

CHAPTER 41

AIRPORT ZONING ORDINANCE FOR THE TRI-COUNTY REGIONAL AIRPORT

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41.01 Statutory Authorization and Purpose. (1) This chapter is adopted pursuant to Wis. Stat. ch. 114 and §§ 59.03, 59.04, 59.69, and 66.0301.

(2) The purpose of this ordinance is to regulate the use of property and restrict the height of structures and growth within the designated vicinity of the Tri-County Regional Airport to protect and promote the health, safety, convenience, general welfare, and safety of the public and property in connection with the use and operation of the Airport. This ordinance is intended to implement the Airport Master Plan and comply with state and federal regulations pertaining to aviation. Iowa, Richland and Sauk County each declare in adopting this ordinance that the Tri-County Regional Airport is an essential public facility.

41.02 Definitions. As used in this ordinance, unless the context otherwise requires:

(1) **AIRPORT.** The Tri-County Regional Airport located in Section 31, Town 9N, Range 3E, Sauk County, Wisconsin, and owned jointly by Sauk, Iowa and Richland counties.

(2) **AIRPORT HAZARD.** Any structure or object whether natural or man-made, or use of land that obstructs the air space required for the flight of aircraft in landing or taking off, or is

otherwise hazardous to such landing or taking off, or to persons using such land, structure or object.

(3) **AIRPORT MASTER PLAN.** The master plan for the Airport, also known as the Airport Layout Plan, that provides for the plan for future operations at the Airport, and was adopted by the Tri-County Airport Commission on March 14, 2002 and by the Federal Aviation Administration on December 19, 2001, including any amendments thereto.

(4) **ALTERATION.** Any construction, reconstruction, renovation or remodeling that would result in the change of height or lateral dimensions of an existing structure.

(5) **BOARD OF APPEALS.** The zoning board of appeals created pursuant to Wis. Stat. § 114.136 with the powers provided by Wis. Stat. § 62.23(7)(e) and other powers provided by law to hear appeals and grant variances from the terms of this ordinance.

(6) **COMMISSION.** The Tri-County Airport Commission, a commission created by Iowa, Richland and Sauk counties for the purpose of operating, maintaining and improving the Tri-County Regional Airport.

(7) **CONSTRUCTION.** The erection or alteration of any structure.

(8) **DEVELOPMENT.** Any manmade change to real estate including but not limited to construction of, or addition to, buildings,

construction of structures, the placement of mobile homes or other movable structures, mining, dredging, filling, grading, paving, excavating, drilling operations and disposal of materials.

(9) GROWTH. Natural vegetation including trees, shrubs, and foliage with the exception of farm crops that are cut at least once each year.

(10) HEIGHT. The distance measured from the surface of the ground to the highest point of any structure or growth.

(11) LOT OF RECORD. A land area designated in a subdivision plat, certified survey map, or described in a conveyance, recorded in the county register of deeds of the county in which the property is located, that complied with zoning regulations in existence when the property was originally divided and/or recorded but which no longer complies with the current minimum land area standards within the applicable zoning district.

(12) MANAGER. The manager of the Tri-County Regional Airport.

(13) NONCONFORMING USE. Any structure, growth or use of land that does not comport with existing land use regulations contained in this chapter, but that was in compliance with previous land use regulations and that existed at the time of adoption of this chapter.

(14) PRIMARY ZONING ORDINANCE. The general zoning ordinance in effect in an area subject to this ordinance.

(15) PRINCIPAL USE. The primary purpose for which a structure or property is utilized and which is permitted by all applicable laws and regulations.

(16) RUNWAY. The portion of the airport having a surface specifically developed, designated and maintained for the landing and take off of aircraft.

(17) STRUCTURE. Any man-made object with form, shape and utility that is either permanently or temporarily constructed, installed or placed on or into the ground.

(18) VARIANCE. A departure from the terms of this ordinance as applied to a specific building, structure or parcel of land, granted by the Board of Appeals upon the applicant proving unnecessary hardship, that permits the construction, alteration, remodeling or use of land that deviates from the requirements of this chapter.

(19) ZONING ADMINISTRATOR.

The zoning administrator of Iowa, Richland or Sauk county, depending upon where the parcel of property subject to the terms of this ordinance is located. The zoning administrators of Iowa, Richland and Sauk counties are each responsible for administering and enforcing the terms of this ordinance in their respective counties.

41.03 General Provisions. (1)

Notwithstanding any other provision of this chapter, no use may be made of land or water within any district established herein that would endanger the safe landing, taking off and maneuvering of aircraft within the vicinity of the Airport, or would be injurious to the health, safety and welfare of person using the Airport facilities, including:

(a) Creating electrical or electronic interference to navigational signals, and radio or radar communication between the airport and aircraft or air traffic control systems;

(b) Installing or using slashing or flashing lights, illuminated advertising, illuminated business signs or any illumination that would create a hazard to pilots because of the difficulty distinguishing between airport lights and the non-airport illumination, or that results in glare in pilot's eyes to an extent that it impairs visibility;

(c) Emitting or discharging smoke so as to interfere with the safe aviation of aircraft using the Airport.

(2) Persons constructing, purchasing or leasing any land or structures within one (1) mile of the Airport are advised that such land and structures, including dwellings, are situated in the vicinity of the Airport. The Airport, by its customary and normal operations, may cause noise or interfere with the unrestricted use and quiet enjoyment of the property.

41.04 Airport Zones. All airport zones established by this chapter are shown on the map entitled "Airport Zoning District Map" maintained on file at the Airport office of the Zoning Administrator. Zone One (1) shall be the most restrictive zone and Zone Five (5) is the least restrictive zone.

41.05 Height Limitation Zones. All height zones established by this chapter are shown

on the map entitled “Tri-County Airport Height Limitation Zone Map” that is maintained on file at the Airport and the office of the Zoning Administrator.

41.06 District Boundaries. (1) District boundary lines are the centerlines of highways, roads, or other paved right of way, section lines, tract lines, division lines, lot lines, or such other designated line indicated on the Airport Zoning District Map.

(2) When a district line divides a parcel or lot of record in a manner that places that parcel in two different districts, the more restrictive district requirements apply unless the proposed use or development that does not comply with the more restrictive district may be entirely contained on the portion of the parcel that is in the lesser restrictive district, and provided that:

(a) The use is permitted by the primary zoning applicable to that district; and,

(b) The use complies with all setback requirements; and,

(c) A site plan, drawn to scale, shows the location of the use and the district line on the lot or parcel, and such plan is submitted to the Department and reviewed and approved pursuant to the procedures provided in this Chapter; and,

(3) Any use of property that is not permitted by the primary zoning ordinance, this chapter, and any federal or state aviation regulations is deemed to be prohibited. Where there is a question regarding whether a particular use is permitted or prohibited, the Commission, on its own initiative or at the request of a property owner, may conduct a study to determine what zone, if any, is appropriate for the proposed use and which conditions, if any, shall apply.

41.07 Conflict With Other Zoning Districts. The provisions of this chapter operate as an overlay zoning district for land subject to the primary zoning ordinance. Whenever there is a conflict between the primary zoning ordinance and the overlay zoning provided by this chapter, the more restrictive provisions shall apply.

41.08 Severability. In any case in which the provision of this Ordinance, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure

or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

41.09 Airport Runway District (Zone 1). (1) Pursuant to the Airport Master Plan, to protect the runway and approaches of the airport from incompatible land uses, and to preserve the airport's ability to serve its present and future air transportation needs, as depicted on the Airport Zoning District Map. Such expansions, alterations or enlargements are not subject to zoning regulations of the underlying municipality except for building requirements. Any expansion or enlargement of runways must be approved by the Federal Aviation Administration and Wisconsin Department of Transportation, Bureau of Aeronautics.

(2) Permitted uses and structures. Any uses and structures that are directly related to, and necessary for, the functional operation of the Airport, and that are consistent with the Airport Master Plan, as amended, and approved by both the Commission and the Zoning Administrator.

(3) Prohibited uses.

(a) Any construction, expansion, alteration or enlargement to any building or structure within this district is prohibited except for those uses and buildings necessary for the functional operation of the airport.

(b) Any use or structure that would create electrical interference with navigational signals or radio communications between the airport and aircraft; create confusion in identifying airport lights; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of the airport or otherwise endangers or interferes with the landing, take off, or maneuvering of aircraft including but not limited to smoke, dust, lighting, etc

(4) Dimensional Requirements.

(a) Height Limitations. No structure or growth shall exceed the height permitted by this ordinance and as shown on the Tri-County Airport Height Limitation Zone Map.

(b) Setback Requirements. The location of any structure shall comply with Federal Aviation Administration design standards and/or the requirements of the primary zoning ordinance, whichever is more restrictive.

41.10 High Impact Runway Approach and Departure District (Zone 2). (1) Purpose.

The high impact runway approach and departure district is established in order to set forth requirements in areas that are directly within the flight pattern of aircraft approaching and departing the Airport's runways. This district includes the area identified as Zone 2 on the Airport Zoning District Map.

(2) Permitted Uses. Those uses permitted by the primary zoning ordinance except for those uses specifically prohibited by this section.

(3) Prohibited Uses.

- (a). Single or multifamily residential development
- (b) Hospitals
- (c) Churches
- (d) Schools
- (e) Theaters and amphitheatres.
- (f) Stadiums
- (g) Campgrounds
- (h) Retirement/nursing homes
- (i) Wildlife ponds.
- (j) Licensed group day care facilities
- (k) Any other construction or land use

that would encourage the concentration of bird (avian) populations except that customary and reasonable agricultural practices that inadvertently result in a concentration of birds are not prohibited.

(l) Any use or structure that may be susceptible to being adversely affected by loud and extensive noise or would interfere in the use or operation of the airport.

(m) Any use or structure that would create electrical interference with navigational signals or radio communications between the airport and aircraft; create confusion in identifying airport lights; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of

the airport or otherwise endangers or interferes with the landing, take off, or maneuvering of aircraft including but not limited to smoke, dust, lighting, etc

(n) For uses not listed as prohibited uses, the number of employees during typical operating conditions shall not exceed 1 employee per 500 square feet without written approval by the Zoning Administrator and the Commission.

(4) Dimensional Requirements.

(a) Height limitations. No structure or growth shall exceed the height permitted by this ordinance and indicated on the Tri-County Airport Height Limitation Zone Map.

(b) Setback requirements. Setbacks shall comply with the requirements of the primary zoning ordinance.

(c) Minimum area requirements. The minimum lot area provisions of the primary zoning ordinance shall apply to all areas within Zone 2. Any lot which meets the definition of a lot of record under the primary zoning ordinance shall be considered legally buildable even though the lot may not meet the current minimum lot area requirements, and provided the lot is in separate ownership from abutting lands, and the proposed development meets the use restrictions provided in this chapter.

41.11 Moderate Impact Runway Approach and Departure District (Zone 3). (1) Purpose.

The moderate impact runway approach and departure district is established in order to set forth the land use requirements in areas that are within the flight pattern of aircraft approaching and departing the Airport's runways. This district includes the area identified as Zone 3 on the Airport Zoning Map.

(2) Permitted Uses. Those uses permitted by the primary zoning ordinance except for those uses specifically prohibited by this section.

(3) Prohibited Uses. The following uses are prohibited within Zone 3:

- (a) Hospitals
- (b) Churches
- (c) Schools
- (d) Theaters and amphitheatres.
- (e) Stadiums
- (f) Campgrounds
- (g) Retirement/nursing homes
- (h) Licensed group day care facilities

(i) Any other construction or land use that would encourage the concentration of bird (avian) populations except that customary and reasonably agricultural practices that inadvertently result in a concentration of birds are not prohibited.

(j) Any use or structure that would create electrical interference with navigational signals or radio communications between the airport and aircraft; create confusion in identifying airport lights; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of the airport or otherwise endangers or interferes with the landing, take off, or maneuvering of aircraft including but not limited to smoke, dust, lighting, etc.

(4) Dimensional Requirements.

(a) Height Limitations. No structure or growth shall exceed the height permitted by this ordinance and as shown on the Tri-County Airport Height Limitation Zone Map.

(b) Setback Requirements. The setback requirements of the primary zoning ordinances shall apply.

(c) Minimum Area Regulations. The minimum lot area provisions of the primary zoning ordinance shall apply to all areas within Zone 3. Any lot which meets the definition of a lot of record under the primary zoning ordinance shall be considered legally buildable even though the lot may not meet the current minimum lot area requirements, provided that the lot is in separate ownership from abutting land, and further provided that the proposed development meets the use restrictions provided in this chapter.

41.12 Noise Control Overlay District (Zone 4). (1) Purpose. The Noise Control Overlay District is established to minimize the conflict between allowed uses and the noise generated in this zone due to aviation activities, overflights and use of the Airport shown on the Airport Zoning District Map.

(a) Permitted Uses. All uses shall conform with the provisions of this ordinance as well as meet the primary zoning ordinance requirements.

(b) Prohibited Uses. Any use or structure that would create electrical interference with navigational signals or radio communications between the airport and aircraft; create confusion in identifying airport lights; result in glare in the eyes

of pilots using the airport; impair visibility in the vicinity of the airport or otherwise endangers or interferes with the landing, take off, or maneuvering of aircraft including but not limited to smoke, dust, lighting, etc.

(c) Dimensional Requirements.

1. Height Limitations. No structure or growth shall exceed the height permitted by this ordinance and as shown on the official Height Limitation Map.

2. Setback Requirements. The setback requirements shall meet the setback requirements of the primary zoning ordinance.

3. Minimum Area Regulations. The lot area requirements shall meet the requirements of the primary zoning ordinance.

41.13 Height Limitation Overlay District (Zone 5). (1) Purpose. The Height Limitation Overlay District is established to protect the approaches to the airport from incompatible land uses by establishing height limitations as shown on Tri-County Airport Height Limitation Zone Map and the Airport Zoning District Map.

(a) Permitted Uses. All uses shall conform with the provisions of this ordinance as well as the primary zoning ordinance.

(b) Prohibited Uses. Any use or structure that would create electrical interference with navigational signals or radio communications between the airport and aircraft; create confusion in identifying airport lights; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of the airport or otherwise endangers or interferes with the landing, take off, or maneuvering of aircraft including but not limited to smoke, dust, lighting, etc

(c) Dimensional Requirements.

1. Height regulations. No structure or growth shall exceed the height permitted by this ordinance as shown on the Tri-County Airport Height Limitation Zone Map.

2. Setback Requirements. The setback requirements shall meet the requirements of the primary zoning ordinance.

3. Minimum area regulations. The lot area requirements shall meet the requirements of the primary zoning ordinance.

41.14 Nonconforming Use. (1) The regulations prescribed in this ordinance shall not be

construed to require the removal, lowering, change or alteration of any legal nonconforming use, or otherwise interfere with the continuance of any legal nonconforming use, except as otherwise provided by this section.

(2) When a nonconforming use, building, structure or tree is destroyed by fire, explosion, act of God or the public enemy, it may be restored so long as it complies with the primary zoning ordinance requirements and the height limitations imposed by this chapter as verified by a signed statement from the Zoning Administrator prior to any such rebuilding, reconstructing or rehabilitation.

(3) Nonconforming uses described in this chapter, except for uses located in Zone 1, may be expanded, altered or otherwise enlarged provided the following conditions are met:

(a) The expansion, alteration or enlargement meets the requirements of the height limitations under this ordinance and a statement showing such compliance is signed by the Zoning Administrator prior to the expansion, alteration or enlargement.

(b) The expansion or alteration in no way creates new, or increases prior existing conditions, that would create electrical interference with navigational signals or radio communications between the airport and aircraft; create confusion in identifying airport lights; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of the airport or otherwise endangers or interferes with the landing, take off, or maneuvering of aircraft including but not limited to smoke, dust, lighting, etc.

(c) The expansion, alteration or enlargement complies with any more restrictive primary zoning ordinance requirements, or state and federal laws or regulations.

(4) Changes. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such structure, was commenced prior to the effective date of this ordinance, provided such construction proceeds in a diligent manner as determined by similar building projects.

(5) Nothing in this section shall interfere with, or prevent the removal of, nonconforming uses by purchase or the use of eminent domain.

41.15 Administration. (1) It shall be the duty of the Zoning Administrator to administer and enforce this chapter. Applications for permits shall be made to the Zoning Administrator of the county in which the proposed use is located, upon an application form furnished by that Zoning Administrator and shall normally be processed within twenty (20) days. Upon receipt by the Zoning Administrator, a copy shall be transmitted to the Chairperson of the Commission and Airport Manager for comment. The Chairperson and Manager shall provide comments to the Zoning Administrator within ten (10) days of receipt. Such applications shall be processed within the prescribed twenty (20) day review period unless Federal Aviation Administration approval under FAR Part 77 is requested by the applicant or the Commission, in which case the Zoning Administrator's action may await determination by the Federal Aviation Administration. Each Zoning Administrator shall cooperate to provide a clear and consistent interpretation and implementation of this Chapter.

41.16 Permits. (1) No structure or development shall hereafter be constructed, erected, enlarged or installed in any district created by Sections 41.09 through 41.13 of this ordinance, except for structures that are less than 200 square feet in area and less than 35 feet in height, until the owner or their agent shall have applied in writing for a permit therefore in the manner set forth in Section 41.17 and obtained such permit from the Zoning Administrator. Forms for application of land use permits shall be supplied by the Zoning Administrator and a record of all permits issued shall be kept on file within the office of the Zoning Administrator.

(2) The Zoning Administrator shall either approve or disapprove the application for development based upon land use recommendations provided by the Commission Chairperson or Manager of the Airport, and the provisions, standards and requirements contained in this ordinance. The application for such permit shall indicate the use for which the permit is desired, and shall describe and locate the use with sufficient particularity to permit the Zoning Administrator to determine whether such use would conform to the regulations of this ordinance.

(3) If the proposed development is approved by the Zoning Administrator and meets the building requirements of the affected municipality, a building permit may be issued by the municipality. If the proposed development is not approved, no building permit shall be issued.

(4) Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment.

41.17 Permit Procedure. (1) All applications for land use permits for construction, reconstruction, expansion or conversion of a use in District Zones 1 through 5 shall be accompanied by a site plan drawn to scale, which shows:

(a) The location; actual shape and dimensions of the lot to be built upon;

(b) The exact size and location of the structure on the lot;

(c) The existing or intended use of the structure;

(d) The maximum number of occupants the structure is intended to contain;

(e) The distances between the nearest point of the structure and the centerline of the road;

(f) The height of the proposed structure;

(g) The ground elevation of the site, except for structures that are less than 35 feet above ground level at the object site within one-half (1/2) mile of the airport boundary, or to structures less than 50 feet in height above the ground level within the area beginning one-half (1/2) mile from the airport boundary and extending to one (1) mile from the airport boundary, or to structures less than 100 feet in height above the ground level within the area beginning one (1) mile from the airport boundary and extending to three (3) miles from the airport boundary;

(h) Any other information deemed necessary by the Zoning Administrator to ensure conformance with the provisions of this ordinance.

(2) The Zoning Administrator shall review the site plan and the accompanying material for conformance to this section and shall coordinate additional review as may be appropriate. The Zoning Administrator shall send a copy of the site plan and the accompanying material to any underlying jurisdiction that may have approval authority for their input.

(3) An applicant who wishes to change an approved site plan must obtain the approval of the Zoning Administrator. If the proposed changes result in a revised site plan substantially similar to the approved plan, the Zoning Administrator may approve the site plan changes. If the proposed changes are not substantially similar to the approved plan, such changes shall require the submission of a new and separate land use permit application.

41.18 Board of Appeals. (1) There is hereby created a Board of Appeals pursuant to Wis. Stat. § 114.136(4) and § 62.23(7)(e) consisting of five members and three alternates as follows:

(a) One individual from Iowa County, two individuals from Richland County and two individuals from Sauk County, who shall also be members of that county's Board of Adjustment, but who shall not own property that is subject to the terms of this ordinance.

(b) Three alternate members, one each from Iowa, Richland and Sauk counties, who shall have the same qualifications as subparagraph (a) above.

(c) Members of the Board of Appeals shall serve three (3) year terms. However, their membership shall terminate if they cease to meet the qualifications contained in (a) above.

(2) The Board of Appeals shall be constituted and have the powers provided for in Wis. Stat. § 62.23(7)(e) as well as the following:

(a) Any person aggrieved or affected by a decision or action of the Zoning Administrator may appeal such decision or action to the Board of Appeals. The Commission may be an aggrieved person.

(b) The Board of Appeals may, in passing upon appeals, grant a variance from the terms of this ordinance. An individual seeking a variance shall file an appeal with the appropriate Zoning Administrator which shall promptly forward the appeal to the Board. Upon receipt, the Board shall conduct an investigation and public hearing to consider the appeal. The Board may grant a variance from the terms of this ordinance, provided that the variance is not contrary to the public interest, and:

1. The applicant proves that owing to special conditions unique to that property, a literal enforcement of this ordinance would result in

unnecessary hardship as defined by law, that such relief will do substantial justice, and the granting of a variance would be in accordance with the intent of this ordinance. No variance shall be granted that would create a hazard to the safe, customary and normal operation of aircraft using the Airport.

2. The Board of Appeals may condition the grant of any variance upon prior compliance with any reasonable condition, which the Board in its discretion, deems necessary or appropriate under the circumstances, including, but not limited to, the obstruction lighting of objects for which a variance is granted.

(3) Any appeal taken pursuant to this section shall be in conformity with the procedure established by § 62.23(7)(e) Stats.

41.19 Penalties. (1) The provisions of this ordinance shall be enforced by the Zoning Administrator in which the property is located with the assistance of the corporation counsel for the county in which the violation occurs.

(a) Violations of this ordinance, or of any regulation, order, or ruling promulgated hereunder, shall constitute an airport hazard and such hazard may be enjoined, abated or removed.

(b) Each day a violation continues shall constitute a separate offense.

(c) Any action commenced to enforce the provisions of this ordinance action shall be prosecuted in the circuit court of the county in which the violation or airport hazard is wholly or partially located.

(d) Any person, firm or corporation found guilty of violating any provision(s) of this ordinance shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$500.00 for each such offense, together with the costs of prosecution. Each day of a violation of this ordinance shall be considered a separate offense.

(2) The provisions of this ordinance shall be enforced by the corporation counsel for the county in which the violation occurs. The ordinance may be enforced by legal and/or equitable remedies.

41.20 Fees. Fees for the administration of this ordinance shall be established by the Tri-County Airport Commission with approval of boards of supervisors of the three county owners. It is intended that the fees should

cover the reasonable costs of administering this ordinance.

41.21 Effective Date. This ordinance shall take effect upon passage and publication by all three counties; Iowa, Richland and Sauk.

Chapter 41 repealed and recreated by Ordinance No. 97-2006 and adopted by the Sauk County Board of Supervisors on August 15, 2006.