

AN ORDINANCE

REGULATING THE HEIGHT OF STRUCTURES IN THE VICINITY OF RUSK COUNTY AIRPORT Town of Dewey, in the County of Rusk, Wisconsin

The County of Rusk does hereby ordain as follows:

SECTION I. Statutory Authorization. This ordinance is adopted pursuant to ss. 114.136, Wisconsin Statutes.

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

- (a) **Airport** means the *Rusk County Airport* located in Section 21, Town 35N, Range 5W, Rusk County, Wisconsin.
- (b) **Nonconforming use** means any structure that does not conform to the provisions of this ordinance or an amendment thereto, as of the effective date of this ordinance.
- (c) **Person** means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or any other similar representative.
- (d) **Structure** means any object, including mobile object, constructed, installed, or located by person.
- (e) **Height** means the elevation above Mean Sea Level of the top of the structure, including any appurtenance installed thereon.
- (f) **Permit** means written permission from the Town of Dewey on a form provided by the municipality stating the proposed structure site either conforms to the Height Limitation Zoning Ordinance or has been granted a variance, per Section VI.

SECTION III. Airport Zones. All zones established by this section are as shown on the map dated 5 February, 1999 entitled, **Height Limitation Zoning Map**, Rusk County Airport, County of Rusk, Wisconsin, which is attached hereto and adopted as part of this ordinance.

SECTION IV. Nonconforming Uses.

- (a) **Not Retroactive.** The regulations prescribed by this ordinance shall not be construed to require the removal, lowering or changing or alteration of any structure not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of any nonconforming use, except as provided by Section VI(b.). Nothing herein contained shall require a 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.

- (b) **Removal by Purchase.** This section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.

Section V. **Airport Zone Height Limitations.** No structure shall be constructed, altered or located to a height in excess of the elevation indicate on the map referred to in Section III of this ordinance. Any structure constructed, altered, or located, in violation of this ordinance shall be removed at the owner's expense.

Section VI. **Permits**

- (a) **Future Uses.** No structure shall hereafter be constructed or located that exceeds the height indicated in any zone created by Section III of this ordinance until the owner or his/her agent shall have applied in writing and obtained a permit from the Zoning Administrator. Application for such permit shall indicated the purpose for which the permit is desired, with sufficient information to permit the Zoning Administrator to determine whether such structure would conform to the regulations herein prescribed. If such determination is in affirmative, the permit shall be granted.
- (b) **Existing Uses.** Before any nonconforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed in Section VI (a.) authorizing such change, replacement or repair. Such permit shall be granted 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.
- (c) **Exemptions.** Permits are not required for structures posted in a prominent place prior to and during the period of construction, erection, installation, or establishment.
- (d) **Posting.** Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment.
- (e) **Variances.** Upon appeal in special cases the Board of Adjustments may, after investigation and public hearing, grant a variance from the terms of this ordinance. Such variance shall not be contrary to the public interest or create a hazard to the safe, normal operation of aircraft.

SECTION VII. **Administration.** It shall be the duty of Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made on a form provided by Zoning Administrator. Applications for permits shall be granted or denied within (10) ten days of the date of filing. Applications for variances shall include evidence of Federal Aviation Administration review of proposed construction (FAA Form 7460-1 "Notice of Proposed Construction") which can be obtained at the airport. Appeals shall be transmitted by the Zoning Administrator to the Board of Adjustments for the hearing and decision. Appropriate fees will be charged according to the fee schedule that can be obtained at the Zoning office

SECTION VIII. Board of Adjustments. It shall be the Board of Adjustments that will have the right to hear and decide on specific variances.

SECTION IX. Appeals and Review.

- (a) **Aggrieved Person.** Any person aggrieved or affected by any decision or action of the Zoning Administrator made in the administration of this ordinance may appeal such decision or action to the Board of Adjustments.
- (b) **Procedure.** Any appeal taken pursuant to this section shall be in conformity with the procedures established by Wisconsin statutes.

SECTION X. **Penalties.** Any persons violating any of these provisions of this ordinance shall, upon conviction, forfeit not less than (\$500) dollar(s) nor more than (\$2,000) dollar(s) for such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the Rusk County Jail until said forfeiture and costs are paid, but not to exceed (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

SECTION XI. **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 XII. **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.

SECTION XIII. **Effect.** This ordinance shall take effect and be in force upon passage and publication. This ordinance supercedes any previous ordinance regulating the height of structures in the vicinity of the airport.

Adopted: _____

Approved: _____

Published: _____