

Date: November 10, 2022  
To: Village of East Troy Village Board  
From: Tim Schwecke, Zoning Administrator  
Subject: Amend the Village's zoning regulations with regard to the Airport Height Restriction Overlay District  
Meeting: November 14, 2022 Village Board meeting

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Walworth County has identified a property in the Village for a new communications tower. The height of the tower however exceeds the maximum height established by the Airport Height Restriction Overlay District for that location. The County initiated a study to determine if the additional tower height poses a threat to air navigation. The recently completed study found no threat.

In order to allow the County to proceed with the taller tower, the Village will need to consider amending the zoning code to allow taller structures when the FAA determines there is no threat to air navigation.

Normally, amendments to the zoning code start with the Plan Commission or a property owner. However, the Village Board can also initiate the process. The Village Board reviewed this matter at their meeting on October 17, 2022 and started the amendment process.

**Review procedures** The Plan Commission is advisory. The Village Board makes the final decision. The Village Board may approve the amendment as originally proposed, may approve the proposed amendment with modifications, or may deny approval of the proposed amendment. If the Village Board wishes to make significant changes as recommended by the Plan Commission, the procedure in s. 62.23(7)(d), Wis. Stats., must be followed prior to Village Board action.

**Notice requirements** A class II public hearing notice was published, a copy of which is attached.

**Public comment** As of this date, we have not received any written public comments.

**Potential motion for approval:**

Recommend to the Village Board the approval of the proposed ordinance as drafted (or as amended)

**Attachments:**

1. Public hearing notice
2. Proposed ordinance (Public hearing draft)

VILLAGE OF EAST TROY PLAN COMMISSION

NOTICE OF PUBLIC HEARINGS

The Village of East Troy Plan Commission will conduct a public hearing on Monday, November 14, 2022, for each of the following:

1. An ordinance to amend the Village's zoning regulations (Chapter 510) by revising the development standards for the Mixed Business/Light Industrial Design Overlay District and related matters.
2. An ordinance to amend the Village's zoning regulations (Chapter 510) by revising the standards for the Airport Height Restriction Overlay District and related matters.

The proposed amendments may affect allowable uses within the Village. The proposed amendments will not affect the zoning map. A copy of the proposed ordinances will be on file and open for public inspection in the office of the Village Clerk during normal office hours (and when open) for a period of two weeks prior to the public hearing.

The Plan Commission meeting starts at 6:30 pm and will be held at the Village Hall located at 2015 Energy Drive. The public hearings will be conducted in the order listed on the meeting agenda. For information regarding these public hearings, contact Tim Schwecke, Zoning Administrator, at 920-728-2814. All interested parties will be heard at the public hearing. Written comments may be submitted (1) online on the Village's zoning website <https://villageofeasttroy.zoninghub.com/home.aspx>; (2) to the Village Hall by Tuesday, November 8, 2022; or (3) during the public hearing.

Lorri Alexander, Village Clerk

Published in the *East Troy Times* on October 28 and November 4, 2022

**ORDINANCE 2022-13**

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**AN ORDINANCE TO MAKE REVISIONS TO THE ZONING REGULATIONS IN  
CHAPTER 510 OF THE VILLAGE OF EAST TROY MUNICIPAL CODE**

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**- Draft October 12, 2022 –**

WHEREAS, the Village Board for the Village of East Troy adopted zoning regulations for the Village of East Troy and has amended such regulations from time to time; and

WHEREAS, the zoning regulations, as amended, are codified as Chapter 510 of the Village of East Troy municipal code, which is titled “Zoning;” and

WHEREAS, the Village Board desires to make revisions to the height standards in the Airport Height Restriction Overlay District; and

WHEREAS, upon due notice as required by the zoning code, the Plan Commission conducted a public hearing on November 14, 2022; and

WHEREAS, within a reasonable time after the public hearing, the Plan Commission reported its recommendation to the Village Board as set forth in this ordinance; and

WHEREAS, the Village Board considered the Plan Commission’s recommendation at its meeting on November 21, 2022; and

WHEREAS, the Village Board accepted the Plan Commission’s recommended amendment without revision.

WHEREAS, the Village Board finds that the recommended revisions to the Village’s zoning regulations could potentially be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Village Board for passage and adoption; and

WHEREAS, the Village Board for the Village of East Troy, after careful review and upon consideration of the recommendation of the Plan Commission of the Village of East Troy and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Village of East Troy, will enhance property values in the Village and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Village or for any other reason cause a substantial adverse effect on the property values and general desirability of the Village.

NOW, THEREFORE, the Village Board of the Village of East Troy, Walworth County, Wisconsin, do ordain as follows:

**Section 1.** Amend Section 510-69 to read as revised below.

**510-69 Airport Height Restriction Overlay District.**

A. Purpose. This district is intended to regulate the height of buildings, structures, and fixtures within the vicinity of the East Troy Municipal Airport to protect the public health, safety, and welfare of both airport users and residents of the surrounding communities. Regulations of the AHR District apply to all properties within the AHR District regardless of ownership. The AHR District is intended to prevent or more closely regulate buildings, structures, and fixtures to ensure safe landing, takeoff, and maneuvering of aircraft within the vicinity of the airport.

B. Height regulations. The following regulations shall apply to the Airport Height Restriction District:

- (1) The determination of the overall height of a building, structure, or fixture within the AHR District shall include any appurtenance installed thereon (see also "building height" under § 510-12).
- (2) Height limitation zones. Except as otherwise provided in this article, no structure shall be constructed, altered, or located or permitted to remain after such construction, alteration, or location at a height in excess of the height limitation indicated on the Height Limitation Zoning Map, East Troy Municipal Airport, Walworth County, Wisconsin, dated November 17, 1988, which is hereby adopted and made part of this chapter.
- (3) All lighting fixtures within the AHR District, including building and pole-mounted, shall be full cutoff fixtures and shall not exceed 12 feet in height.
- (4) Trees, shrubs, bushes, and other plants shall not exceed 20 feet in height. The Zoning Administrator and/or Building Inspector shall have the right to trim, prune, or remove, at the owner's expense, any plant which was planted after adoption of this chapter and found to be in violation of the height restriction for the zone in which it is located.
- (5) Exemptions from height regulations. The restrictions ~~contained~~ in Subsection B(2) above ~~shall~~ do not apply to objects which are less than 35 feet in height above ground level at the object site within 1/2 mile of the airport boundary or to structures less than 50 feet in height above the ground within the area beginning 1/2 mile from the airport boundary extending to three miles from the airport boundary.
- (6) Exemptions from height regulations with FAA determination. The restrictions in Subsection B(2) above do not apply when the Federal Aviation Administration (FAA) determines the structure does not pose a hazard to air navigation.

**Section 2.** This ordinance shall become effective upon passage and posting or publication as provided by law.

**Section 3.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific Section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Adopted by a vote in favor by two-thirds of the members-elect of the Village Board, or more, this 21<sup>st</sup> day of November, 2022

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Scott Seager, President

ATTEST:

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Lorri Alexander, Village Clerk