

## 4.0 Roles, Responsibilities and Funding for Land Use Planning

The roles, responsibilities and funding opportunities for those involved in implementing programs for airport compatible land uses involve many entities of government and the public. Each group provides a vital part of the overall strategy toward successful land use compatibility. It is important to understand the requirements that are placed on each entity involved. The roles, responsibilities and (where applicable) the funding options available from each of these various entities are discussed below.

### 4.1 Federal Government

→ *The federal agency primarily responsible for aviation related land use compatibility is the Federal Aviation Administration (FAA).*

At the federal level the primary agency responsible for aviation related land use compatibility is the Federal Aviation Administration (FAA). Other federal departments have minor regulatory review of various aspects of airport development and, more importantly, off airport land issues. These other federal departments are quite diverse and are not considered to have a substantial role in the daily issues of compatible airport land uses, but will be discussed in the following chapter with regards to specific regulations.

The FAA is responsible for federal laws and regulations affecting the aviation industry. Federal Aviation Regulations (FARs), FAA Orders and FAA Advisory Circulars (ACs) are the primary tools used in this endeavor. The FAA is also the funding mechanism for master plans, noise and land use studies and other issues related to land use compatibility, as well as the expansion and safe operation of airports and aviation related activities. As the governing body, the FAA is responsible for preservation of the national airspace and control of aircraft while in flight. This responsibility includes areas such as airworthiness and noise emissions of aircraft, as well as navigational aids and air traffic control facilities.

→ *The FAA has become more proactive in developing FAA Orders and Advisory Circulars to address more non-traditional compatible land use issues such as wetlands, bird attractants and cell towers.*

As the national representative for aviation related issues, the FAA has a complex set of branches, departments and offices to oversee the various aspects of the aviation industry. Chapter 7 provides a summary of federal and state agency contacts. It is important to note that each of these various sections/branches has a specific area of expertise or interest as it relates to aviation. There are numerous opportunities for overlap between the various offices/branches and coordination between them is essential to provide a comprehensive assessment of land use issues. Access to the majority of the various branches is available on a local level through the FAA-Northwest Mountain Regional Office located in Renton, Washington. Chapter 7 provides contact information for the various federal agencies that may be involved in land use planning issues.

Specific FAA regulations and their impact on land use issues provide the foundation for airport owners to build from when developing a compatible land use strategy. These various regulations have historically focused on on-airport safety and land use. However, as land use issues continue to plague the nation's airports, the FAA has become more proactive in developing FAA Orders and Advisory Circulars to address more non-traditional compatible land use issues such as wetlands, bird attractants and cell towers. These various regulations are addressed in the following chapter.

While the FAA is the primary funding source for capital improvement projects at airports nationwide, their funding opportunities related to land use issues focus on two areas: land acquisition to provide open space around airports and noise related mitigation measures. The primary funding focus is acquiring clear runway safety areas and approach areas in close proximity to the airport. The secondary funding emphasis is acquisition of easements to provide height controls over properties in close proximity to the airport environs. When warranted by a noise study (see the following chapter on specific regulations), the FAA will typically

participate in noise mitigation measures, which may include sound proofing structures, construction of noise barriers or possibly acquisition to remove or relocate a noise-sensitive development. Additionally, funds are available for master planning, which provides the foundation for the land use plan of the airport.

## 4.2 State Government

The Oregon Department of Aviation was formerly the Aeronautics Section of the Oregon Department of Transportation (ODOT). It was established as a section of the ODOT in 1921 and was the first governmental agency in the nation to be dedicated to aviation. With more than 80 years of experience at improving and advancing the aviation system of Oregon, there is a solid foundation for state involvement in compatible land use planning. As previously mentioned, the initial land use guidelines document has been used as a primer for many other states who have developed similar programs to encourage compatible land use patterns. The ODA spearheads the overall preservation of aviation activities in the state. However, with the strong state planning policies, there are numerous agencies also intimately involved in the development of compatible land use programs. A brief sample of these various agencies is discussed below.

→ *The Oregon Department of Aviation has the distinction of having been the first governmental agency in the nation dedicated to aviation.*

### 4.2a. Department of Aviation (ODA)

The role of the ODA is to advance aviation in Oregon and develop a statewide aviation system as a part of Oregon's transportation network, while creating and implementing strategies to protect and improve Oregon's aviation system. ODA also develops land use guidelines and model land use ordinances to assist local jurisdictions in planning for appropriate land uses, height limitations, and developing other regulations to protect airports and operations within airport environs. ODA also serves as a clearinghouse for technical support and information on aviation issues to local jurisdictions and airport operators. As previously mentioned, the Oregon Department of Aviation (ODA) is specifically authorized to:

- develop a state Aviation System Plan
- establish minimum design and dimensional standards for heliports and general aviation airports
- regulate commercial activities on state-owned airport property
- establish airport or heliport site approval and licensure processes
- receive notice of land use activities that impact airports
- review and provide comments on proposed noise regulations, and
- coordinate certain activities with city and county planning authorities e.g., ODA must provide a list of applicable public use airports within local jurisdictions, provide a drawing of approach surfaces for each applicable airport classification to local jurisdictions, etc., among other activities.

All of these functions combine to create a solid agency framework geared to the preservation and development of aviation opportunities within the state of Oregon.

ODA, in cooperation with the FAA, works to fund the various airport-related compatible land use programs approved by the FAA. As previously mentioned, these typically include fee simple land acquisition and aviation easements to

ensure clear runway safety and approach areas, as well as provide noise mitigation programs. Planning activities are also eligible for funding requests based upon availability of federal and state funds.

**4.2b. Department of Transportation (ODOT)**

The Oregon Department of Transportation (ODOT) has jurisdiction over state transportation systems, particularly relating to roads and highways of significance on the state, regional, and district level. With the state Department of Land Conservation and Development (DLCD), ODOT governs the development of state and local Transportation System Plans (TSPs) and associated implementation measures to comply with local comprehensive plans. ODOT and DLCD also help meet transportation benchmarks outlined in the Oregon Transportation Plan, and conform to applicable state statutes and administrative rules (i.e., the Transportation Planning Rule, OAR 660-012). ODOT works with local jurisdictions to help fund the development of TSPs and comprehensive plan refinements. In that TSPs must provide means for adequate ground access to airports, and include elements supporting airports and airport operations, ODOT augments aviation-related activities conducted by ODA and DLCD.

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As outlined below, there are some funding opportunities from ODOT for land use related issues, however, they are often combined or associated with a larger scale project. ODOT has relatively stable funding for grants to develop and update TSPs for local jurisdictions. Since airport-related issues (e.g., access to airport facilities) can be addressed through the TSP adoption or update process, this represents another potential funding tool to support airport planning and compatibility.

**4.2c. Department of Land Conservation and Development (DLCD)**

The seven-member Land Conservation and Development Commission (LCDC) promulgates administrative rules implementing the Oregon land use program in conformance with statewide planning goals. The Department of Land Conservation and Development (DLCD) administers the state land use program on behalf of the Commission by acknowledging that local comprehensive plans and land use regulations are consistent with their goals. City and county comprehensive plans are required to have transportation elements that establish policies and land use regulations relating to publicly- and privately-owned public use airports that provide important links to air traffic in the state, essential safety or emergency services, or are of economic importance to the county where the airport is located. In this regard, DLCD serves to direct local governments to work with ODA and sponsors of the state's public use airports to adopt appropriate land use compatibility strategies for each airport.

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DLCD also promulgates rules requiring preparation of coordination programs for state agencies (OAR Chapter 660, Division 30), which obligate agencies to identify their land use programs and demonstrate that they are consistent with acknowledged comprehensive plans and statewide planning goals. State agency coordination programs also require agencies to adopt or amend agency land use programs to assure goal compliance and plan compatibility. These programs also establish a means of dispute resolution and describe the agency's program for cooperation with and technical assistance to local governments, and the procedures for coordinating with other agencies. Certain issues can present conflicts for local governments in terms of meeting seemingly competing land use requirements (e.g., protecting local airports from bird strikes to meet APR requirements vis-à-vis Oregon Department of Fish and Wildlife standards for wildlife protection). DLCD's agency coordination programs ostensibly provide a vehicle for addressing these conflicting agency demands as well as technical assistance to address such issues.

DLCD also provides funding assistance and technical support to local jurisdictions to update plans and regulations, including transportation system

plans, and to develop plans integrating land use and transportation systems. The agency also coordinates with local governments to establish work programs as part of required periodic review of comprehensive plans.

For communities and counties with small populations no longer required to go through periodic review, or for other communities needing assistance outside the periodic review process, there are other strategies for financing plan and code updates.

- DLCD Technical Assistance Grants. Although available state funding is not commensurate with the amount of need and number of requests made by local jurisdictions, the state does provide a source for funding planning efforts by local jurisdictions to update codes and ordinances.
- DLCD & ODOT Transportation Growth Management Program. Grants through this program are intended to link transportation and land use, promote community livability, and reduce automobile reliance. These grants are not intended to specifically fund aviation-related plans, but some communities (e.g., Corvallis) have developed area plans for portions of the community that could affect or govern land uses in the vicinity of an airport.
- Cities or counties exempt from periodic review requirements are allowed under OAR 660-025-0030(4) to request periodic review by LCDC. Conceivably, funding requested on this basis could be used to implement planning for airport-related issues (e.g., land use compatibility, wetlands/natural resource inventories) under the auspices of periodic review.

#### **4.2d. Department of Environmental Quality (DEQ)**

Relating to airport planning and operations, the Oregon Environmental Quality Commission approves, and the DEQ administers, applicable administrative rules such as Airport Noise Abatement programs, approves the siting and expansion of landfills, and regulates the storage and handling of hazardous materials (including aviation fuels).

The DEQ administers Oregon's water quality certification program under the federal Clean Water Act, and the federal National Pollutant Discharge Elimination System (NPDES) permit program. This certification and approval of a NPDES permit and associated erosion and sediment control plan may be required for airport improvement and expansion projects.

The DEQ also determines whether receiving bodies are (a) "limited" for any water quality parameter, (b) are important in the ability to receive permission to discharge runoff, or (c) conduct other activities that could potentially diminish water quality parameters in a receiving body. These requirements pertaining to pollutant discharge into receiving bodies can require airports to modify certain operations (e.g., de-icing, storm water runoff), in order to preserve the quality of water in receiving streams. Since several threatened and endangered aquatic species and their habitats now have federal and state protection, the relationship between DEQ and airport operators is paramount.

#### **4.2e. Department of Fish and Wildlife (ODFW)**

The Oregon Department of Fish and Wildlife (ODFW) has jurisdiction over anadromous fish species (i.e., salmonids) and state-listed endangered or threatened species. ODFW also serves as a conduit in which some federal regulations are enforced within the state, and coordinates with other state agencies and federal agencies (e.g., National Marine Fisheries Service, U.S. Fish and Wildlife Service) to protect threatened and endangered species.

→ *The DEQ is an important partner in siting landfills and administering the Airport Noise Abatement program.*

ODFW developed the state Wildlife Diversity Plan, which includes procedures and criteria for state listing of endangered species and provisions for incidental take permits. Airport operators and sponsors also work closely with ODFW to develop approved wildlife mitigation plans that reduce potential threats to air navigation from birds and other wildlife on airport property.

**4.2f. Division of State Lands (DSL)**

The Division of State Lands (DSL) has jurisdiction over “waters of the state of Oregon,” which includes wetlands, waterways, and certain other water bodies and impoundments. DSL implements provisions of the Oregon Fill and Removal Law (ORS 196.600 through 196.905), and any improvement project that would impact wetlands or waters of the state must be coordinated with DSL. The state law directs DSL to issue a permit authorizing fill or removal of material from waters of the state when specific criteria are met. State law also dictates that the DSL impose conditions, limitations, or mitigation necessary to avoid, minimize, or compensate for wetland impacts.

➔ *The Division of State Lands regulates wetlands, waterways and water impoundments.*

Since DSL and U.S. Army Corps of Engineers both have jurisdiction over wetlands and waters for their respective agencies, they administer a coordinated review and permitting (Joint Permit) program. The joint regulatory program includes a common application form and often a shared public notice process.

DSL also administers the Oregon Natural Heritage Program (ONHP), which inventories threatened and endangered plant and animal species, and species of concern, local importance, or rarity. Airport operations, development, and expansion can have potentially significant impact on not only wetlands but also significant plant or animal species habitats. Such airport-related projects should not be undertaken without first consulting with ONHP inventories and/or conducting on-site investigations.

**4.2g. Other Agencies**

As noted above, ODFW administers the fish and wildlife endangered species program, but the program relating to endangered plants is administered through the Oregon Department of Agriculture.

Airport operators may also have cause to engage the Oregon Department of Geology and Mineral Industries (DOGAMI), as the agency that approves plans for aggregate extraction and post-mining reclamation. As such activities may involve open water impoundments with potential bird strike hazards, the size, nature, and operation of mining operations near airports is of great concern.

**4.2h. Summary of State Agencies**

The previous summaries outline the primary state agencies, which have ties to airport land use compatibility related issues. While these are the departments that have the most connections to airport developments, additional departments may be involved in specific issues for and around individual airports. Early communication and coordination with ODA is highly recommended to ensure appropriate coordination with these departments as specific projects warrant.

➔ *Local governments are the front line in providing compatible land uses.*

**4.3 Local Governments**

Local governments are the first line of defense for compatible land use issues. While federal and state agencies create the guidelines and regulations related to land use issues, it is the local units of government, which are charged with the implementation and enforcement of these measures. Land use zoning and control are the responsibility of the local land use planners and elected officials, including noise impacts, tall structures, landfills and wildlife issues. They are also required to develop plans and regulations that comply with not only state-

mandated airport and transportation-related rules, but also an infinite number of other, sometimes conflicting, state agency requirements. The relationship between local jurisdictions and airports is of critical importance, since airport sponsors rely upon city and county staff to provide notice of land use actions proximate to airports, and establish the policy basis that enables the airport to operate effectively.

Coordination and communication between local jurisdictions and airports is essential to the effective implementation and subsequent enforcement of land use compatibility initiatives. In an effort to build cooperation, coordination and communication between not only the local jurisdictions and airports, but also the general citizenry, public education programs should be considered.

#### 4.4 Airport Owners/Managers

The sponsor/management of the airport has the responsibility of being an ambassador to local jurisdictions of government and local citizens to inform them of the importance of compatible land use planning around airports. Airport owners/managers must be vigilant in their efforts to keep abreast of their local communities' actions regarding land use issues in proximity to the airport environs. Airport operators and sponsors must be closely involved with city and county officials in developing comprehensive plan policies, plan elements, and land use regulations that:

- preserve the viability of airport uses
- minimize and/or mitigate potential noise impacts on surrounding uses
- preserve adequate space for airport operations, expansion, and safety zones, and
- protect airports and airport environs from encroachment and incompatible land uses.

→ *Airport owners must work with airport users to educate them about land use issues.*

As many of the public use airports have FAA grant obligations, the Grant Assurances, which are part of their grant package, must be adhered to. Sound airport land use compatibility planning/management is incumbent on all local governments, but it is a grant compliance requirement for those airport sponsors who are also the authority for planning, zoning and permitting activity in the airport environs. Consequently, airport owners must also be cognizant of the commitment these assurances carry with regards to land use compatibility. When receiving federal funds, a local community must be aware of the potential penalties for failing to fulfill the assurances. An example of these assurances is the preservation of a clear RPZ. The airport sponsor should acquire the entire RPZ in fee whenever possible since it should not be off-airport, however, an easement should be acquired if outright purchase is not possible. Commitments from the assurances include the preservation of compatible land uses and the protection of navigable airspace. Chapter 5 contains additional discussion concerning various grand assurance requirements.

#### 4.5 Airport Users

The general aviation users, airlines and cargo carriers are equally responsible for awareness of issues relating to land use compatibility. Airlines and air cargo carriers are required to replace or retrofit existing aircraft to meet the most current noise level requirements. Pilots, both commercial service and general

aviation, are responsible to operate their aircraft in a prudent manner which reduces noise impacts to local land uses, as well as operate in accordance with standard operating procedures. This includes such activities as adhering to local noise abatement procedures and following posted traffic patterns during approach and departure operations.

#### 4.6 Local Citizens

→ *Education of the general public about the need for compatible land uses is essential to a successful protection program.*

The role of local citizens in the land use planning process is one of understanding and education. Involving the public in the planning process is essential so they understand the importance of maintaining compatible land uses near their local airport. Raising public awareness about the detrimental impacts of incompatible land uses is important to developing and understanding the commitment required to create a safe operating environment for not only the airport but the citizenry located in proximity to the airports. The most desired climate for implementation of compatible land use initiatives is one in which the local government has the support of citizens to implement the necessary policies and procedures. This support is usually gained through the process of educating and informing the public on the two primary topics of safety and noise related issues.

Local citizens are also an important part of the land use planning process since they are often the individuals most affected by the land use techniques utilized to develop compatible land uses. For example, a local homeowner whose residence is located in the runway protection zone at a local airport needs to be educated about the need for clear airspace within the runway protection zone. This current property owner may be an advocate of aviation and may verbally commit to the local airport that he will cut trees on his property or promise to avoid any further development that may penetrate the required safety areas. While this relationship is positive, the property owner must be educated about the need to procure at least an easement over his property to ensure the lifetime commitment to preserving the clear airspace once he is no longer in residence at the property.

Educating and informing the local population about the necessity of compatible land uses around airports is essential to the preservation of the aviation system. These individuals influence the decisions of local planners, elected officials and policy-makers who are directly responsible for the implementation of the various planning techniques required for implementation of compatible land uses.

#### 4.7 Summary

→ *Each community is unique and must develop a compatible land use program that meets the individual needs of the community.*

There are many levels of responsibility in land use compatibility issues. The majority of the responsibility for the implementation and enforcement falls to the local community and the airport owner, while the job of instituting and developing various funding sources falls on the shoulders of the federal and state agencies. This does not mean that the federal and state agencies do not involve themselves in the implementation or enforcement stages, but merely demonstrates that the land use compatibility is a local issue, which must be addressed in relation to the impacts on the local community. This truly illustrates the fact that the implementation of land use issues is not something that can be done in a "one-size-fits-all" format. Each community and each airport is unique in physical requirements, goals, users, service market and surrounding environs, not to mention its role in the local community and local economy. All of these factors play a critical role in the actual development of a land use compatibility program for each airport in the state.

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