

CHAPTER 78

HEIGHT AND USE LIMITATIONS APPLICABLE IN THE VICINITY OF THE DANE COUNTY REGIONAL AIRPORT

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[78.11–78.99 reserved.]

[History: cr. sub nom. ch. 36, 10/30/76; renum., 03/16/78; ch. 78 renamed, 78.01-78.10 rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

State Law Reference: Section 114.136, Wis. Stats.

78.01 PURPOSE. This chapter is intended to codify height and land use limitations for the purpose of protecting the safety of users of the Dane County Regional Airport and ensuring a compatible relationship between Airport operations and other land uses in the vicinity of the Airport.

[History: (1) am., OA 45, 1996-97, pub. 03/03/97; rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.02 AUTHORITY. This ordinance is enacted pursuant to the authority granted under sections 59.69 and 114.136, Wis. Stats.

[History: am., OA 10, 1993-94, pub. 09/18/93; am., OA 45, 1996-97, pub. 03/03/97; am., OA 14, 2008-09, pub. 10/02/08; rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.03 DEFINITIONS. The following definitions are applicable to this chapter.

(1) *Airport* means the Dane County Regional Airport.

(2) *Airport Boundary* means the Airport Property Line as shown on the Height Limitation Zoning Map.

(3) *Height Limitation Zoning Map* means the map on file in the Office of the Dane County Clerk dated April 16, 2010 and entitled "County Height Limitation Zoning Map, Dane County Regional Airport-Truax Field, Madison, Wisconsin."

(4) *Nonconforming Use* shall mean a use that lawfully existed prior to adoption of an ordinance provision prohibiting such use due to its height. A use that has not commenced but for which a governmental permit allowing the use was properly issued and effective

prior to adoption of an ordinance provision prohibiting such use due to its height shall be considered a Nonconforming Use. A Nonconforming Use that is abandoned or otherwise discontinued for a period of one (1) year shall be deemed terminated. A Nonconforming Use that is increased in height or in area on any side above height limitations applicable hereunder shall be deemed terminated.

(5) *Zoning Administrator* shall mean the Dane County Zoning Administrator.

[History: 78.03 rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.04 ADMINISTRATION. It shall be the duty of the Dane County Zoning Administrator to administer and enforce the provisions of this chapter.

[History: 78.04 rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.05 HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no object may be constructed, placed or allowed to remain on property within three miles of the Airport Boundary if the height of the object is in excess of the applicable height limitation shown on the Height Limitation Zoning Map.

[History: 78.05 rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.06 TEMPORARY CONSTRUCTION PERMIT. The limitations established in section 78.04 of this ordinance shall not apply to construction cranes, scaffolding or similar equipment or structures that are intended for temporary use during construction, repair or maintenance activities, provided that the Zoning Administrator has issued a permit allowing location of the structure or equipment at the specified site. The permit may be issued upon written application by the owner or agent of the owner of the land upon which the construction equipment or temporary structure is to be located, and only upon a determination by the Zoning Administrator that the use allowed thereunder will not present a hazard to aviation or public safety. Application for a permit under this section shall be made upon a form available in the offices of the Dane County Zoning Division. A permit issued under this section shall be expressly subject to conditions established by the Airport Director of Operations and Public Safety, based upon his or her determination of the need for such conditions to prevent hazards to aviation and to protect public safety. The Zoning Administrator shall have the right to enter at reasonable times upon the premises identified in a permit issued under this section for the purposes of determining compliance with the conditions established for the permit.

[History: am., OA 29, 2007-08, pub. 11/12/07; rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.07 NONCONFORMING USES. The height limitations established in this chapter shall not be construed to require the removal or modification of a Nonconforming Use that has not been terminated.

[History: 78.07 rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.08 APPEALS AND VARIANCES. In conformity with section 59.69, Wis. Stats., the Dane County Board of Adjustment shall have the exclusive authority to hear requests for variances from the provisions of this chapter and appeals from determinations of the Zoning Administrator under this chapter. Applications for variances and appeals shall be

filed with the Zoning Administrator upon a form available in the offices of the Dane County Zoning Division. The applicant shall pay a three hundred fifty-dollar (\$350) fee to Dane County upon the filing of an application for a determination by the Board of Adjustment under this chapter. The Board of Adjustment may grant a variance from the provisions of this chapter or overturn a determination of the Zoning Administrator made under this chapter only upon an express finding that granting the variance or overturning the determination of the Zoning Administrator will not result in a hazard to aviation.

[History: am., OA 20, 1996-97, pub. 09/04/96; 78.08 rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.09 PENALTIES. Any owner, occupant or user of land located within three miles of the Airport Boundary who violates or fails to comply with this ordinance or a condition established for a permit issued under section 78.05 of this ordinance shall forfeit not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each violation. Each day that a violation continues to exist shall constitute a separate violation.

[History: 78.09 rep. and recreated, OA 18, 2010-11, pub. 12/30/10.]

78.10 AIRPORT AFFECTED AREA.

(1) As used in this section:

(a) *Airport affected area* means that area designated as such on the airport affected area map.

(b) *Airport affected area map* means that certain map on file in the county clerk's office titled "Airport Affected Area Map" and bearing the date of May 1, 1996.

(c) *Airport-compatible use* is a use which will not be adversely impacted by airport operations.

(2) It is the policy of the County of Dane to accomplish compliance with state and federal regulations relating to the mitigation of noise impacts from aircraft operations at the airport, by implementing the recommendations of the airport's FAA Federal Aviation Regulation (FAR) Part 150 Noise Compatibility Study and resulting Noise Compatibility Plan (NCP).

(3) In lieu of the three-mile boundary set forth in s. 62.23(6)(am)1.b., Wis. Stats., the County of Dane hereby adopts the airport affected area boundaries designated on the airport affected area map.

(4) In order to enforce the NCP recommendations, it shall be the policy of the County of Dane that changes to the existing airport-compatible uses within the airport affected area should be allowed only when the change is from one airport-compatible use to another airport-compatible use.

(5) The County of Dane intends to enter into agreements with municipalities adjoining the airport, to adopt the airport affected area map as delineating the boundaries of the airport affected area and to restrict uses within the airport affected area to airport-compatible uses.

[History: 78.11 cr., OA 20, 1996-97, pub. 09/04/96; 78.11 renumbered as 78.10, OA 18, 2010-11, pub. 12/30/10.]

[78.11–78.99 reserved.]

END OF CHAPTER