

REGULATION OF THE HEIGHT OF STRUCTURES
AND TREES AND THE USE OF PROPERTY
IN THE VICINITY OF
THE WAUKESHA COUNTY AIRPORT/CRITES FIELD

WHEREAS a zoning ordinance to regulate the use of property and height restrictions was last enacted in 1964, and

WHEREAS changes in the use of the airport and the surrounding lands requires a revision of the airport zoning ordinance at this time, and

WHEREAS the authority to adopt and amend an airport zoning ordinance is granted by Sections 59.97, 59.99 and 114.136 of the Wisconsin Statutes.

THEREFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that:

SECTION 1. That the Airport Zoning Ordinance, Appendix C of the Waukesha County Code of Ordinances is repealed and recreated to read as follows:

- I. Purpose and Intent. It is the purpose of this section to regulate the use of property and restrict the height of structures and objects of natural growth in the vicinity of the Waukesha County Airport to promote the public health, safety, convenience, and general welfare. This section is intended to protect the people living in the vicinity of the Airport, the aircraft taking off from or landing at the Airport, the future uses of said Airport, and the public and private investment in the Airport.
- II. Definitions. As used in this ordinance, unless the context otherwise requires:
 - a. "Airport" means the Waukesha County Airport located in Sections 22, 26, 27, 28 and 34, Town 7N, Range 19E, Waukesha County, Wisconsin.
 - b. "Airport hazard" means any structure or object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
 - c. "Non-conforming use" means any structure or tree or use of the land, which does not conform to a regulation prescribed in this ordinance or an amendment thereto as of the effective date of such regulation.
 - d. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
 - e. "Structure" means any object constructed or installed by man.

- f. "Trees" means any object of natural growth, except shrubs, bushes or plants, which do not grow to a height of more than twenty (20) feet.
- g. "Runway" means a level portion of an airport having a surface specially developed and maintained for the landing and take-off of aircraft.
- h. "Height" means the overall height of the top of a structure as measured by the United States Geological Survey Mean Sea Level Datum, including any appurtenance installed thereon, or the top of any object of natural growth.

III. Zones

All zones established by this section are as shown on the maps (Drawing No. A8421) dated December 22, 1994 entitled, "Height Limitation Zoning Map for Waukesha County Airport, Waukesha, Wisconsin", which is on file in the Department of Park and Planning.

IV. Height Limitation Zones

Except as otherwise provided in this ordinance, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location, and no trees shall be allowed to grow to a height in excess of the height limit indicated on the map referred to in Section III thereof.

V. Use Restrictions

Notwithstanding the provisions of Section IV of this ordinance, no use may be made of land in any zone in such a manner as to create electrical interference with radio communication between the Airport and aircraft, or make it difficult for pilots to distinguish between Airport lights and others, or result in glare in the eyes of pilots using the Airport, or impair visibility in the vicinity of the Airport, or otherwise endanger the landing, taking off or maneuvering of aircraft.

VI. Exceptions

The restrictions contained in Section IV shall not apply to objects which are less than thirty-five (35) feet in height above 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.

VII. Non-conforming Uses and Structures

- a. Non retroactive. The regulations prescribed in Sections III and IV of this ordinance shall not be construed to require the removal, lowering or other change or alteration of any non-conforming use or structure, or otherwise interfere with

the continuance of any non-conforming use or structure, except as otherwise provided by Section IX (b) unless said use of structure was commenced or structure erected in contradiction to any prior Airport Height Ordinance in effect in this area.

- b. Changes. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this ordinance, and if such is diligently prosecuted.
- c. Removal. This section shall not interfere with the removal of non-conforming uses by purchase or the use of eminent domain.

VIII. Administration

It shall be the duty of the Waukesha County Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by the Administrator. Applications for permits or variances shall be granted or denied within ten (10) working days of the date of filing of the application(s) unless Federal Aviation Administration approval is requested. A fee as may be established and periodically modified from time to time by the Waukesha County Park and Planning Commission by Commission Resolution and approved by the County Executive shall accompany each permit application.

In the event that an applicant is aggrieved by a decision of the Waukesha County Zoning Administrator, a notification of appeal may be filed as specified in Section 59.99 (4) of the Wisconsin Statutes. Additionally, the applicant shall file a copy of the appeal with the Waukesha County Airport Commission through its Airport Manager.

IX. Permits

- a. Future uses. No structure shall hereafter be constructed, erected or installed, or be permitted to remain in any zone created by Section III of this ordinance until the owner or his agent shall have applied in writing for a permit therefor and obtained such permit from the Zoning Administrator, except structures less than thirty-five (35) feet in height above the ground and within one-half mile of the Airport boundary and structures less than fifty (50) feet in height above the ground within the area beginning one-half mile from the Airport boundary and extending to three miles from the Airport boundary. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. 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 herein prescribed. If such determination is in the affirmative, the Zoning Administrator shall issue the permit applied for. The

County shall have the right to trim, prune, or remove at the County's expense any tree which was planted after adoption of this ordinance and found to be in violation of the height restriction for the zone in which it is located.

- b. Existing uses. Before any non-conforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed by paragraph a. authorizing such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this ordinance, or than it was when the application for permit was made.

X. Hazard Marking and Lighting

- a. Any permit or variance granted under Sections IX or XII may, if such action is deemed advisable by the Zoning Administrator to effectuate the purpose of this ordinance and if such is reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question to permit the owner of the Airport, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

XI. Board of Appeals

The Waukesha County Board of Adjustment created pursuant to Section 59.99 of the Wisconsin Statutes is hereby designated the Board of Appeals under this ordinance.

XII. Appeals and Review

- a. Variances. Upon appeal in special cases the Board of Appeals may, after investigation and public hearing, grant such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and such relief will do substantial justice and be in accord with the spirit of this ordinance, and does not create a hazard to the safe, normal operation of aircraft. A fee as may be established and periodically modified from time to time by the Waukesha County Park and Planning Commission by Commission Resolution and approved by the County Executive shall accompany each appeal.
- b. Aggrieved person. Any person aggrieved or affected by any decision or action of the Zoning Administrator made in his administration of this ordinance may appeal such decision or action to the Board of Appeals as provided in Section 59.99 (4) of the Wisconsin Statutes.
- c. Procedure. Any appeal taken pursuant to this section shall be in conformity with the procedure established by Section 59.99 (3) through (9) inclusive of the Statutes. Upon making an appeal, the person making such appeal shall file an

additional copy of the appeal with the Waukesha County Airport Commission through its Airport Manager.

XIII. Judicial Review

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment may appeal to the Circuit Court as provided in Section 59.99 (10) of the Wisconsin Statutes.

XIV. Penalties

Any person violating any of the provisions of this ordinance shall, upon conviction, forfeit not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) for such offense, together with the costs of prosecution, and in default of payment of such forfeitures and costs of prosecution, shall be imprisoned in the County jail until said forfeiture and costs are paid, but not to exceed thirty days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

XV. Severability

If any of the provisions of this ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 2. This ordinance shall be effective upon approval and publication.

SECTION 3. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Waukesha, Wisconsin, as an addition or amendment thereto and shall be appropriately renumbered to conform to the numbering system contained therein.

SECTION 4. Any code section or part of a section in conflict with this ordinance is hereby repealed and declared null and void and of no effect.