone</p>	<p>1. <u>Schools, hospitals, nursing homes, churches, mobile home parks and day care centers are prohibited.</u></p> <p>2. Outside the existing Eatonville Urban Growth Area (UGA) the average density of residential development will be one (1) dwelling unit per ten (10) acres on the property at the date of adoption of this ordinance.</p> <p>3. Inside the Eatonville Urban Growth Area (UGA) the average density of residential development will be a maximum of four (4) dwelling units per acre on the property at the date of adoption of this ordinance. <u>Residential development is permitted under the conditional use permit procedures as specified in Chapter 18.09.030 EMC.</u></p> <p>4. At the time surrounding development takes place, Weyerhaeuser Way South shall be built as a two lane collector street with two twelve (12) foot travel lanes, separated by a ten (10) foot painted median and flanked by eight (8) foot paved shoulders, beginning at Center Street East and extending south for a distance of one thousand (1,000) feet. The street section is constructed absent curb and gutter. Stormwater flows are managed by</p>

	<p>constructing low level grassy swales. The above specified roadway design and layout allows distressed aircraft to set down on this section of the street.</p>
Zone 3 – Inner Turning Zone	<ol style="list-style-type: none"> 1. School and day care centers are prohibited. 2. Residential development is permitted under the conditional use permit procedures as specified in Chapter 18.09.030 EMC.
Zone 4 – Outer Safety Zone	<ol style="list-style-type: none"> 1. Schools are prohibited. 2. Outside the existing Eatonville Urban Growth Area (UGA) the average density of residential development will be one (1) dwelling unit per ten (10) acres on the property at the date of adoption of this ordinance. 3. Inside the Eatonville Urban Growth Area (UGA) the average density of residential development will be a maximum of four (4) dwelling units per acre on the property at the date of adoption of this ordinance.
Zone 5 – Sideline Safety Zone	<ol style="list-style-type: none"> 1. All aviation related uses are permitted. 2. Schools, hospitals, nursing homes, churches, day care centers, mobile home parks are prohibited. 3. All AP – Aerospace District permitted uses are allowed.
Zone 6 – Traffic Pattern Zone	<ol style="list-style-type: none"> 1. There are no overlay restrictions.

F. PERMITS

1. Future Uses. Except as specifically provided in subdivisions (a), (b), and (c) of this subsection, no material change shall be made in the use of land, no structure shall be erected or otherwise established unless a permit therefore has been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree is consistent with the provisions of this chapter. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with subsection (4) of this section.

a). In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

b). In areas lying within the limits of the approach zones but at a horizontal distance of not less than four thousand (4,000) feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

c). In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

2. Existing Uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a ~~non-conforming use~~, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of the ordinance codified in this chapter or any amendments thereto or than it is when the application for a permit is made.

~~3. Non-Conforming Uses Abandoned or Destroyed. Whenever the Town Planner determines that a non-conforming structure as been abandoned or more than fifty (50) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure to exceed the applicable height limit or otherwise deviate from the zoning regulations.~~

4 3. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be ~~accomplished~~ accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be ~~allowed~~ granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and 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 spirit of this chapter. A

copy of the variance application shall be forwarded to the Eatonville Airport (Swanson Field) Airport Manager by the Town Planner.

§ 4. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary.

G. NON-CONFORMING USE

Regulations Not Retroactive. The regulations prescribed in this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of the ordinance codified in this chapter, nor shall such be construed to require any change in the construction or alteration of any structure or tree which was begun prior to the effective date of the ordinance codified in this chapter, and which is diligently being prosecuted.

H. VIOLATIONS AND ENFORCEMENT

It shall be the duty of the Town of Eatonville Planner to administer and the Town of Eatonville Building Official to enforce the regulations prescribed in this chapter.

I. APPEALS

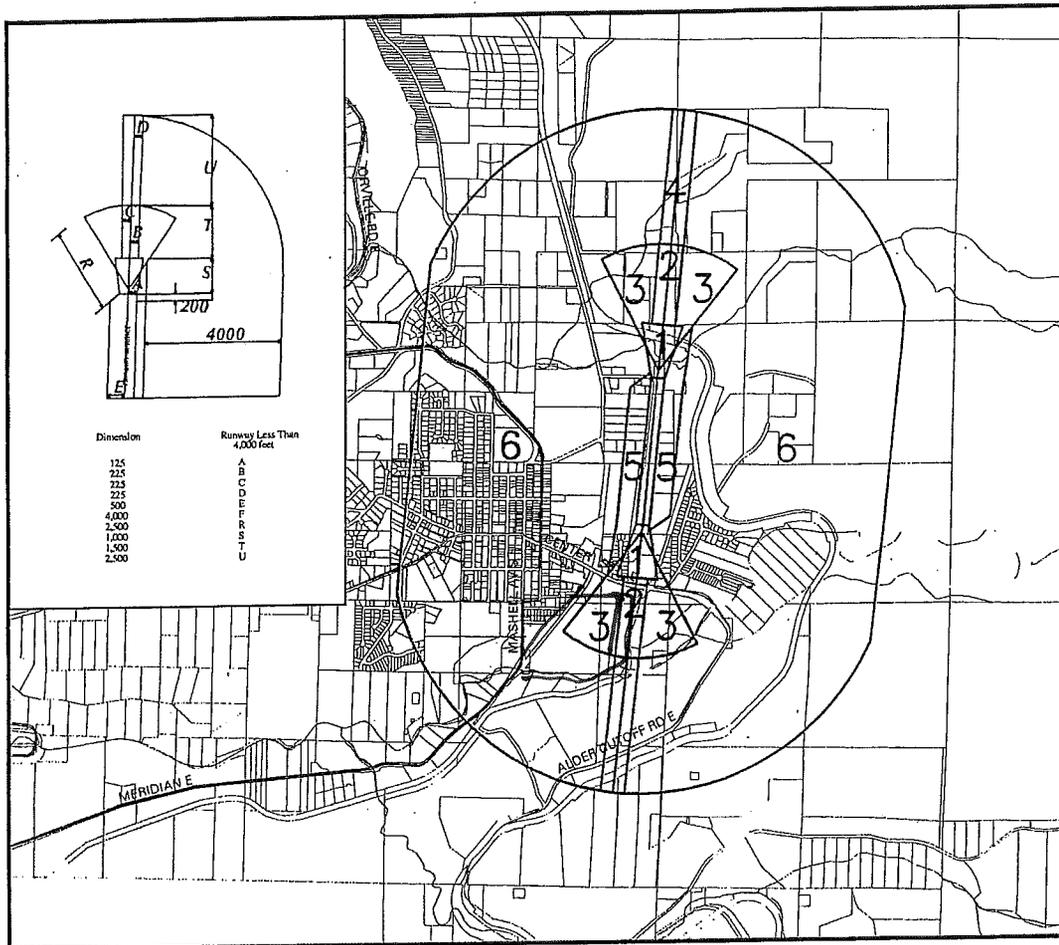
Any person aggrieved, by any order, requirement, decision or determination made by an administrative official in the processing of any application made under this Chapter or in the actual decision made as required by this Chapter may appeal to the Board of Adjustment as provided in RCW 14.12.190.

J. JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal the decision to the ~~Town Council~~ Pierce County Superior Court.

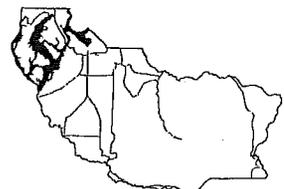
K. CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Chapter and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.



Dimension	Runway Less Than 4,000 feet
125	A
225	B
225	C
500	D
4,000	E
2,500	F
1,000	G
1,500	H
2,500	I
	J
	K
	L
	M
	N
	O
	P
	Q
	R
	S
	T
	U

Pierce County, Washington



Eatonville Airport

Area Of Influence Aircraft Accident Safety Zone Diagram

- 1 Runway Protection Zone
- 2 Inner Safety Zone
- 3 Inner Turning Zone (60 Degree Sector)
- 4 Outer Safety Zone
- 5 Sideline Safety Zone
- 6 Traffic Pattern Zone

Map A
AIRPORT OVERLAY ZONING DISTRICT
 Eatonville Airport
 Swanson Field
 "Safety Zones"

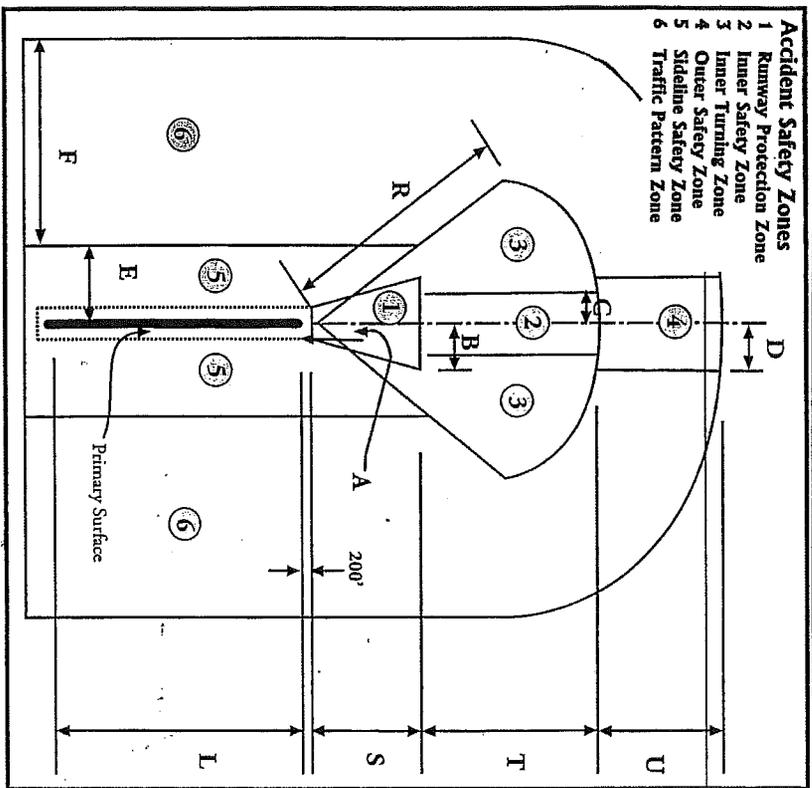
22 February 2007



Department of Planning and Land Services
 Plot Date: January 11, 2005

City of Eatonville Airport

**Map B – Cont. AIRPORT OVERLAY ZONING DISTRICT
Eatonville Airport, Swanson Field, "Safety Zones"
22 February 2007**

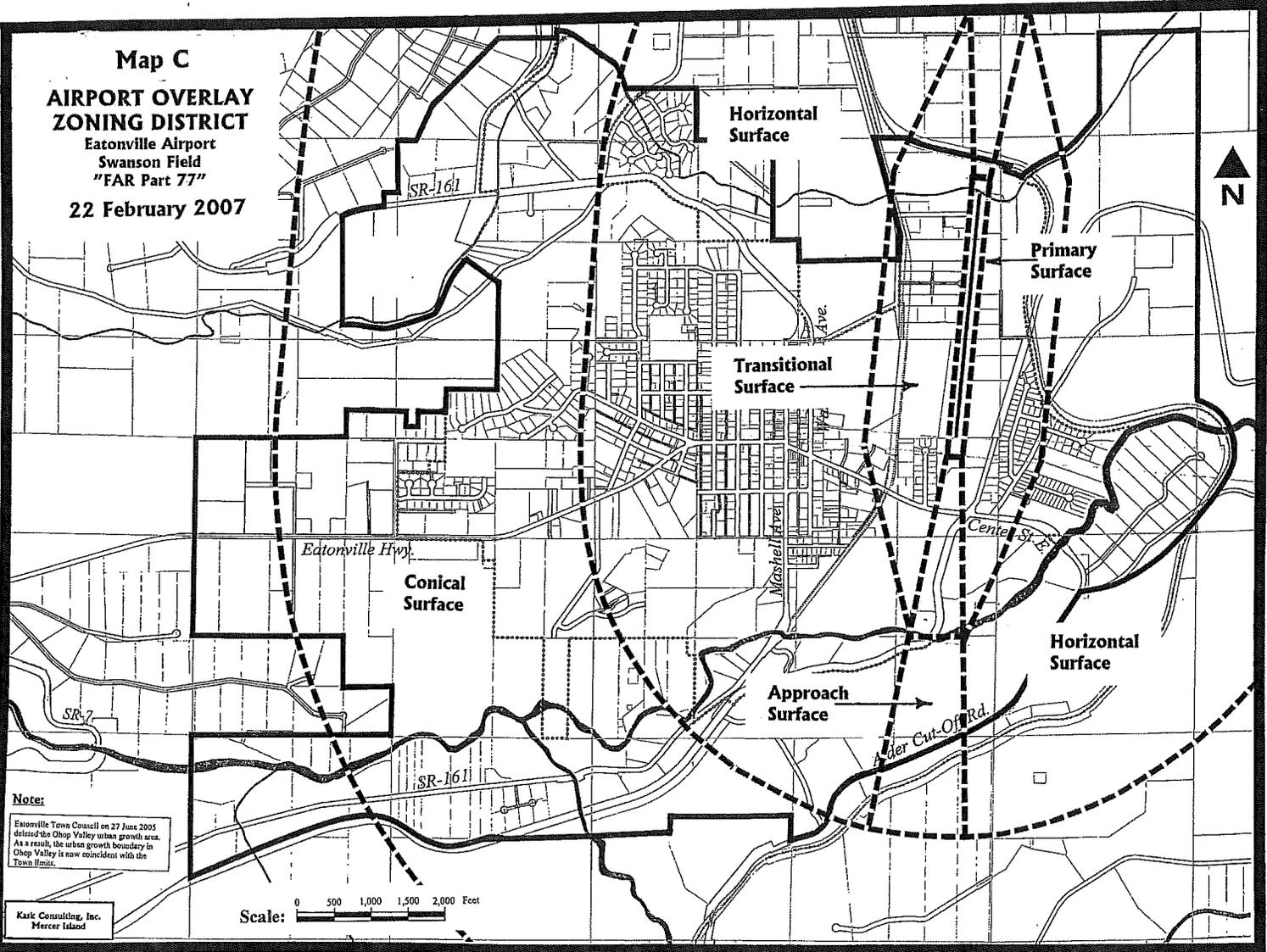


Note:
Data Source: NTSB
accident investigations
1984-1991. Illustration
Source: Hodges and
Shurt, Institute of
Transportation Studies,
University of California,
Berkeley, 1993.

**SAFETY ZONE DIMENSIONS (IN FEET)
Runway Length Less Than 4,000 feet (L)**

Dimension	Length in Feet
A	125
B	225
C	225
D	225
E	500
F	4,000
R (60° Sector)	2,500
S	1,000
T	1,500
U	2,500

Map C
AIRPORT OVERLAY
ZONING DISTRICT
Eatonville Airport
Swanson Field
"FAR Part 77"
22 February 2007



Note:
Eatonville Town Council on 27 June 2005 deleted the Chop Valley urban growth area. As a result, the urban growth boundary in Chop Valley is now coincident with the Town limits.

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Mercer Island