

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS

Your Planning and Zoning Committee begs leave to report:

WHEREAS, it has reviewed the Petition for Zoning Amendment # 2023-TA-0001 filed with the County Clerk
by:

the CITY OF OSHKOSH

and referred to the Planning & Zoning Committee on 01/17/23 and

WHEREAS, a Public Hearing was held on 01/24/23 pursuant to mailed and published notice as provided by law on the following:

PROPERTY INFORMATION:

Applicant(s): Winnebago County Wittman Regional Airport

WHEREAS, Applicant is requesting to repeal and recreate Chapter 24, Wittman Airport Ordinance of the Winnebago County General Code.

WHEREAS, we received notification from the TOWNS OF Black Wolf, Neenah, Nekimi, Oshkosh, Rushford, Utica, Vinland, Winneconne and Wolf River recommending approval, Town of Poygan was indifferent and the Town of Algoma and Town of Winchester did not respond and

WHEREAS, your Planning & Zoning Committee, being fully informed of the facts, and after full consideration of the matter, make the following findings:

1. The Bureau of Aeronautics has reviewed and approved the proposed ordinance.
2. The FAA has reviewed and approved the proposed ordinance.
3. The Winnebago County Aviation Committee has reviewed and approved the proposed ordinance.
4. Two of the three towns located within the airport districts approved the proposed ordinance (Black Wolf and Nekimi).
5. The advisory Towns located outside of the airport districts approved the proposed ordinance (Neenah, Oshkosh, Nepeuskun, Rushford, Utica, Vinland, Winneconne and Wolf River.
6. The advisory Town of Poygan located outside the airport districts took no position on the proposed ordinance because the ordinance did not affect the town.
7. The proposed re-created ordinance is necessary to keep the ordinance current and address legal deficiencies.

NOW THEREFORE BE IT RESOLVED, that this committee has prepared the enclosed amendatory ordinance effectuating this change for your consideration and is hereby recommending Approval by a vote of 5-0.

NOW BE IT FURTHER RESOLVED, by the Winnebago County Board of Supervisors, that the enclosed ordinance is hereby [ADOPTED] or [DENIED].

For the Planning & Zoning Committee

AMENDATORY ORDINANCE # 02/002/23

The Winnebago County Board of Supervisors do ordain Zoning Text Amendment # 2023-TA-0001 as follows:

Applicant is requesting to repeal and recreate Chapter 24, Wittman Airport Ordinance of the Winnebago County General Code.

Adopted/ Denied this _____ day of _____, 20 _____ .

Tom Egan, Chairperson

ATTEST:

Sue Ertmer (County Clerk)

APPROVED BY WINNEBAGO COUNTY EXECUTIVE THIS _____ DAY OF _____, 20 ____ .

Jon Doemel
(County Executive)

Appendix A: Proposed Wittman Regional Airport Zoning Ordinance



Chapter 24

Wittman Regional Airport Zoning

Established: March 2012

Chapter 24

Wittman Regional Airport Zoning Code

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- 2. [Interpretation and Construction](#)
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CHAPTER 24
WITTMAN REGIONAL AIRPORT ZONING CODE

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**ARTICLE 1
GENERAL PROVISIONS**

Sections

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24.1-2	Authority	24.1-10	Additional local regulations
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24.1-6	Compliance		
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24.1-8	Relationship of this chapter to state and federal regulations		

24.1-1 Name of Chapter

This chapter shall be known as “Wittman Regional Airport Zoning Code” and may be referred to herein as “this chapter.”

24.1-2 Authority

The regulations contained in this chapter are specifically authorized by § 114.136, Wis. Stats.

24.1-3 Jurisdiction

The provisions of this chapter apply to all land located in the airport districts herein established including those areas within the corporate limits of the city of Oshkosh, the boundary of which may change from time to time through annexation and detachment.

24.1-4 Legislative Findings

The Winnebago County Board of Supervisors makes the following legislative findings:

- (1) Winnebago County owns Wittman Regional Airport.
- (2) Sec. 114.136, Wis. Stats, gives a county, city, village, or town that owns an authorized airport the authority to adopt land-use regulations to protect the aerial approaches from inappropriate development.
- (3) It is in the best interests of the public to regulate land uses within the navigable airspace over the aerial approaches to Wittman Regional Airport in order to provide for the safe operation of aircraft using the airport.
- (4) Based on statistics compiled by the National Transportation Safety Board, the majority of aircraft accidents occur at airports or in the immediate area of the extended centerline of the runway.
- (5) Given the increased level of risk associated with landings and takeoffs, it is important to protect the approach and departure ends of each runway.
- (6) Some types of land uses can be located near airports because they are compatible with airport operations, while others are not.
- (7) Some types of buildings can be designed to reduce the effects of airport-related noise on its occupants, while others cannot.
- (8) Inappropriate development near airports increases the perceived impact of aircraft noise.



- (9) Uncontrolled growth and development around airports present a clear threat to the safety of those in aircraft and those on the ground.

24.1-5 Purpose

This chapter promotes the public health, safety, and welfare and is intended to:

- (1) ensure a compatible relationship between airport operations at Wittman Regional Airport and other land uses in the vicinity;
- (2) ensure that property owners and prospective property owners understand that airport operations should be considered as possibly affecting the use of property in the vicinity;
- (3) ensure that there are no obstacles to aviation in and around the airport; and
- (4) protect the significant public and private investments at Wittman Regional Airport.

24.1-6 Compliance

(a) **Generally:** Except as specifically provided, the provisions of this chapter shall apply to all development within those areas under the jurisdiction of this chapter and no development shall be undertaken without the prior authorizations required by this chapter.

(b) **Previously Granted Permits, an Exception:** When a permit has been issued in accordance with the law prior to the effective date of this chapter or amendment thereto, it shall be valid for one (1) year from the date of issuance even if it authorizes an action that is not allowed under this chapter or amendment. If the action, as authorized by the permit, does not commence within that time period and continue in good faith to completion, such permit shall lapse and be null and void.

(c) **Establishment of a Use, Structure, or Building Not Requiring Authorization, an Exception:** If prior to the adoption of this chapter, or amendment thereto, a use, structure, or building is actively being established that did not require a permit or authorization, said work may continue to completion even when the use, structure, or building requires a permit or other authorization under this chapter, is being developed contrary to this chapter, or is otherwise prohibited under this chapter.

24.1-7 Liability

Winnebago County and its officials, agencies, employees, agents, and assigns, shall not be liable for any flood damage, sanitation problems, structural damage, or other damages that may occur as a result of reliance upon and conformance with this chapter.

24.1-8 Relationship of this Chapter to State and Federal Regulations

In addition to meeting the regulations contained in this chapter, development shall comply with all applicable regulations of federal and state agencies. In all cases, the strictest of the applicable provisions shall apply.

24.1-9 Relationship of this Chapter to Private Agreements

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter shall apply.¹

24.1-10 Additional Local Regulations

In addition to meeting the regulations contained in this chapter, development shall comply with all applicable regulations in the General Code of Winnebago County, including the following chapters:

- (a) Chapter 18: Subdivision and Platting
- (b) Chapter 20: Non-Metallic Mining Reclamation
- (c) Chapter 23: Town/County Zoning Code
- (d) Chapter 26: Floodplain Zoning Code
- (e) Chapter 27: Shoreland and Shoreland-Wetland Zoning Code
- (f) Chapter 28: Stormwater Management and Construction Site Erosion Control

In all cases, the strictest of the applicable provisions shall apply.¹

24.1-11 No Defense to Nuisance Action

Compliance with the standards and requirements contained in this chapter shall not constitute an absolute defense to an action to abate a public or private nuisance.

24.1-12 Applicability to Public Entities

This chapter shall apply to all publicly-owned land to the extent allowed by state and federal law. When a public entity is exempted from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

24.1-13 Applicability to Projects Under the Purview of the Public Service Commission

This chapter shall apply to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law. The Planning and Zoning Committee or the Board of County Supervisors, or both, may submit a written request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

¹ Commentary: Winnebago County does not enforce private agreements to which it is not a party¹



**ARTICLE 2
INTERPRETATION AND CONSTRUCTION**

Sections

24.2-1	General rules of construction	24.2-5	Use of graphics, illustrations, headings, references, statutory citations and commentary notes
24.2-2	Responsibility for interpretation		
24.2-3	Delegation of authority		
24.2-4	Internal Conflict	24.2-6	General rules of interpretation

24.2-1 General Rules of Construction

(a) **Generally:** In the interpretation and application of this chapter, all provisions shall be construed so the true intent and meaning of this chapter are carried out.

(b) **Minimum requirements:** The interpretation and application of any provision of this chapter shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other powers granted by state statute.

24.2-2 Responsibility for interpretation

In the event a question arises concerning any provision or the application of any provision of this chapter, interpretations shall be issued by the Zoning Administrator consistent with Chapter 23 (Town/County Zoning Code), Section 23-7, of the General Code of Winnebago County.

24.2-3 Delegation of Authority

If a provision in this chapter states that an elected official, department supervisor, or some other employee is to perform some act, such individual may designate, delegate, or authorize a subordinate to perform the act unless state law or the provision clearly prohibits such delegation.

24.2-4 Internal Conflicts

More specific provisions of this chapter shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provision.

24.2-5 Use of Graphics, Illustrations, Headings, References, Statutory Citations, and Commentary Notes

(a) **Purpose:** Graphics, illustrations, headings, references, statutory citations, and editor’s notes may be included to improve the readability of this chapter and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the reader quickly find information. References and statutory citations are included when the section is related to a state or local law or other section in this chapter. These are included to help the reader understand the relationship among various provisions. Commentary notes are included to supplement and/or further clarify a sentence or provision.

(b) **Interpretation:** A graphic, illustration, heading, reference, statutory citation, or commentary note shall not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.

(c) **Effect of Deficiency:** Because the text controls, no provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, statutory citation, or commentary note.



24.2-6 General Rules of Interpretation

In the construction of this chapter, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this chapter:

- (1) **Gender.** Words of the masculine gender include the feminine and neuter, and vice versa.
- (2) **Singular and plural words.** Words in the singular include the plural and words in the plural include the singular.
- (3) **Tense.** Words in the present tense include the past and future tense, and the future tense includes the present tense.
- (4) **“Must”, “shall” and “will”.** The words “must”, “shall” and “will” imply a mandatory condition.
- (5) **“May” or “should”.** The words “may” and “should” imply a permissive condition.
- (6) **“Includes” or “including”.** The words “includes” or “including” shall not limit a provision to the specific example(s) listed, but are intended to extend their meaning to all other instances or circumstances of like kind or character.
- (7) **“Such as”.** The phrase “such as” shall not limit a provision to the specific example(s) listed, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (8) **Conjunctions.** When used at the end of a series, the word “and” indicates that all listed items apply. When the word “or” is used at the end of a series, it indicates that one or more of the listed items apply.



**ARTICLE 3
DEFINITIONS**

Sections

24.3-1	Words and phrases not defined	
24.3-2	Words and phrases defined	

24.3-1 Words and phrases not defined

A term or phrase not defined in this Section, but which is defined in Chapter 23 (Town/County Zoning Code) of the General Code of Winnebago County shall have the meaning given in Chapter 23. A term or phrase not defined in this Section or in Chapter 23 shall be interpreted so as to give this chapter its most reasonable application.

24.3-2 Words and phrases defined

For the purpose of this chapter, certain terms and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

A

- (1) **Airport:** Wittman Regional Airport
- (2) **Airport Hazard:** Any structure, object of natural growth, or use of land that obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
- (3) **Approach Zone:** The area of aircraft approach to the airport as defined in the Code of Federal Regulations, Title 14, Part 77.
- (4) **Avigation:** The handling and guidance of aircraft in the air or on the airport.
- (5) **Avigation Easement:** An instrument recorded with the register of deeds for Winnebago County addressing issues such as noise and height of objects of natural growth on the subject property.
- (6) **Airport Manager:** The individual so designated by the county executive for Winnebago County that is responsible for the day-to-day management of Wittman Regional Airport.

C

- (7) **Conditional Use:** See land use, conditional

D

- (8) **Development:** Any activity that must comply with, or is anyway regulated by, this chapter.
- (9) **Dwelling unit:** A single building, or portion thereof, that provides complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

F

- (10) **Floor Area:** The total horizontal area contained within the outside perimeter of a building, but excluding any space where the floor-to-ceiling height is less than 6 feet.



G

- (11) **General Code:** The compilation of laws as adopted by the Winnebago County Board of County Supervisors.

H

- (12) **Hazard:** A condition, whether manmade or natural, that presents a tangible danger to the public health, safety, and general welfare.
- (13) **Height:** The top of a structure, including any appurtenance installed thereon, or the top of any object of natural growth.

L

- (14) **Land Use:** As the context indicates (1) the development that has occurred on the land, (2) development that is proposed for the land, or (3) the use permitted for the land under this chapter.
- (15) **Land Use, Conditional:** A land use that would not be appropriate generally or without restriction throughout a specified area, but if controlled as to the number, area, location, or relation to the surrounding properties by the imposition of appropriate conditions, could promote the public health, safety, or general welfare.
- (16) **Land Use, Permitted by Right:** A land use that is allowed throughout a specified area. Land uses permitted by right may be reviewed through a site review process and shall otherwise be reviewed to ensure all provisions of local, state, and federal regulations are met.
- (17) **Land Use, Principal:** The dominant land use or uses of a parcel of land.²
- (18) **Lot:** A parcel of ground with a definable location based on a recorded survey or similar instrument.

N

- (19) **Nonconforming Structure:** A structure that at the time of construction or placement conformed to existing regulations including size, location, and other dimensional standards, but is now inconsistent with this chapter.
- (20) **Nonconforming Use:** A use of land that at the time of establishment conformed to existing regulations, but is now inconsistent with this chapter.

P

- (21) **Permitted Use:** See land use, permitted by right
- (22) **Person:** An individual; a corporation, governmental agency, business trust, estate, trust, partnership, or association; two or more persons having a joint or common interest; or any other legal entity.

² Commentary: In some situations, a parcel of land can have more than one principal land use.

- (23) **Place of Assembly:** A building or a part of a building where people gather for theater, recreation, entertainment, worship, education, dining, or similar purpose.
- (24) **Planning and Zoning Committee:** The five-member committee appointed by the Winnebago County Board of Supervisors to review and make recommendations to the County Board on planning and land use issues as authorized by Wisconsin Statutes. The Planning and Zoning Committee is also known as the “P & Z.”

R

- (25) **Runway:** The portion of the airport having a surface specially developed and maintained for the landing and takeoff of aircraft.

S

- (26) **Structure:** A manmade object with form, shape, and utility that is either permanently or temporarily placed on or into the ground, a stream bed, or a lake bed or on another structure. Examples include buildings, decks, patios, stoops, play structures, swimming pools, hot tubs, bridges, storage tanks, fences, towers, flag poles, utility poles, pipelines, transmission lines, smokestacks, and signs.

T

- (27) **Tree:** An object of natural growth, except farm crops that are cut at least once a year and shrubs and other plants that do not grow to a height of more than 5 feet.

V

- (28) **Variance:** A grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

Z

- (29) **Zoning Administrator:** The individual so designated under Chapter 23 (Town/County Zoning Code) of the General Code of Winnebago County.

ARTICLE 4

MAPS AND DISTRICTS

Sections

24.4-1	Generally	24.4-3	Determination of district boundaries
24.4-2	Establishment and purpose of zoning districts	24.4-4	Maps

24.4-1 Generally

Certain land around Wittman Regional Airport, in the City of Oshkosh, the Town of Black Wolf, and the Town of Nekimi, are included in one or more zoning districts that limit the height of structures and trees to protect the approaches to the airport and control land uses so that they are compatible with noise generated by airport operation. In addition, to meeting the requirements of this chapter, land uses must also comply with general zoning requirements adopted by the City of Oshkosh and the Towns of Black Wolf and Nekimi.

24.4-2 Establishment and Purpose of Zoning Districts

The following zoning districts are established:

(a) **Runway Protection Zone (AIR-1):** This district includes those lands at the end of a runway which are therefore subject to a higher crash risk. The size of the district is based on the characteristics of air operations using that particular runway. The AIR-1 district is defined as the approach Runway Protection Zone (RPZ) as depicted on the OSH ultimate airport layout plan (sheet 3) dated March 18, 2018. The RPZ is a trapezoidal area that is centered about the extended runway centerline. The RPZ extends from a point 200 feet from the runway threshold. The dimensions of the RPZ are as follows:

- (1) Runway 9/27: Inner width – 500 feet; outer width – 1,010 feet; length – 1,700 feet
- (2) Runway 18: Inner width – 500 feet; outer width – 1,010 feet; length – 1,700 feet
- (3) Runway 36: Inner width – 1,000 feet; outer width – 1,750 feet; length – 2,500 feet
- (4) Runway 5/23: Inner width – 250 feet; outer width – 450 feet; length – 1,000 feet
- (5) Runway 13/31: Inner width – 250 feet; outer width – 450 feet; length – 1,000 feet

The AIR-1 zoning district also includes the primary surface area between the RPZs out to the 35-foot building restriction line, which is defined as 745 feet on either side of Runway 9/27 and Runway 18/36. For Runways 5/23 and 13/31, this area is 370 feet wide.

(b) **Aerial Approach/Departure Zone (AIR-2):** This district includes those lands that are subject to higher crash risks and noise exposure due to close proximity to runways and airport operations. The AIR-2 district is defined as the footprint formed by the combination of the respective runway primary surface, the Part 77 approach surface, and any relevant precision approach path indicator surfaces out to where they intersect the horizontal surface, which is 150 feet above the airport elevation, and down to the most restrictive height. This results in an area parallel to the runway starting from the 35-foot building restriction line (where AIR-1 ends) and extending 805 feet from the building restriction line. For Runways 5/23 and 13/31, the AIR-2 boundaries do not extend beyond the limits of AIR-3.

(c) **Traffic Pattern Zone (AIR-3):** This district includes those lands that are subject to a generally low likelihood of accident occurrence. The AIR-3 district is the area bounded by the path generally used by aircraft in left-hand traffic patterns for each runway. That path is defined as a rectangle centered around each runway one-half mile from each runway end, and one-half mile to each side of the runway centerline, with the exception of the northernmost boundary of AIR-3. This boundary is aligned with and parallels W. 19th Avenue. Any areas within these boundaries that are not part of AIR-1 or AIR-2 zones is part of the AIR-3 Traffic Pattern Zone.

(d) **Height Limitation Zone (AIR-4):** This district includes those lands subject to height limitations on structures and vegetation.



24.4-3 Determination of District Boundaries

If a zoning district boundary bisects a structure or tree so that part of the structure or tree is located in a zoning district and the other part is not, the entire structure or tree shall comply with the requirements of this chapter. If a zoning district boundary bisects a structure or tree so that part of the structure or tree is located in two or more zoning districts, the entire tree or structure shall comply with the strictest of the zoning districts. The zoning administrator shall have authority to determine the zoning district classification of parcels, structures, and trees.³

24.4-4 Maps

(a) **Title:** The map that depicts the location of the various zoning districts shall be entitled "Wittman Regional Airport Zoning Map – Winnebago County, Wisconsin." The map that depicts height limitations shall be entitled "Wittman Regional Airport Height Limitation Map – Winnebago County, Wisconsin."

(b) **Official Zoning Map:** The county clerk shall maintain one paper copy of the zoning map and height limitation map as the official map which shall be signed by the county executive and attested by the county clerk. If there is a discrepancy between this zoning map and other maps as may be made available, the map maintained by the county clerk shall control in all instances.

(c) **Availability:** The zoning map and height limitation map maintained by the county clerk shall be available for public inspection upon request. Other county departments may publish and distribute copies of the zoning map and height limitation map and may include information from these maps on the county's online GIS system.

(d) **Preparation of a New Official Map:** In the event the zoning map and/or the height limitation map maintained by the county clerk is damaged, lost, or destroyed and after each amendment, the zoning administrator shall prepare a new zoning map and/or height limitation map and submit it to the county executive for certification and to the county clerk for attestation.

(e) **History of Amendment:** The zoning map and height limitation map maintained by the county clerk may contain a descriptive history of recent amendments that have been made, indicating the ordinance number and date of action.

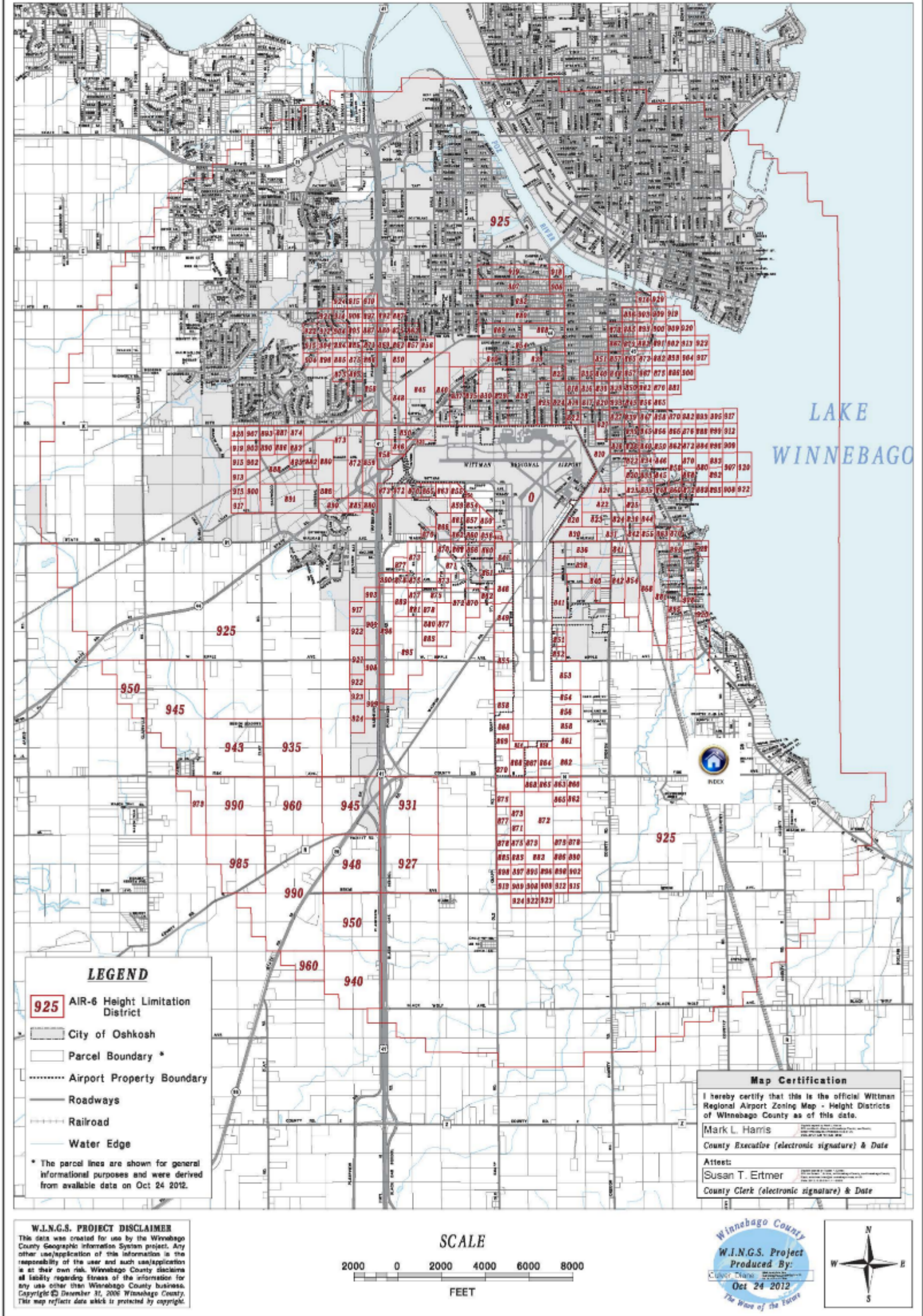
(f) **Archive of Superseded Maps:** The county clerk shall maintain a permanent archive of superseded zoning maps and height limitation maps that are created after April 29, 2012.

(g) **Amendment:** The procedure and requirements to amend the zoning map and height limitation map are provided in Chapter 23 (Town/County Zoning Code), Section 23.7-1 of the General Code of Winnebago County.

³ Commentary: The zoning administrator's decision is considered an administrative matter and may be appealed to the Board of Adjustment as provided for in Section 24.6.



Wittman Regional Airport Zoning Map Height Districts (Map 2 of 2)



Note: This existing map (Wittman Regional Airport Zoning Map Height Districts) will be updated as part of the ongoing ALP update. The update will switch the existing grid-based height limits to a GIS-based criteria.

ARTICLE 5

LAND USE

Sections

24.5-1	General standards	24.5-4	Traffic pattern (AIR-3) district
24.5-2	Runway protection (AIR-1) district	24.5-5	Height limitation (AIR-4) district
24.5-3	Aerial approach/departure (AIR-2) district		

24.5-1 General Standards

(a) **Interference with Avigation.** No use that may otherwise be permitted herein shall:

- (1) release into the atmosphere any substance that could impair visibility or otherwise interfere with the operation of aircraft;
- (2) Produce light emissions, whether direct or indirect (reflective), that could interfere with the operation of aircraft;
- (3) Produce electrical, magnetic, or other emissions that could interfere with the operation of aircraft, aircraft communication, or aircraft guidance systems;
- (4) Create standing water areas or detention/retention ponds which may attract wildlife; or
- (5) Create an avigation hazard of any other type.

(b) **Flammable and/or Combustible Materials.** No land use that may otherwise be permitted herein shall manufacture flammable and/or combustible materials. The handling and storage of flammable and/or combustible materials and materials which produce flammable or combustible vapors or gases shall be in accordance with applicable state laws, rules and regulations, and administrative orders.

24.5-2 Runway Protection (AIR-1) District

The only permitted land uses in the Runway Protection Zone (AIR-1) District are farming activities meeting airport design clearance standards, air navigation facilities, and airport service roads. All other uses are prohibited.

24.5-3 Aerial Approach/Departure (AIR-2) District

(a) Permitted uses. The following are permitted in the AIR-2 District:

- (1) Any land use that is either permitted by right or is permitted as a conditional use in the underlying zoning district, except for the following:
 - (i) New residential uses;
 - (ii) Multiple dwelling structures of developments exceeding 20 dwelling units per acre;
 - (iii) Hospitals;
 - (iv) Nursing homes;
 - (v) Educational facilities (pre-K through college, including universities) unless aviation related;
 - (vi) Outdoor stadiums;
 - (vii) Religious assembly buildings;
 - (viii) Theaters;
 - (ix) Amphitheaters
 - (x) Shooting/archery ranges; and
 - (xi) Model aircraft/rocket facilities



- (2) Aviation-related uses.
- (3) The following are land uses permitted as conditional use in the Air-2 District.:
 - (i) Group day care centers
 - (ii) Golf courses
 - (iii) Stand alone detention/retention ponds that are non-ancillary to other development
 - (iv) New and existing places of lodging
 - (v) Existing residential expansion (see 24.5-3(b))

All conditional uses are subject to review by the Oshkosh Planning Services Division if within the city limits of Oshkosh, and the Winnebago County Planning and Zoning Department if located elsewhere. Coordination with the OSH airport manager is required to review the applicability of the criteria. Places of assembly are permitted so long as underlying zoning district permits the use and the use is reasonable, does not have significant impact on airport operations, and mitigation measures are taken to alleviate significant, incompatible uses. The following are considerations as to whether the proposed use is significantly incompatible:

- (i) The place of assembly attracts significant numbers of people
- (ii) The place of assembly holds a significant density of customers
- (iii) The place of assembly is occupied by customers a significant amount of time
- (iv) The place of assembly has a low turnover of customers
- (v) The place of assembly is a height concern
- (vi) The place of assembly is a wildlife attractant
- (vii) The place of assembly presents visual obstructions or hinderances
- (viii) The place of assembly presents electronic interference
- (ix) The place of assembly is sensitive to noise

Uses considered as significantly incompatible would be considered on a conditional use basis requiring review by the Oshkosh Planning Services Division if within the city limits of Oshkosh, and the Winnebago County Planning and Zoning Department if located elsewhere. Coordination with the OSH Airport Manager is required to review the applicability of the criteria and evaluate the effectiveness of any proposed mitigation measures.

- (b) The following restrictions and regulations shall apply to existing uses in Air-2. All existing property uses allowed by the current zoning classifications, within the zones defined by this chapter can remain, subject to applicable federal, state, and local requirements including height limitations set forth in this chapter. This includes the construction of ancillary uses, such as garages, subject to existing local requirements. Nothing contained in this chapter shall require the removal of or any change in the construction, alteration, location, or use of any existing use; this includes the construction, alteration, or use of property or structural improvements lawfully in existence at the time of the effective date of this chapter, or which commenced prior to the effective date of this chapter and has been completed or is being diligently pursued. This includes vacant platted lots that were established to accommodate proposed development prior to the effective date of this chapter. It is further provided that the height limits of this chapter shall in no event be exceeded.
 - (1) Partial/Complete Destruction or Reconstruction. The owner of any existing use, building, or structure which, as a result of fire, flood, explosion, or other casualty is destroyed or is demolished by the owner, shall be allowed to rebuild, reconstruct, or rehabilitate the same existing use on the same parcel, provided the following requirements are met:
 - (i) The existing use is reviewed and complies with the Wittman Regional Airport Height Limitation Map and is not otherwise prohibited by the underlying zoning ordinance of the municipality with jurisdictional authority.
 - (2) Expansion of Existing Uses. Any existing use, as described in this chapter, may be expanded, altered, or

otherwise enlarged if the following requirements are met:

- (i) The expansion, alteration, or enlargement meets the requirements of the Wittman Regional Airport Height Limitation Map, meets the criteria for the existing land use with no change in zoning classification, and is not otherwise prohibited by the underlying zoning ordinance of the municipality with jurisdictional authority.
- (ii) Before any nonconforming structure may be replaced, altered, or rebuilt, approval shall be obtained and secured from the OSH Airport Manager, authorizing such change, replacement, or repair. No such approval shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this chapter, or than it was when the approval was requested.

24.5-4 Traffic Pattern (Air-3) District.

(a) **Permitted Uses:** Any land use that is either permitted by right or is permitted as a conditional use in the underlying zoning district are permitted in the Traffic Pattern (Air-3) District, except for the following:

- (1) Multiple dwelling structures of developments exceeding 20 dwelling units per acre
- (2) Educational facilities (pre-K through college, including universities) unless aviation related
- (3) Hospitals
- (4) Nursing homes
- (5) Outdoor stadiums
- (6) Religious assembly buildings
- (7) Theaters
- (8) Amphitheaters
- (9) Shooting ranges
- (10) Model aircraft/rocket facilities

(b) **Development Standards:** All new residential buildings shall be designed and constructed to provide a minimum of five (5) decibels extra noise reduction over the minimum standards contained in the state building codes. Certification of this requirement shall be provided by a registered architect or engineer who is licensed in the State of Wisconsin at the time of permit application up to and including the day after occupancy permit has been issued by the permit-issuing authority.

(c) **Existing Property Uses:** The following restrictions and regulations shall apply to existing uses in Air-3. All existing property uses allowed by the current zoning classifications, within the zones defined by this chapter can remain, subject to applicable federal, state, and local requirements including height limitations set forth in this chapter. This includes the construction of ancillary uses, such as garages, subject to existing local requirements. Nothing contained in this chapter shall require the removal of or any change in the construction, alteration, location, or use of any existing use; this includes the construction, alteration, or use of property or structural improvements lawfully in existence at the time of the effective date of this chapter, or which commenced prior to the effective date of this chapter and has been completed or is being diligently pursued. This includes vacant platted lots that were established to accommodate proposed development prior to the effective date of this chapter. It is further provided that the height limits of this chapter shall in no event be exceeded.

- (1) **Partial/Complete Destruction or Reconstruction.** The owner of any existing use, building, or structure which, as a result of fire, flood, explosion, or other casualty is destroyed or is demolished by the owner, shall be allowed to rebuild, reconstruct, or rehabilitate the same existing use on the same parcel, provided the following requirements are met:

- (i) The existing use is reviewed and complies with the Wittman Regional Airport Height Limitation Map and is not otherwise prohibited by the underlying zoning ordinance of the municipality with jurisdictional authority.
- (2) Expansion of Existing Uses. Any existing use, as described in this chapter, may be expanded, altered, or otherwise enlarged if the following requirements are met:
 - (i) The expansion, alteration, or enlargement meets the requirements of the Wittman Regional Airport Height Limitation Map, meets the criteria for the existing land use with no change in zoning classification, and is not otherwise prohibited by the underlying zoning ordinance of the municipality with jurisdictional authority.
 - (ii) Before any nonconforming structure may be replaced, altered, or rebuilt, approval shall be obtained and secured from the OSH Airport Manager, authorizing such change, replacement, or repair. No such approval shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this chapter, or than it was when the approval was requested.
- (d) **Multiple Family Development Standards:** All new multiple family developments shall be required to meet the following development criteria:
 - (1) Does not exceed height standards of the Height Limitation (Air-4) District
 - (2) Does not create a dense concentration of people that will result in residential dwelling unit densities exceeding twenty (20) dwelling units per acre
 - (3) Does not create a bird attractant
 - (4) Does not cause a distracting light or glare
 - (5) Does not cause a source of smoke
 - (6) Does not cause electrical interference
 - (7) Does not create standing water areas or detention/retention ponds which may attract wildlife
- (e) The following are land uses permitted as conditional use in the AIR-3 District:
 - (1) Group day care centers
 - (2) Golf courses
 - (3) Campground use

All conditional uses are subject to review by the Oshkosh Planning Services Division if within the city limits of Oshkosh, and the Winnebago County Planning and Zoning Department if located elsewhere. Coordination with the OSH airport manager is required to review the applicability of the criteria.

24.5-5 Height Limitation (AIR-4) District

(a) **Generally:** Except as otherwise provided in this chapter, the height of a structure and the height of a tree in the Height Limitation (AIR-4) District shall not exceed the elevation indicated on the height limitation map referred to in Section 24.4. The foregoing restrictions do not apply to legal fences or to farm crops that are cut at least once a year.

(b) **Removal of Trees:** The zoning administrator may require a property owner to remove a tree that exceeds or is about to exceed the height restriction for the area in which it is located.

(c) **Marking of Certain Trees and Structures:** The zoning administrator may require the owner of a structure or a tree that exceeds the height restriction for the area in which it is located, to pay for all costs related to the installation, operation, and maintenance of markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.



**ARTICLE 6
ADMINISTRATION**

Sections

24.6-1	Compliance	24.6-7	Variances
24.6-2	Administration and enforcement	24.6-8	Administrative appeals
24.6-3	Site plan	24.6-9	Application fees and other charges
24.6-4	Avigation easements	24.6-10	Enforcement
24.6-5	Amendments	24.6-11	Penalties
24.6-6	Nonconformities		

24.6-1 Compliance

(a) **Land Use:** No building, land use, or zoning permits or approvals shall be issued by any municipality city, County, or any Town for a building located in any airport zoning district until a site plan as described in this section has been submitted to and approved by the zoning administrator.

(b) **Land Divisions:** All land divisions of five (5) acres or less, and all subdivision plats, are subject to review by the Winnebago County Planning and Zoning Committee for consistency with this chapter. In addition to plat review objection authority, land divisions of five (5) acres or less in size shall adhere to the certified survey map provisions of Chapter 18 (Subdivision and Platting), Section 18.14, of the General Code of Winnebago County in order to ensure that developmental densities and/or uses are not in conflict with airport operations.

24.6-2 Administration and Enforcement

(a) **Generally:** Although the regulations in this chapter may govern land use in municipalities that have their own zoning regulations, Winnebago County shall be responsible for the administration and enforcement of these regulations in those areas.

(b) **Delegation of Authority to a Municipality:** Upon request from an affected municipality, the Winnebago County Board of Supervisors may adopt a resolution giving that municipality the right and responsibility of ensuring that development within their jurisdiction complies with the requirements of this chapter. The Board may without restriction amend or repeal such resolution without having first received a request of the municipality covered by that resolution.

24.6-3 Site Plan

(a) **Generally:** A site plan shall be submitted to the zoning administrator for approval prior to issuance of a building, land use, or zoning permit. Additionally, review of the site plan by the OSH airport manager is required where applicable under 24.5-3(a)(4), 24.5-3(b)(2)(ii), and 24.5-4(b)(2)(ii). All building plans shall be in compliance with the approved site plan. Amendments to the approved site plan shall require the resubmission of the site plan for review and action in the same manner as the original application for review and approval.

(b) **Content:** A site plan shall contain the information described in Chapter 23 (Town/County Zoning Code), Section 23-7, of the General Code of Winnebago County. In addition, the following information shall be provided on a site plan:

- (1) The location and size of all above- and below-ground storage containers for flammable and/or combustible liquids and materials.



- (2) Diagrams to include the location, dimensions, and angles of any light reflective surfaces proposed in the development design, including detail on any exterior lighting.
- (3) Any additional information as requested by the zoning administrator to ensure compliance with this chapter.

24.6-4 Avigation Easements

When Winnebago County approves any of the following:

- (1) a land division under Chapter 18 (Subdivision and Platting) of the General Code of Winnebago,
- (2) a rezoning of land under Chapter 23 (Town/County Zoning Code) of the General Code of Winnebago County, or
- (3) the expansion of an existing principal use in excess of 50 percent of the gross floor area of such use, the property owner shall, as a condition of approval, provide an avigation easement to Winnebago County for the subject property in a form as approved by the zoning administrator.

24.6-5 Amendments

This chapter, including any zoning maps, may be amended from time to time by the Winnebago County Board of Supervisors pursuant to the procedures and requirements in § 114.136, Wis. Stats.

24.6-6 Nonconformities

(a) **Nonconforming Structures:** A nonconforming structure is allowed to continue and exist provided it meets the standards in Chapter 23 (Town/County Zoning Code), Section 23-13, of the General Code of Winnebago County, except that a nonconforming structure may only be reestablished if it meets the height restrictions of this chapter.

(b) **Nonconforming Land Uses:** A nonconforming use is allowed to continue and exist provided it meets the requirements in Chapter 23 (Town/County Zoning Code), Section 23-13, of the General Code of Winnebago County.

(c) **Registration of Nonconforming Structures and Land Uses:** The property owner may submit a petition to the zoning administrator to register a nonconforming structure or land use using the procedures and requirements in Chapter 23 (Town/County Zoning Code), Section 23-7, of the General Code of Winnebago County.

24.6-7 Variances

A property owner may submit a variance application to the Board of Adjustment for review and action using the procedures and requirements in Chapter 23 (Town/County Zoning Code) of the General Code of Winnebago County. Notwithstanding the forgoing, the Board of Adjustment shall not consider or issue a use variance.

24.6-8 Administrative Appeals

Any person may appeal an administrative decision of the zoning administrator that is made under the authority of this chapter using the procedures and requirements in Chapter 23 (Town/County Zoning Code) of the General Code of Winnebago County.

24.6-9 Application Fees and Other Charges

(a) **Assessment of fees:** From time to time, the Winnebago County Board of Supervisors may by resolution establish application fees and other charges it deems necessary in the administration of this chapter.

(b) **Timing for payment:** Application fees shall be paid at the time the application is submitted for review.

(c) **Doubling of Application Fee:** If an activity which requires prior authorization under this chapter is started before the authorization is granted, the application fee is automatically doubled unless the Winnebago

County Board of Supervisors specifically establishes a different fee by resolution. Payment of such fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.

(d) **Refunds.** Application fees are nonrefundable, except when the application and fee were accepted by the zoning administrator or county staff in error.

24.6-10 Enforcement

Any enforcement taken to ensure compliance with this chapter shall follow the enforcement procedures and requirements enumerated in Chapter 23 (Town/County Zoning Code), Section 23-14, of the General Code of Winnebago County.

24.6-11 Penalties

Any person who violates this chapter shall be subject to a forfeiture as provided for in this Section per violation along with the costs of prosecution. Any such person in default of payment of such forfeiture shall be imprisoned in the county jail for not more than 6 months. Payment of a forfeiture does not relieve the person from complying with this chapter. Each and every day the violation continues shall constitute a separate offense. In addition, Winnebago County adopts the citation system of enforcement of this chapter pursuant to §66.0113, Wis. Stats.

(a) **Cost pursuant to issued citation**

- (1) Failure to obtain a permit or other approval as required: \$200.00 plus court costs as may be allowed
- (2) All other violations of this chapter: \$300 plus court costs as may be allowed.

(b) **Cost pursuant to non-citation initiated civil complaint:** not less than \$200.00 nor more than \$1,000.00 plus court costs and cost of prosecution as may be allowed.

CHAPTER 24
WITTMAN REGIONAL AIRPORT ZONING CODE

24.1 – 24.6	Ordinance Adopted and Chapter 24 Created	March 20, 2012
24.1	GENERAL PROVISIONS	March 20, 2012
1-1	Name of Chapter	March 20, 2012
1-2	Authority Jurisdiction Legislative Findings Purpose Compliance Liability	March 20, 2012
1-3	Relationship of this Chapter to State and Federal	March 20, 2012
1-4	Regulations	March 20, 2012
1-5	Relationship of this Chapter to Private Agreements	March 20, 2012
1-6	Additional Local Regulations	March 20, 2012
1-7	No Defense to Nuisance Action	March 20, 2012
1-8	Applicability to Public Entities	
	Applicability to Projects Under the Purview of the Public	March 20, 2012
1-9	Service Commission	March 20, 2012
1-10		March 20, 2012
1-11		March 20, 2012
1-12		March 20, 2012
1-13		March 20, 2012
24.2	INTERPRETATION AND CONSTRUCTION General Rules of	March 20, 2012
2-1	Construction Responsibility for Interpretation Delegation of	March 20, 2012
2-2	Authority	March 20, 2012
2-3	Internal Conflicts	March 20, 2012
2-4	Use of Graphics, Illustrations, Headings, References, Statutory	March 20, 2012
2-5	Citations, and Commentary Notes	
	General Rules of Interpretation	March 20, 2012
24.3	DEFINITIONS	March 20, 2012
3-1	Words and Phrases Not Defined	March 20, 2012
3-2	Words and Phrases Defined	March 20, 2012
24.4	MAPS AND DISTRICTS	March 20, 2012
4-1	Generally	March 20, 2012
4-2	Establishment and Purpose of Zoning Districts	March 20, 2012
4-3	Determination of District Boundaries	March 20, 2012
4-4	Maps	March 20, 2012
24.5	LAND USE	March 20, 2012
5-1	General Standards	March 20, 2012
5-2	Runway Protection (AIR-1) District	March 20, 2012
5-3	Aerial Approach/Departure (AIR-2) District	March 20, 2012
5-4	Traffic Pattern (AIR-3) District	March 20, 2012
5-5	Height Limitation (AIR-4) District	March 20, 2012

24.6	ADMINISTRATION	
6-1	Compliance	March 20, 2012
6-2	Administration and Enforcement	March 20, 2012
6-3	Site Plan	March 20, 2012
6-4	Avigation Easements	March 20, 2012
6-5	Amendments	March 20, 2012
6-6	Nonconformities	March 20, 2012
6-7	Variances	March 20, 2012
6-8	Administrative Appeals	March 20, 2012
6-9	Application Fees and Other Charges	March 20, 2012
6-10	Enforcement	March 20, 2012
6-11	Penalties	March 20, 2012
	REVISION HISTORY	
24.4-4	Maps	January 10, 2014
24.5-4	Traffic Pattern (Air-3) District	May 20, 2014
24.4	Update Wittman Zoning Districts Map	June 17, 2020
24.4	Update Wittman Height Districts Map	June 17, 2020

Appendix B – Excerpt from LaCrosse Municipal Airport Overlay Zoning Ordinance

The La Crosse Municipal Airport implemented an airport overlay zoning ordinance in 2011. Part of the ordinance addresses existing uses and is presented here as an example of what OSH may want to consider. The section below is from Chapter 8 of the City of La Crosse Municipal Code of Ordinances.

Sec. 8-170. - Specific restrictions

The following specific use restrictions and regulations shall also apply:

(a) Existing Uses. All existing property uses allowed by the current zoning classifications, within the zones defined by this Ordinance can remain, subject to applicable federal, state, and local requirements including height limitations set forth in this Ordinance. This includes the construction of ancillary uses, such as garages, subject to existing local requirements. Nothing contained in this Ordinance shall require the removal of or any change in the construction, alteration, location, or use of any existing use; this includes the construction, alteration, or use of property or structural improvements lawfully in existence at the time of the effective date of this Ordinance, or which commenced prior to the effective date of this Ordinance and has been completed or is being diligently pursued. This includes vacant platted lots that were established to accommodate proposed development prior to the effective date of this Ordinance. It is further provided that the height limits of this Ordinance shall in NO event be exceeded.

(i) Partial/Complete Destruction or Reconstruction. The owner of any existing use, building, or structure which, as a result of fire, flood, explosion, or other casualty is destroyed or is demolished by the owner, shall be allowed to rebuild, reconstruct, or rehabilitate the same existing use on the same parcel, provided the following requirements are met:

a. The existing use is reviewed and complies with the La Crosse Municipal Airport Height Zoning Map and is not otherwise prohibited by the underlying zoning ordinance of the municipality with jurisdictional authority.

(ii) Expansion of Existing Uses. Any existing use, as described in this Ordinance, may be expanded, altered, or otherwise enlarged if the following requirements are met:

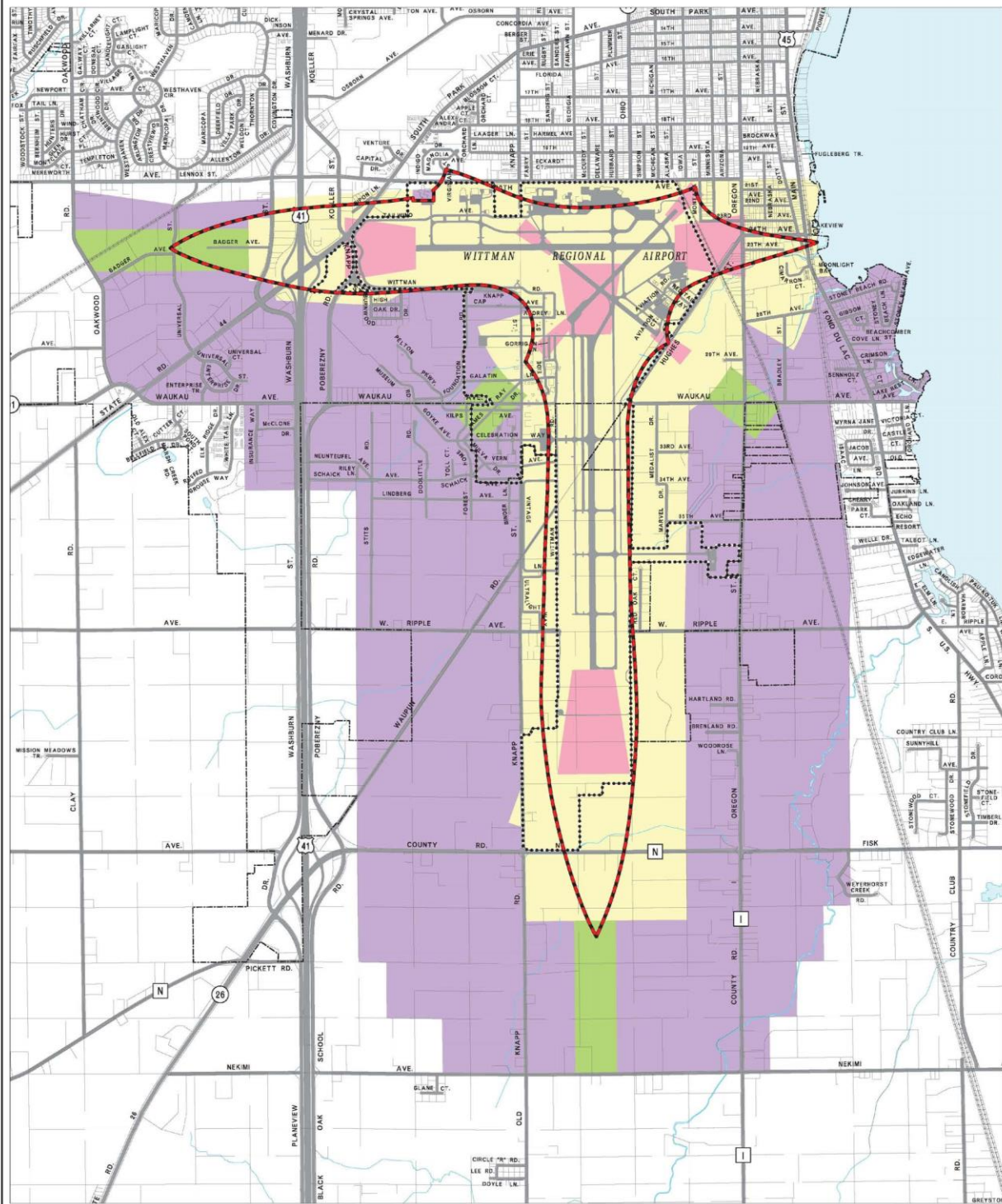
a. The expansion, alteration, or enlargement meets the requirements of the La Crosse Municipal Airport Height Limitation Zoning Map, meets the criteria for the existing land use with no change in zoning classification, and is not otherwise prohibited by the underlying zoning ordinance of the municipality with jurisdictional authority.

b. Before any nonconforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed by Section (E)(1) of this Ordinance, authorizing such change, replacement, or repair. No such Permit shall be denied if the structure will not become a greater hazard to air navigation that it was on the effective date of this Ordinance, or than it was when the application for permit was made.

CURRENT OVERLAY MAP

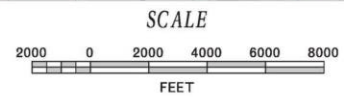
Wittman Regional Airport Zoning Map

Zoning Districts (Map 1 of 2)



ZONING DISTRICTS		MAP FEATURES	
	AIR-1 Runway Protection Zone		Airport Property Boundary
	AIR-2 Airport Noise Cone		Roadways
	AIR-3 Aerial Approach/Departure Zone		Railroads
	AIR-4 Outer Approach/Departure Zone		Water Edge
	AIR-5 Traffic Pattern Zone		Parcel Boundary *

Recent Amendments (Since April 29, 2012)		
Ordinance	Date	General Description
232-82013	6-18-2013	Modified boundary of Air-3 and Air-5 districts
09/02/15	9-15-2015	Air-3/Air-2 to Air-5 for parcel 9132001007

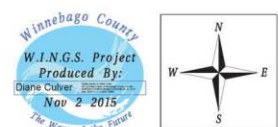


Map Certification

I hereby certify that this is the official Wittman Regional Airport Zoning Map - Zoning Districts of Winnebago County as of this date.

Mark L. Harris
County Executive (electronic signature) & Date

Susan T. Ertmer
County Clerk (electronic signature) & Date

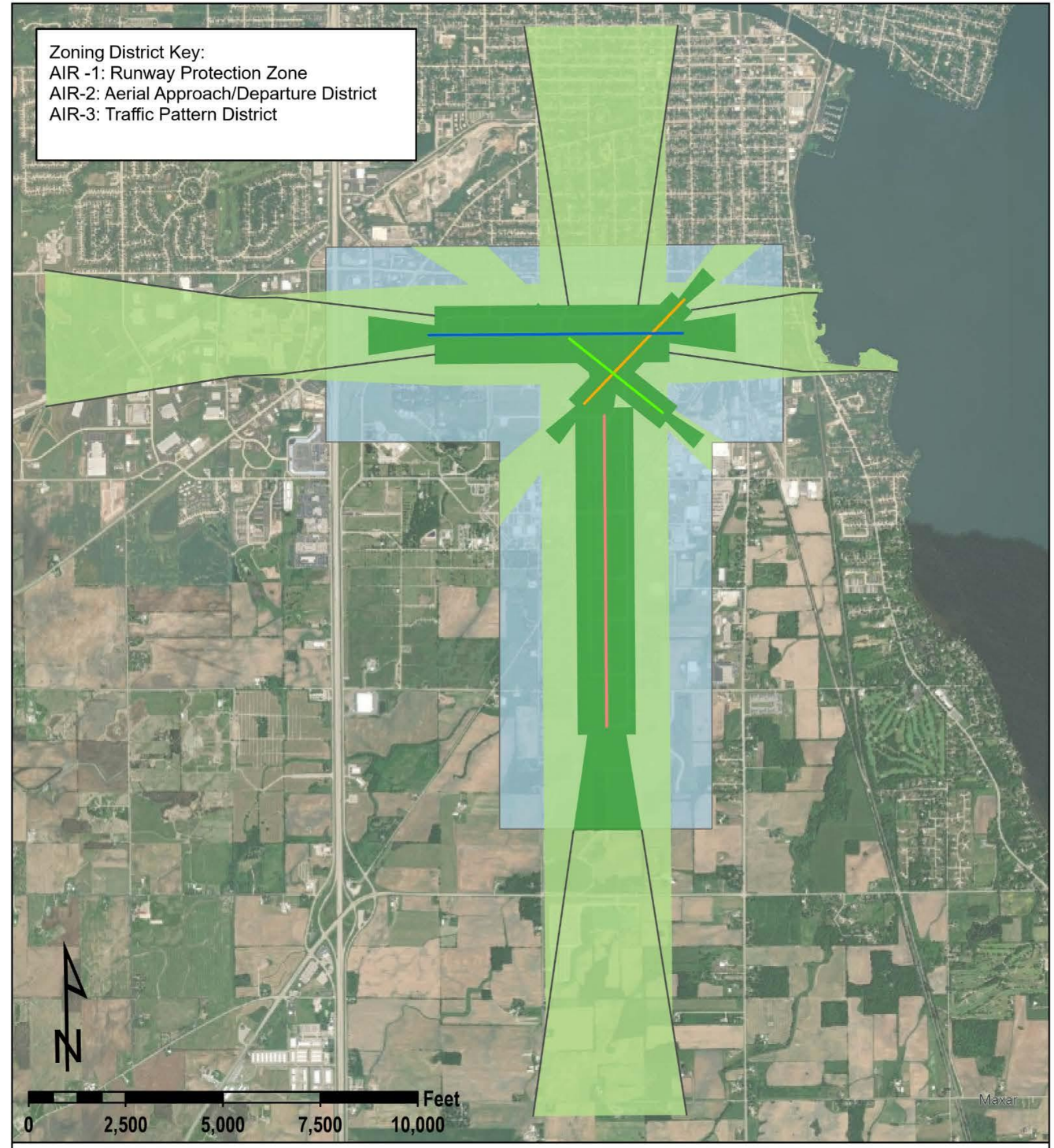


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PROPOSED OVERLAY MAP

Zoning District Key:
AIR-1: Runway Protection Zone
AIR-2: Aerial Approach/Departure District
AIR-3: Traffic Pattern District



Wittman Regional Airport Zoning Map - Winnebago County, Wisconsin

Map 1 of 2

Legend			
	Runway 18/36		Air-1
	Runway 13/31		Air-2
	Runway 09/27		Air-3
	Runway 05/23		