

Ordinance No. 400.16

Iowa County Airport Zoning Ordinance

Iowa County, Wisconsin

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Iowa County Airport Zoning Ordinance

SECTION 1.0 PURPOSE. It is the purpose of this ordinance to regulate the use of property and to regulate and restrict the height of structures in the vicinity of the Iowa County Airport in order to promote public health, safety, and general welfare, to protect airport users, to increase safety in the use of the airport and to protect persons and property within the airport affected area and zoning districts while concurrently respecting historic and traditional usage of said areas. It is recognized that one of the attractive features of the Iowa County Airport is its location within farmland which has been worked by family farms for over 150 years. Therefore, this ordinance seeks protection for the aviation community where applicable but not to the extent that it would deter or hinder traditional family farming practices in the airport affected area.

SECTION 2.0 STATUTORY AUTHORIZATION. This ordinance, designed to protect the approaches, airspace and hazard areas of the Iowa County Airport is adopted pursuant to Sections 59.03, 59.04, 59.69, 59.694, 114.14, and 114.136 of the Wisconsin Statutes.

SECTION 3.0 JURISDICTION. The jurisdiction of this ordinance shall extend over all lands and waters within three (3) statute miles from the property lines of the Iowa County Airport as shown on the Iowa County Airport Zoning District Map (see Appendix A).

SECTION 4.0 SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 5.0 DEFINITIONS. Word used in the present tense includes the future, words in the singular number include the plural number and words in the plural number include the singular. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

1. "Administrator". The Iowa County Office of Planning and Development.
2. "Alteration". Any construction, which would result in a change in height or lateral dimensions of an existing structure or object.
3. "Airport Management". The Iowa County Airport Manager with oversight by the Iowa County Airport Commission.
4. "Airport." The Iowa County Airport located in Sections 22, 23, 26 and 27, Township 5 North, Range 2 East, Iowa County, Wisconsin or as otherwise described by recorded deed.
5. "Airport Affected Area." The area located within three (3) statute miles of the Iowa County Airport property boundaries..
6. "Airport Hazard." Any structure or object, whether man-made or natural, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing and taking off.
7. "Building." Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosures of persons, animals, equipment, machinery or materials.
8. "Church." A building used wholly or in part for the practice of a religion by a congregation of fifty (50) or more persons.

9. "Commission." The Iowa County Airport Commission.
10. "Committee." The Iowa Planning and Zoning Commission.
11. "Construction." The erection or alteration of any structure or objects either of permanent or temporary character.
12. "Day Care Facility." A building used wholly or in part for the licensed care of children, whom at least six (6) are not related by blood or marriage to the care giver(s).
13. "Development." Any manmade change to improved or unimproved real estate, including but not limited to construction of or additions to buildings, other structures, or accessory uses, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, deposition of materials.
14. "Lot." A parcel of land occupied by or designed to provide space necessary for one main building and its accessory buildings or uses that abuts by ownership or legal easement a publicly dedicated street. A lot shall be created by a subdivision plat, or certified survey map, or a parcel described in a conveyance recorded with the Iowa County Register of Deeds, which complies with the minimum size requirements pursuant to the applicable zoning district designation in effect at the time of the land division or recording of the conveyance. A tax parcel shall not be considered a lot. No land included in any street, highway, or railroad right-of-way shall be included when computing the area for minimum lot sizes where said right-of-way has been deeded to a separate identity. Unless previously deeded or dedicated, no street, highway, easement, railroad right-of-way, river, stream or water body shall constitute a break in contiguity.
15. "Person." Any individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes any spouse, partner, trustee, receiver, assignee, or other similar representative thereof.
16. "Preexisting permitted use." Any use of land lawfully in existence at the time of this ordinance or amendment thereto becomes effective. Nonconforming structures if destroyed, shall conform to this ordinance if reconstructed.
17. "Retirement Home." A building used as a place of residence for the elderly in which there are at least three (3) separate living units that may or may not share common areas, such as dining and recreational facilities.
18. "Runway." A portion of the airport having a surface specifically developed and maintained for the taxiing, landing and taking off of aircraft.
19. "School." A building used as a public or private educational institution for children between the ages of four and eighteen, more commonly referred to as an elementary, secondary or high school. This definition exempts the home schooling, meaning the schooling of children within a private home versus a public or private institution.
20. "Structure." Any object or construction, excluding fills and fences, or any production or piece of work artificially built or composed of parts joined together in some definite manner having form, shape and utility built or placed by man.
21. "Subdivision." For the purpose of this ordinance, a subdivision shall be the division of a lot, parcel or tract by the owner thereof, or his agent, for the purpose of transfer of ownership or building development where the act of division creates three (3) or more parcels or building sites of five (5) acres each or less in area or where the act of division creates three (3) or more parcels or building sites of five (5) acres each or less in area by successive division within a five-year period.
22. "Telecommunication Tower." For the purpose of this ordinance, the definition within the Telecommunications Tower, Antenna and Facilities Siting Ordinance of Iowa County shall

apply. Amateur radio towers are not included, provided any tower is no taller than 90 feet and is located at least 100% of its height to any property line.

23. "Tree." Any objects of natural growth, except farm crops which are cut once a year, and except shrubs and foliage which do not grow to a height of more than twenty (20) feet.

SECTION 6.0 GENERAL PROVISIONS.

1. Jurisdiction. The provisions of this ordinance shall apply to all those lands and waters within three (3) miles of the Iowa County Airport as indicated on the Iowa County Airport Zoning District Map (see Appendix A).
2. Administration. It shall be the duty of the Iowa County Office of Planning and Development (Administrator) to administer and enforce the regulations prescribed herein.
3. Permits. No structure or development shall hereafter be constructed, erected, enlarged or installed in any district created by Section 7.0 of this Ordinance, except structures that are less than 100 square feet in area and less than 35 feet in height as well as all non-residential agricultural structures, until the owner or their agent has obtained a permit. Applications for permits shall be made to the Administrator on forms provided by the Administrator. The application shall be acted on within twenty (20) working days unless Federal Aviation approval under FAR Part 77 is requested by the applicant or the Administrator, in which case the Administrator's action may await determination by the Federal Aviation Administration. The County Board of Supervisors shall establish by resolution any permit fees and said fees shall be paid in full before any permit can be issued. All permitted development shall comply with any setbacks required by underlying zoning regulations.

In the event that the placement or construction of a structure is started before a permit has been issued for the structure in question, a late application may be made and a permit issued providing the structure meets all other ordinance requirements. Application made after construction has started will include the assessment of a late permit fee of three (3) times the regular fee. Construction is deemed to be started if there has been a commencement of concrete work, or the placement of any permanent part of the structure. The collection of the late permit fee shall not be a bar to prosecution for violation of any of the provisions of this Ordinance. Failure to seek a late permit after notification by the Office shall result in the issuance of a Cease Work Order and commencement of violation enforcement.

The Office is hereby authorized to issue a Cease Work Order for any construction that has commenced in violation with the provisions of this Ordinance. The Cease Work Order shall be accompanied by a notice of the provisions in violation, options for compliance and a date on which compliance shall be achieved.

If, after a reasonable amount of time, compliance has not been achieved, the Office shall issue a citation for each violation of this Ordinance as authorized by Ordinance No. 2-695-1995.

4. Use Restrictions. Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any district established by this ordinance in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft. No illuminated structures are allowed that would be hazardous for pilot navigation. No structure or use of land that causes the emission of smoke that may be a pilot navigation hazard or otherwise be detrimental or

injurious to the health, safety and welfare of the public in use of the airport is allowed unless specifically approved by airport management. All uses must comply with any underlying zoning regulations. No land shall be sold within the jurisdiction of this Ordinance without the seller submitting a signed Fair Disclosure Statement (see Appendix B) to the Commission.

5. Height Limitations. No structure, tree or growth shall be erected, altered, allowed to grow or be maintained within any zoning district established by this ordinance to a height that exceeds the limitations established on the Height Limitation Zoning Map dated Sept. 19, 2007 as prepared by the Wisconsin Bureau of Aeronautics as shown in Appendix C. Exceptions are as follows:

The height limitation restrictions shall not apply to objects which are less than thirty-five (35) feet in height above the ground level at the object site within one-half mile of the airport boundary, or to structures less than fifty (50) feet in height above ground within the area beginning one-half mile from the airport boundary and extending to three miles from the airport boundary.

SECTION 7.0 Airport Zone Regulations. The jurisdiction of this ordinance, as defined by Section 3.0, is divided into zones as shown on the map entitled "Iowa County Airport Zoning District Map" adopted as part of this ordinance. When a district line divides a lot of record existing prior to the effective date of this ordinance in such a manner that a use is not permitted in the most restrictive district of such lot, but is permitted on that portion of such lot in the lesser restrictive district, then a permitted use may be developed only on that portion of the lot where it is permitted. The zones described below are illustrated on the Iowa County Airport Zoning District Map (see Appendix A).

- 1) Zone 1. This is primarily surface area (ground) that is vital for airport operations. Runways, taxiways and ground immediately adjacent are included in this zone. No buildings shall be allowed in this area for safety reasons. Most, if not all, of this zone is land owned by the airport.
 - a) The following uses shall be prohibited:
 1. Any buildings or structures other than that necessary for airport operations.
 2. Any use that may cause a navigational hazard, such as smoke, dust, lighting, etc.
 3. Any new development where there would be a density of one hundred (100) or more persons per acre, either as employees, patrons, visitors, owners or occupants.
 4. Places of public or semi-public assembly with a capacity of 100 or more persons.
- 2) Zone 2. This is an area adjacent to Zone 1 and is a transitional zone because aircraft are transitioning into a flight or landing pattern over this land area. This zone includes an extended approach sub-zone, which is an extension from the approaches at the runways.

Structural development is a concern in any part of this zone where the structure is directly underneath approaches and may penetrate the transitional airspace. The transitional airspace is determined by calculating a 7:1 pitch from the edges of Zone 1 projecting outward until the horizontal plane is met. The horizontal plane then extends outward at a

height of 150 ft. above runway elevation to 5000 ft.

Zone 2 is further divided into two sub-zones: the Sub-zone A and the Sub-zone B.

- a) The following uses shall be prohibited in the Sub-zone A:
1. Residential development on lots less than twenty (20) acres
 2. Residential, commercial or mixed-use subdivisions
 3. Commercial development on lots less than twenty (20) acres
 4. Any new development where there would be a density of one hundred (100) or more persons per acre, either as employees, patrons, visitors, owners or occupants.
 5. Wildlife ponds, not including stormwater or erosion-control structures
 6. Hunting preserves, hunting clubs and trapshooting or similar facilities; wildlife sanctuaries, game preserves and including aviaries that would cause a navigation hazard.
 7. Any use that may cause a navigational hazard, such as smoke, dust, lighting, etc.
 8. Hospitals and clinics
 9. Churches or similar places of worship
 10. Schools
 11. Landfills
 12. Retirement homes
 13. Day care facilities
 14. Telecommunication towers
 15. Theatres
 16. Amphitheatres
 17. Stadiums
 18. Hatcheries
 19. Flying of model aircraft
 20. Launching of rockets
 21. Any other construction that would encourage the concentration of bird (avian) populations that would cause a navigational hazard.
 22. Campgrounds.
- b) The following uses shall be prohibited in the Sub-zone B:
1. Residential development on lots less than ten (10) acres
 2. Residential, commercial or mixed-use subdivisions
 3. Commercial development on lots less than ten (10) acres
 4. Any new development where there would be a density of one hundred (100) or more persons per acre, either as employees, patrons, visitors, owners or occupants.
 5. Wildlife ponds, not including stormwater or erosion-control structures
 6. Hunting preserves, hunting clubs and trapshooting or similar facilities; wildlife sanctuaries, game preserves and including aviaries that would cause a navigation hazard.
 7. Any use that may cause a navigational hazard, such as smoke, dust, lighting, etc.
 8. Hospitals and clinics
 9. Churches or similar places of worship
 10. Schools
 11. Landfills
 12. Retirement homes
 13. Day care facilities
 14. Telecommunication towers
 15. Theatres

16. Amphitheatres
 17. Stadiums
 18. Hatcheries
 19. Flying of model aircraft
 20. Launching of rockets
 21. Any other construction that would encourage the concentration of bird (avian) populations that would cause a navigational hazard.
 22. Campgrounds.
- 3.) Zone 3. This is an area extending approximately one mile outward from the airport runways as shown on the Iowa County Airport Zoning District Map (see Appendix A). This zone does not reduce any part of Zone 2. This is an area where there will be primarily moderate to high noise from aircraft as they are near approach and take-off patterns.
- a) The following uses shall be prohibited in this zone:
1. Residential, commercial or mixed-use subdivisions.
 2. Hospitals and clinics.
 3. Schools.
 4. Churches or similar places of worship.
 5. Hunting preserves, hunt clubs and trapshooting or similar facilities that would cause a navigation hazard.
 6. Day care facilities.
 7. Retirement homes.
 8. Any use that may cause a navigational hazard, such as smoke, dust, lighting, etc.
 9. Landfills.
 10. Telecommunication towers.
 11. Stadiums.
 12. Campgrounds.
 13. Wildlife ponds, not including stormwater or erosion-control structures
- 4.) Zone 4. This is an area adjacent to Zone 3 extending out to roughly two miles from the airport runways as shown on the Iowa County Airport Zoning District Map (see Appendix A). This is an area where there will be primarily moderate noise from aircraft, but not subject to significant safety issues as aircraft are in an established flight pattern over these areas.
- a) The following uses shall be prohibited:
1. Hospitals and clinics
 2. Schools
 3. Churches or similar places of worship
 4. Hunting preserves, hunt clubs and trapshooting or similar facilities that would cause a navigation hazard
 5. Day care facilities.
 6. Retirement homes
 7. Any use that may cause a navigational hazard, such as smoke, dust, lighting, etc.
 8. Landfills
 9. Telecommunication towers
 10. Stadiums.

11. Campgrounds

- 5.) Zone 5. This is the area from Zone 4 outward to the 3-mile radius (Airport Affected Area) as shown on the Iowa County Airport Zoning District Map (see Appendix A). This area will be subject to low noises and safety concerns. Therefore, development will primarily have to follow height limits.
 - a) The following uses shall be prohibited:
 1. Any structure that exceeds the height limitations established in Section 6.0(5) of this ordinance
 2. Any use that may cause a navigational hazard, such as smoke, dust, lighting, etc.
 3. Telecommunication towers

SECTION 8.0 UNDERLYING ZONING DISTRICT AMENDMENTS.

- 1) Any amendment of the underlying municipal zoning ordinances shall follow the procedure contained in Section 59.69(5)(e) of the Wisconsin Statutes, which provides for the opportunity for the Commission to review the proposal and make recommendation to the governing body. Any such recommendation approving the proposal shall be conditioned upon a Fair Disclosure Statement (see Appendix B) being filed with the Commission.
- 2) Any amendment of the underlying municipal zoning ordinance that affects any district created by this ordinance shall require notification to the Airport Manager prior to adoption. If the proposed amendment would conflict with this ordinance, cause potential harm to aircraft or aircraft operations or result in incompatible land usage, the Commission shall file a protest against the proposed amendment.

SECTION 9.0 NONCONFORMING USES.

- 1) The lawful use of land, buildings and structures existing at the time of the adoption or amendment of this Ordinance may be continued, although such use, building or structure does not conform to the provisions of this Ordinance. The expansion or enlargement of a nonconforming use, building or structure shall be in conformity with this Ordinance.
- 2) The destruction of Existing Uses. The owner of any preexisting permitted use, building, structure, tree or plant which, as a result of fire, explosion or other casualty is destroyed, shall be allowed to rebuild, reconstruct or rehabilitate the same preexisting permitted use of the same parcel, provided the following requirements are met:
 - a) All required permits are obtained prior to rebuilding, reconstruction or rehabilitation.
 - b) The preexisting permitted use complies with the height limitation imposed by this ordinance.
 - c) The rebuilt or reconstructed structure or building does not exceed the size of the original preexisting structure or building.
 - d) The rehabilitated use does not exceed the scale, scope and extent of the original preexisting use.
- 3) Expansion of Preexisting Permitted Uses. Any preexisting legal uses, as described in this ordinance, may be expanded, altered or otherwise enlarged as long as the following requirements are met:

- a) All required permits are obtained prior to commencement of work.
 - b) The expansion, alteration or enlarging meets the requirements of height limitation.
 - c) The expansion, alteration or enlargement in no way increases or creates any hazard within the airspace required for the flight of aircraft in landing or takeoff or creates or increases any potential hazard to persons assembled within the preexisting permitted use.
- 4) The governing body of the owner of the airport may remove such nonconforming use or acquire the necessary air right over the same by purchase or exercise of the right of eminent domain in the manner provided by Ch. 32 Wis. Stats.

SECTION 10.0 AMENDMENTS AND APPEALS.

The Board of Supervisors may consider amendments to this ordinance only after at least one public hearing has been held by the Committee after review and recommendation has been made by the Commission. Requests for amendment can be made by anyone affected by the provisions of this ordinance, the Commission, the Committee, the Board of any affected municipality or Town or any County Board Supervisor.

Appeals to the provisions of or decisions made under this ordinance can be made to the Commission. Such requests shall be made in writing to the Administrator who, within ten (10) days, shall forward said request to the Commission with or without commentary. Appeals can only be considered for the following reasons:

- 1. When the provisions of this ordinance create a hardship. Hardship shall not include self-created conditions and must be caused by the implementation of this ordinance or amendment thereto.
- 2. When the provisions of this ordinance are unclear as to meaning or intent.
- 3. When a circumstance arises that is not clearly addressed by the provisions of this ordinance.

An appeal to the decision of the Commission shall be made to the Iowa County Board of Adjustment on forms provided by the Administrator. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of Iowa County affected by the Commission decision. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the Administrator and the Board of Adjustment a notice of appeal specifying the ground thereof. The Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator shall certify to the Board of Adjustment after notice of appeal shall have been filed that by reason of facts stated in the certification a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application on notice to the Administrator and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearings of the appeal, file public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearings, any party may appear in person or by agent or by attorney.

SECTION 11.0 PENALTIES.

Violations may be pursued by either the issuance of a citation, referral to the District Attorney's Office as a formal complaint or both as authorized by Ordinance No. 2-695-1995..

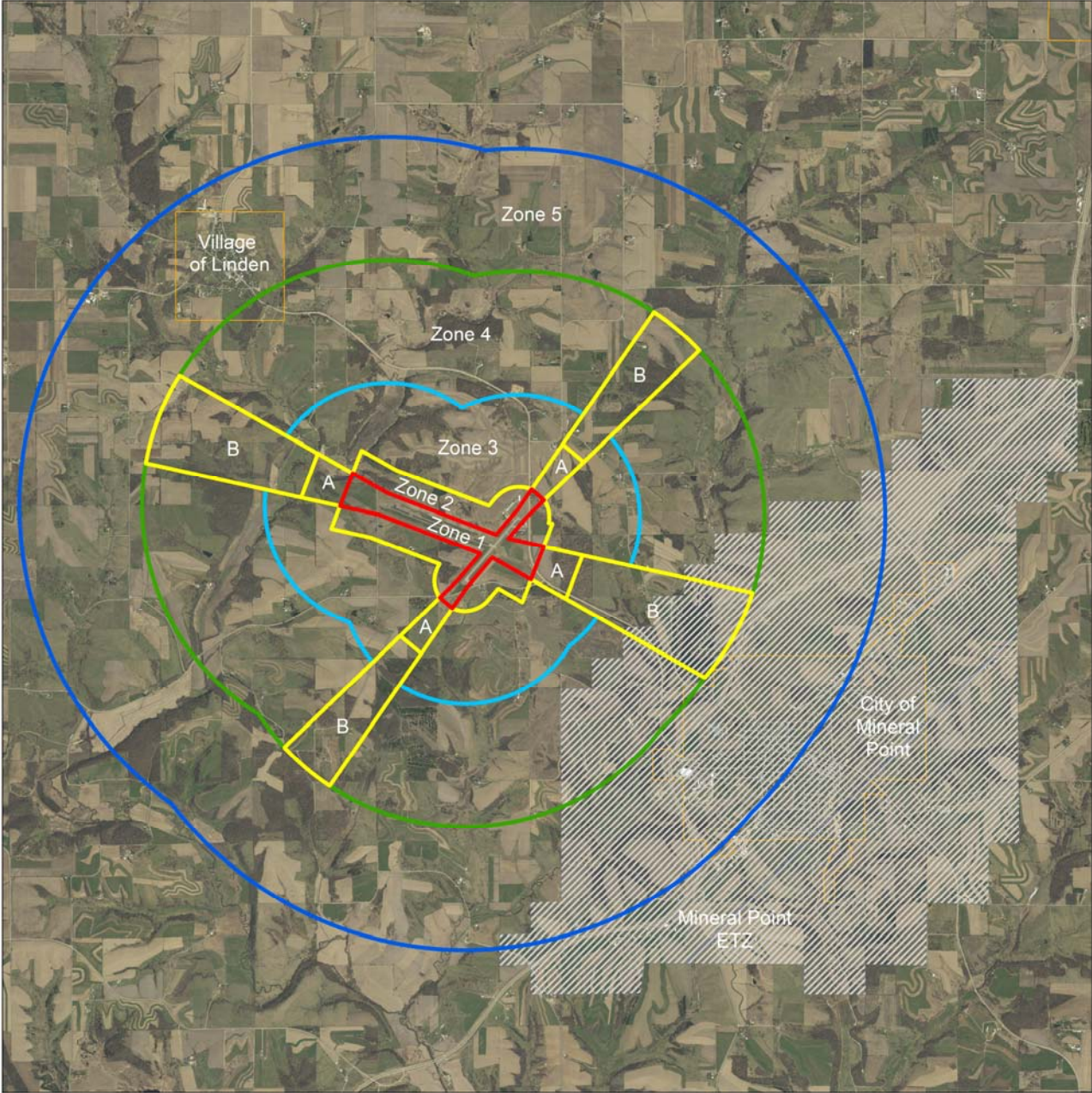
In the case of a formal complaint, any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit no less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00) and costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.

In the case where a citation is issued, the payment of the forfeiture shall not constitute compliance nor shall said payment bar the issuance of further citations, provided the violation remains.

SECTION 12.0 EFFECTIVE DATE.

This Ordinance and the regulations contained herein shall become effective and declared in force after concurrence and publication by the Iowa County Board of Supervisors.

Appendix A: Iowa County Airport Zoning District Map



**Located in parts of T4N-R2E, T4N-R3E, T5N-R2E, T5N-R3E
Created by the Iowa County Office of Planning & Development, 2016**

Appendix B

Fair Disclosure Statement

This statement shall be imposed whenever property is being petitioned for rezoning within the Airport Affected Area. Its purpose is to provide an assurance to the Iowa County Airport Commission that sellers of property will inform potential buyers of the proximity to the airport.

Subject property description: ___1/4 of the ___1/4 of Section ___, Town ___N, Range ___E in the Town of _____. More narrowly defined as Lot ___ of CSM ___ or Subdivision Plat _____. The property contains _____ acres.

Seller Name and Address: _____

The subject property is located approximately _____ miles from the Iowa County Airport.

Certification

The undersigned seller of real estate located within the Airport Affected Area of the Iowa County Airport does, by signing below, agree to notify in writing any potential purchaser of said real estate of the proximity of the airport. The notification shall include a disclosure that the property may be subjected to those land use regulations adopted by the Iowa County Board of Supervisors. The notification shall be affixed to any agreement of the sale.

Seller Signature

Date

Appendix D: Revisions

April 19, 2016 Resolution 3-0416 remove jurisdiction exemptions;
remove permit grace period; strike Section 9.0-Preexisting Permitted Use; add
nonconforming language; remove review every 5 years from adoption