



Statutory Authorization: 24 V.S.A., §§4411(b)(3)(A) & (E), 4414(1)(C)

Type: REGULATORY

Related Topic Areas: Land Use & Development Regulations; Open Space & Resource Protection Regulations; Parking; Roads & Highways; Subdivision Regulations; Zoning Regulations

Rail & Airports

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Overview

For the most part, airports and rail facilities are not under the jurisdiction of municipalities. However, local officials do have the responsibility to enact appropriate zoning requirements around airports and along rail lines to ensure that any new development is compatible. Not only are quality-of-life issues at stake for the nearby neighborhoods, but also safety needs to be considered for the operation of these transportation facilities, as well as for the neighborhoods. Avoiding conflict between rail lines and airports and future development or redevelopment of adjacent properties will help prevent the need for expensive mitigation in the future. For example, should property next to a rail line or airport be developed for residential uses, the burden is then placed on a municipality, sooner or later, to either mitigate conflicts or to have the railroad or airport alter their operating methods.

Authority to Regulate

24 V.S.A. §4411

Recognizing the importance of controlling land uses around key transportation facilities, the Vermont State Statutes gives municipalities the power to “regulate, restrict or prohibit” structures at or near (A) major transportation arteries and (E) aircraft and helicopter facilities. 5 V.S.A. Chapter 17 also gives authorization to any political subdivision that has an airport hazard area within its territorial limits to adopt airport zoning regulations for the airport hazard area. This is reinforced in 24 V.S.A. §4414(1)(C), which specifically enables adoption of airport hazard area districts in zoning regulations.

The operation of rail and air facilities is vital for economic growth, and expansion of both modes has the potential to significantly reduce truck traffic on our roads. This is especially important to Vermont communities because of the expected increase in regional and international freight activity in coming years. Thus, it is important that rail sidings be preserved, along with the land adjacent to both the rail line and the sidings, since this land could be utilized for rail-related uses. The same is true for airport-related uses. Identifying and preserving properties along rail lines and airports for potential use related to these two modes of transportation and helping to minimize conflicts with adjacent land uses can help keep these modes viable for future generations.

Application

Zoning regulations that are designed to protect the functions of airports and railroad facilities should include buffer zones from noise around airports and along rail lines and rail yards. They should zone out noise-sensitive uses and encourage compatible and complementary uses. If possible, residential uses should be avoided under air approach zones, near rail at-grade crossings, and adjacent to rail tracks and sidings. Other sensitive uses include hospitals, nursing homes, day-care facilities, churches, and schools. Compatible and complementary uses around rail and air include nonretail commercial and industrial businesses, especially those that utilize these modes for their operation. Zoning regulations should be designed to support and enhance any existing rail usage. In cases where a rail line is no longer op-

erating, the regulations should support preservation of the rail right-of-way (ROW).

Zoning regulations should also include provisions that maintain accessibility to other related modes of transportation. For example, airports should be accessible to ground transportation infrastructure and services (both freight and passenger); there should be intermodal connections to passenger rail; and zoning should acknowledge the potential for freight transfer (transload) facilities along rail lines. In addition, the zoning regulations should also promote safety around both airports and rail facilities.

One way to address special zoning provisions around rail lines and airports is through an overlay district, as authorized by 24 V.S.A. §4414(2). Overlay districts can supplement or modify the zoning requirements otherwise applicable in the underlying district to address the specific concerns that surround airports and rail lines. (For more information on overlay districts, also called critical area zoning, see topic paper, Open Space & Resource Protection Regulations.)

Airports

Height hazards, safety, and noise are the three primary land use compatibility issues that need to be addressed around airports. Statute 24 V.S.A. §4414(1)(C) states that any municipality can adopt special bylaws governing the use of land, location and size of buildings, and density of population within a distance of two miles from the boundaries of the airport under an approach zone and one mile from the airport boundaries elsewhere. Statute 5 V.S.A. Chapter 17 states that any municipality with an

Airport Approach Zone Recommendations

In crafting zoning regulations, consider the following requirements:

- Limit the height of buildings.
- Allow only low-growing vegetation.
- Prohibit high overhead outdoor lighting and require downward shading of the lighting to reduce glare.
- Prohibit overhead utilities.
- Limit the storage of large quantities of hazardous or flammable material.
- Ensure that permitted uses will not create large areas of standing water or generate smoke, steam, etc.
- Encourage land uses that will be relatively unoccupied by people (such as storage facilities and parking lots).

airport hazard area in its territorial limits may adopt airport zoning regulations for that airport hazard area. The airport hazard area may be divided into zones, within which the regulations can specify the land uses permitted and regulate and restrict the height of structures in each zone to prevent conflicts with airplanes taking off and landing.

When developing the regulations around airports, the local boards should work with interest groups: technical experts, landowners and other stakeholders, airport representatives, and the general public. Land use decisions are long-term decisions, and crafting proactive policies and development regulations takes a willingness to collaborate on the part of all parties to protect the airport and the community from making incompatible land use decisions. Overlaying noise contour maps onto the land use map, recognizing airports as essential public facilities, and directing incompatible uses and high densities away from areas where noise and safety are concerns are ways to protect the health, safety, and welfare of communities while preserving the aviation system.

Airport zoning regulations should consider the character of the flying operations conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the allowed uses in the area. The regulations cannot require removing, lowering, or making other changes to any airport hazard not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use.

When reviewing development applications on property near airports, adequate land must be maintained for potential airport expansion, both the length of existing runway and the addition of new runways, as well as other airport facility development.

Rail

Special consideration should be taken around at-grade crossings of highway and rail lines to prevent conflicts. Grade-crossing accidents happen and can be serious. For those crossings where there are no mechanical devices, it is important that adequate sight distance is maintained and that the volume of traffic is minimized. Uses that generate constant and heavy traffic, such as residential and commercial developments, or traffic that includes school buses or hazardous material should not be permitted where an at-grade rail line crossing is required to access the property. For crossings that access existing development, visibility and sight

Get to Know Airport and Rail Officials

Local planning commissions and appropriate municipal panels should consult with airport and rail officials when developing or amending zoning regulations or when reviewing potential development around airports.

distance should be improved by removing unnecessary obstructions and providing adequate nighttime lighting. Unnecessary crossings should be closed at first opportunity.

Noise and vibration need to be considered for abutting development along rail lines and adjacent to sidings. Trespassing on railroad property is a huge safety issue that needs to be addressed in the planning and development review process. When residential neighborhoods are located across the tracks from other neighborhoods or commercial areas, illegal trespassing will happen unless safe and convenient pedestrian crossings are provided.

Preservation of rail ROW is another important consideration. Statute 5 V.S.A. §3431 states that when railroad operations cease on railroad ROW owned by the state or a municipality, the title or interest must be retained for future transportation purposes or such other purposes that are not inconsistent with future transportation purposes. However, the state or municipality must allow abutting farm operations to use the land over which the ROW passes for agricultural purposes.

Airport Approach Cones

Example Language: South Burlington Zoning Regulations

General Restrictions: Notwithstanding the provisions of any other section of these regulations, the uses permitted in any district in the Airport Approach Cones, as shown on the Official Zoning Map and Overlay Districts Map, shall be permitted subject to the following limitations:

1. No use shall be permitted which will produce electrical interference with radio communication or radar operations at the airport.
2. No use shall be permitted which could obstruct the aerial approaches to the airport.
3. All uses shall comply with applicable FAA or other federal or state regulations.
4. No light or glare shall be permitted which could interfere with vision or cause confusion with airport lights.