

Chapter 63 AIRPORT VICINITY LIMITATIONS

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63.01 Adopt amended height limitation zoning map of the Baraboo-Wisconsin Dells Airport

The amended Baraboo-Wisconsin Dells Airport Ordinance Regulating the Height of Structures and Trees and the Use of Property in the Vicinity of the Baraboo-Wisconsin Dells Airport and the revised Height Limitation Zoning Map, of the Baraboo-Wisconsin Dells Airport dated February 13, 1998, all as set forth on Exhibit A, attached hereto and incorporated herein by reference, are hereby adopted pursuant to Section 66.0103 of the Wisconsin Statutes.

63.02 regulating height of structures and trees and using property around the Baraboo-Wisconsin Dells Airport

This ordinance has been published pursuant to the provisions of Section 66.0103 of the Wisconsin Statutes and said ordinance has been on file and open for public inspection in the office of the Clerk since November 10, 1998.

63.03 Purpose and effect

This Ordinance shall take effect upon passage and publication provided by law.

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

- A. "Airport" means the BARABOO-WISCONSIN DELLS Airport located in the Town of Delton.
- B. "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
- C. "The Commission" means the Baraboo-Wisconsin Dells Airport Commission.

- D. “Height” means the elevation above Mean Sea Level of the top of a structure or tree.
- E. “Non-conforming structure or use” means any structure, tree or use of land, which does not conform to a regulation prescribed in this ordinance or an amendment thereto, as of the effective date of such regulation.
- F. “Permit” means written permission from the Baraboo-Wisconsin Dells Airport Commission on a form provided by the Commission stating that the proposed structure or tree either conforms to this height limitation-zoning ordinance or has been granted a variance pursuant to 63.13.
- G. “Person” means any individual, firm, partnership, corporation, company, association, joint stock association, sovereign nation or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- H. “Structure” means any erection or construction such as a building, mobile home, tower, mast, pole, boom, sign, well, decoration, machinery, satellite antenna, equipment which requires a temporary or permanent location on or in the ground, or any other object, including a mobile object, constructed, installed, or located by any person.
- I. “Tree” means any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes or plants which do not grow to a height of more than five feet.
- J. “Runway” means a level portion of an airport having a surface specially developed and maintained for the landing and take-off of aircraft.

63.05 Adopt zones .

All zones established by this section are as shown on the Map dated February 13, 1998 entitled, “Height Limitation Zoning Map, Baraboo-Wisconsin Dells Airport, Sauk County, Wisconsin” which is attached hereto and adopted as part of this ordinance.

63.06 Airport zone height limitations .

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 elevation indicated on the Map referred to in 63.05 of this Ordinance. Any structure constructed, altered or located in violation of this ordinance shall be removed at the owner’s expense. The Commission shall have the right to trim, prune, or remove, at The Commission’s expense, any tree allowed to grow to a height in excess of the height limitation set forth herein.

63.07 Use restrictions

- A. Activities. Notwithstanding the provisions of 63.06 of this ordinance, no use may be made of land in any zone created by the Map referred to in 63.05 hereof, in such a manner as to create electrical interference with radio communication between the airport and aircraft, or which makes it difficult for pilots to distinguish between airport lights and non-airport lights, or which causes glare in the eyes of pilots using the airport, or impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off or maneuvering of aircraft.
- B. Exceptions. The restrictions contained in 63.06 shall not apply to legal fences or to farm crops which are cut at least once each year.

63.08 Non-conforming Structures or uses

A. Non Retroactive. The regulations prescribed by this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or use not conforming to the regulations herein at the date of adoption or amendment of this ordinance, or otherwise interfere with the continuance of any structure or use of land not conforming to the regulations herein at the date of adoption or amendment of this ordinance, except as otherwise provided in 63.10 B.

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 date of adoption or amendment of this ordinance, and if such is diligently prosecuted.

C. Removal. This section shall not interfere with the removal of nonconforming structures or uses by purchase or by the exercise of the right of eminent domain in the manner provided by Chapter 32, Wis. Stats.

63.09 Administer and enforce provisions

It shall be the duty of The Commission to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Clerk of The Commission upon a form furnished by The Commission. The Commission shall be authorized and empowered to appoint a zoning administrator as the administrative enforcement officer for the provisions of this ordinance and The Commission may contract with a qualified person or business to act as Zoning Administrator. The Zoning Administrator shall be authorized and empowered to interpret and administer this ordinance and to issue, after on-site inspection, all permits required by this ordinance, except variances. The Zoning Administrator shall further be authorized and empowered on behalf of The Commission to issue uniform citations or complaints to persons violating this ordinance. Applications for permits shall be granted or denied by the Zoning Administrator within ten (10) working days of the date of the filing of the application, unless Federal Aviation Administration (FAA) approval is requested or required. If FAA approval is requested or required, the Zoning Administrator shall grant or deny the application within ten (10) working days after the date the Administrator receives the FAA's final determination on the application. The Zoning Administrator shall furnish to the Clerk of The Commission a copy of all permits issued under this ordinance, together with copies, if any, of all FAA determinations and other relevant information or documentation requested or required by the Clerk. The Airport Commission Clerk shall maintain records of the issuance of all permits required by this ordinance, including variances granted pursuant to 63.13 hereof. At the time an application for a permit under this ordinance is filed with The Commission Clerk, the applicant shall pay a permit fee established by The Commission. Permit fees shall not exceed the reasonable costs of administering and enforcing this Ordinance. No application shall be processed by the Clerk nor shall the same be considered by the Zoning Administrator until the required fee is paid. A double fee may be charged by the Clerk if a structure is erected, moved, placed, altered, improved or used, or land is used in violation of this ordinance before a required permit is granted. Such double permit fees shall be for the purpose of reimbursing The Commission for the additional administrative work incurred in connection with the issuance of the permit and such double fees shall not release or relieve the applicant from full compliance

with this ordinance, nor from liability for the payment of a forfeiture for violating this ordinance as provided in 63.14 of this Ordinance.

63.10 Permit required for future uses

A. Future Uses. No structure shall hereafter be constructed, erected, or installed, or be permitted to remain in any zone created by the Map referred to in 63.05 of this Ordinance until the owner or his/her agent shall have applied in writing and obtained a permit from the Zoning Administrator or from the Zoning Board of Appeals. The application for such permit shall indicate the purpose for which the permit is desired and shall describe and locate the use and/or structure with sufficient particularity to permit the Zoning Administrator to determine whether such structure and/or use conforms to the regulations described herein. If such determination is in the affirmative in all respects, the permit shall be granted by the Zoning Administrator. A permit shall lapse and be void unless building operations are commenced within six (6) months after issuance or if no significant progress has been made within one (1) year from the date of the issuance thereof.

B. Existing Lawful Non-conforming Structures and Uses. Before any lawful non-conforming structure or use existing on the date of adoption or amendment of this Ordinance may be replaced, altered, rebuilt, expanded or enlarged, a permit shall be applied for and secured in the manner described in 63.10 A authorizing such change, replacement, or alteration. Such permit shall be granted by the Zoning Administrator only if the expansion or enlargement of the non-conforming structure or use shall be in conformity this Ordinance.

C. Exemptions. Permits are not required for structures located more than one-half mile from the nearest airport boundary and less than 50 feet maximum height above the ground level at the structure site.

D. Posting. Permits issued under this ordinance shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation, or establishment.

E. Variances. Any person aggrieved by the enforcement of this ordinance or by a decision or action of the Zoning Administrator made in the administration of this Ordinance may appeal such decision or action to the Board of Zoning Appeals as provided in 63.13.

63.11 Hazard marking and lighting

Any permit or variance granted under 63.10 or 63.13, may, if such action is deemed advisable by the Baraboo-Wisconsin Dells Airport Commission 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 the flyers the presence of an airport hazard.

63.12 Board of zoning appeals

Subject to S. 114.136 (4) (b), Wis. Stats. (1996-97), the Board of Zoning Appeals shall consist of 5 members including the 4 Airport Commissioners and 1 member who shall be a tenant of The Airport appointed by the chairperson of the Commission subject to confirmation by at least two

airport commissioners. The non-commissioner member of the Board shall serve a three (3) year term. The Board of Zoning Appeals shall have all the powers and functions as provided in S. 62.23 (7) (e), Wis. Stats. (1996-97), including, but not limited to, the following powers: (1) to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by the Zoning Administrator, and (2) to hear and grant appeals for variances as will not be contrary to the public interest where, owing to special circumstances, a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship such that the spirit of this Ordinance is observed, public and airport safety and welfare secured and substantial justice done, and (3) in the exercise of its powers, the Board of Zoning Appeals may, when granting a permit, application or variance, stipulate appropriate conditions and safeguards in harmony with the general purpose and intent of this ordinance including, but not limited to, requiring hazardous marking or lighting as provided in 63.11 hereof and any failure to carry out such stipulation shall be deemed a violation of this Ordinance, and (4) to contract with any public official or private consultant for assistance in the performance of its duties herein. If any member of the Board of Zoning Appeals is unable to hear any appeal for any reason, the Chairperson of the Commission shall appoint an alternate who shall be one of the following persons: (1) Chairperson of the Town Board of the Town of Delton. (2) President of the Village Board of the Village of Lake Delton. (3) Mayor of the City of Wisconsin Dells. (4) Mayor of the City of Baraboo.

63.13 Appeals and review

Appeals by any aggrieved person to the Board of Zoning Appeals must be filed with the Airport Commission Clerk within thirty (30) days of receipt by the appealing party of the determination from which the appeal is taken. An appeal shall be commenced by filing a Notice of Appeal which shall specify the grounds thereof and shall be accompanied by all information requested by the Board of Zoning Appeals. All appeals shall be accompanied by the pre-payment of an appeal fee established by The Commission. Upon receipt of a Notice of Appeal, The Commission Clerk shall promptly forward the notice to the Board of Zoning Appeals and the Board shall fix the date, time and place for the hearing of the appeal within a reasonable time after the Notice of Appeal is properly filed. The Board of Zoning Appeals shall give public notice of the time, place and purpose of such hearing by publication as a Class 1 Notice under the Wisconsin Statutes in the official newspaper designated by the town board of the Town of Delton. The Class 1 Notice shall be published at least one week before the date of the hearing. Notice of the date, time, place and purpose of such hearing shall also be mailed by First Class Mail, postage prepaid to the parties in interest. The concurring vote of four members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant or appellant on any matter on which it is required to pass or to grant a variance from this ordinance. The Board of Zoning Appeals shall decide all appeals and applications within forty-five (45) days after the final hearing and the Board shall transmit a copy of the decision to the appellant or applicant and to the Zoning Administrator. Conditions may be placed upon any variance or permit ordered or authorized by the Board of Zoning Appeals. Variances or permits granted by the Board of Zoning Appeals shall become null and void automatically within twelve (12) months after the date of the Board's decision unless substantial work has commenced pursuant to such grant or authorization. The party appealing for relief shall carry the burden to prove to a reasonable degree of certainty by credible evidence to the satisfaction of the Board of Zoning Appeals that

the facts and circumstances of the appeal satisfy the legal standard for granting a variance as established in Section IX hereof. The Board shall be authorized to adopt rules for its governance and procedure in order to carry out the powers and duties granted under this Ordinance. Any person aggrieved by any decision of the Board of Zoning Appeals may commence an action seeking the remedy available by certiorari as provided by 62.23 (7) (2), Wis. Stats., (1996-97).

63.14 Penalties and Enforcement

Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$5.00 nor more \$500.00 for each such offense, together with the costs and assessments as provided by the Wisconsin Statutes, and, in default of payment of such forfeiture, costs and assessments, shall be imprisoned in the County Jail until said forfeiture, costs and assessments are paid, but not exceeding ninety (90) days for each violation. Whenever an order of the Zoning Administrator or the Board of Zoning Appeals has not been fully performed within thirty (30) after written notice thereof has been mailed by First Class Mail to the owner and/or the occupant of the premises subject to such order, The Commission may direct institution of appropriate legal action or proceedings, including, but not limited to, proceedings to recover a forfeiture and/or proceedings to prohibit or enjoin such owner or occupant from using the structure and/or land covered by the order of the Administrator or Board of Zoning Appeals and said proceedings may be consolidated in one action or commenced as separate actions concurrently, or at different times. In all cases, The Commission's remedies shall be cumulative. Nothing in this Ordinance shall preclude The Commission from maintaining any appropriate action to prevent or remove a violation of any provision of this Ordinance.

63.15 Severability

If any of the provisions of this ordinance or the application thereof to any person 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.

63.16 Conflicting regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of the structure or any other matter, the more stringent limitations or requirements shall govern and prevail.

[Passed November 23, 1998 11-98-326]