

Ordinance No. 400.17**ZONING ORDINANCE FOR THE TRI-COUNTY REGIONAL AIRPORT****Section 1 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.

Section 2 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) DEPARTMENT. The county department in Iowa, Richland or Sauk County that is authorized by that county to administer that county's zoning ordinance. With regard to a parcel of property subject to this chapter, the department administering the terms of this ordinance is the department of the county administering the zoning ordinances in the county in which the parcel of property is located. For Iowa County, the Department shall be the Office of Planning and Development.

(9) 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.

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

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

(12) 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

Section 6 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.

Section 7 Conflict With Other Zoning Districts. The provisions of this chapter operate as an overlay zoning district for land subject to the primary zoning. Whenever there is a conflict between the primary zoning and the overlay zoning provided by this chapter, the more restrictive provisions shall apply.

Section 8 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.

Section 9 Airport Runway District (Zone 1)

(1) Purpose. The runway district is established to encompass land areas that due to the operation of aircraft will be exposed to excessive noise, are in close proximity to the airport runways and crash hazard area of the airport. The runway district is established to implement the recommendations of the Airport Master Plan, to protect the runway and approaches of the airport from incompatible land uses, to preserve the airport's ability to serve its present and future air transportation needs, and is intended to include all areas within 500 feet of the centerline of runway 09-27 and 250 feet of the centerline of runway 18-36 extended to a distance 300 feet past the ends of the runways. 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.

(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 Department 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 district of the primary zoning ordinance.

(c) Minimum area requirements. The minimum lot area provisions of the district 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 zoning district of 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.

Section 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 and is described as the area beginning at the end of Zone 2 on runway 09-27 within 1,000 feet of the centerline and extending at a distance east and west 5,000 additional feet from Zone 2.

(2) Permitted Uses. Those uses permitted by the underlying 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 amphitheaters.

(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

a signed statement from the Department 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 Department 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 underlying zoning 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.

Section 15 Administration.

(1) It shall be the duty of the Department to administer and enforce this chapter. Applications for permits shall be made to the Department of the county in which the proposed use is located, upon an application form furnished by that Department and shall normally be processed within twenty (20) days. Upon receipt by the Department, 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 Department 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 Department's action may await determination by the Federal Aviation Administration. Each Department and Zoning Administrator shall cooperate to provide a clear and consistent interpretation and implementation of this Chapter.

Section 16 Permits.

(1) No structure or development shall hereafter be constructed, erected, enlarged or installed in any district created by 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 15 and obtained such permit from the Zoning Administrator. Forms for application of land use permits shall be supplied by the Department and a record of all permits issued shall be kept on file within the office of the Department.

(2) The Department 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) For development proposed in a municipality or other area not subject to the provisions of the primary zoning ordinance, the Department must approve the proposed

(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 Department 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.

Section 19 Penalties.

(1) The provisions of this ordinance shall be enforced by the Department having jurisdiction for 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 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.

Section 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, being Iowa, Richland and Sauk counties. It is intended that the fees should cover the reasonable costs of administering this ordinance.

Section 21 Effective Date. This ordinance shall take effect upon passage and publication by all three counties; Iowa, Richland and Sauk.

