

TITLE AND INTRODUCTION

Red Wing Regional Airport Zoning Ordinance

Red Wing Regional Airport

Joint Airport Zoning Board (JAZB)

The following is an Ordinance regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of the Red Wing Regional Airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the Red Wing Regional Airport zoning maps which are incorporated in and made a part of this Ordinance; providing for enforcement; and establishing a Board of Adjustment.

The Red Wing Joint Airport Zoning Board, created and established by joint action of the City Council of the City of Red Wing, the Red Wing Airport Board, the Board of Commissioners of Goodhue County and Pierce County, and the Planning Commissions and Town Boards of the Village of Bay City, Isabelle Township, Trenton Township, and Hartland Township.

Minnesota State Statutes 360.061 through 360.074 state that the purpose of a land use zoning ordinance around an airport is to restrict uses hazardous to the operational safety of aircraft, and to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident (Minnesota Statute 360.063). The Minnesota Department of Transportation (Mn/DOT) Office of Aeronautics requires airport overlay zoning and due to interstate reciprocity with the State of Wisconsin, the City of Red Wing as owner of the Red Wing Regional Airport located in Pierce County WI, is to complete a land use zoning ordinance in conjunction with state laws. Mn/DOT Office of Aeronautics financially supports the airport. Accepting airport funding requires that land uses surrounding the airport are compatible with normal airport operations through such techniques as a land use zoning ordinance.

SECTION 1: PURPOSE AND AUTHORITY

It is the purpose of this Ordinance to regulate the use of property and to supplement the existing height limitation zoning ordinance in the vicinity of the Red Wing Regional Airport in order to promote public health, safety, and general welfare, to protect airport users, to increase safety in the use of the airport and to protect persons and property within the airport affected area and zoning districts while concurrently respecting historic and traditional usage of said areas. The Red Wing Regional Airport is an essential public facility that serves an important public transportation role and provides a public good.

The Red Wing Regional Joint Airport Zoning Board (JAZB), created and established by joint action of the City Council of Red Wing Minnesota, the Board of Commissioners of Pierce County Wisconsin and Goodhue County Minnesota, and the Town Boards of Isabelle, Trenton and Hartland Township and the Village of Bay City pursuant to the provisions and authority of Minnesota Statutes Section 360.063 and Sections 59.03, 59.04, 59.694, 114.14 and 114.136 of the Wisconsin Statutes.

The jurisdiction of this Ordinance shall extend over all lands and waters within Zones A, B and C (as described below) of the Red Wing Regional Airport as shown on **Exhibit 3**.

SECTION 2: DEFINITIONS

“Alteration” – Any construction, which would result in a change in height or lateral dimensions of an existing structure or object.

“Airport” – The Red Wing Regional Airport located in Sections 5 & 6 of Township 24 N, Range 17 W, Pierce County, Wisconsin for a total acreage of 542 acres more or less.

“Airport Elevation” – The established elevation of the highest point on the usable landing area which elevation is established to be 778 feet above mean sea level.

“Airport Hazard” – Any structure or object, whether man-made or natural, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the Airport or is otherwise hazardous to such landing and taking off. Including but not limited to trees, power poles, tall buildings or towers.

“Assembly of Persons” – A group of people gathered together, especially for a formal meeting held at regular intervals including a legislative, religious, or educational purpose.

“Conforming Use” – Any structure, tree, or object of natural growth, or use of land that complies with all the applicable provisions of this Ordinance or any amendment to this Ordinance.

“Construction” – The erection or alteration of any structure or objects either of permanent or temporary character.

“Development” – Any man made change to real estate including but not limited to construction or additions to construction of structures, the placement of mobile homes or the removal of structures, mining, dredging, filling, grading, paving, excavating, drilling operations and disposal of materials.

“Established Residential Neighborhood in a Built Up Urban Area” – An area which, if it existed on or before the date this Ordinance is recorded at the Pierce County Land Management Offices shall be considered a conforming use that shall not be prohibited except as described in **Section 11, Exceptions – Established Residential Neighborhoods**.

“Height” – For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Height Limitation Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

“Lot” – A parcel of land described in a recorded plat or deed.

“Nonconforming Use” – Any pre-existing structure, tree, natural growth, or land use which does not conform with existing land use regulations contained in this chapter, but that was in compliance with previous land use regulations and that existed at the time of adoption of this chapter.

“Person” – Any individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes any partner, trustee, receiver, assignee, or other similar representative thereof.

“Precision Instrument Runway” – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems.

“Preexisting permitted use” – Any use of land lawfully in existence at the time of this Ordinance or amendment thereto becomes effective.

“Runway” – A portion of the Airport having a surface specifically developed and maintained for the taxiing, landing and taking off of aircraft.

“Structure” – Any object or construction, excluding fills and fences, or any production or piece of work artificially built or composed of parts joined together in some definite manner having form, shape and utility built or placed by man.

“Tree” – Any objects of natural growth, except farm crops which are cut once a year, capable of obtaining a height greater than 15 feet.

“Vacant Lot” – A lot with no permanent structures.

SECTION 3: PREEXISTING PERMITTED USES AND STRUCTURES

Nothing contained herein shall require any change in the construction or alteration of any existing structure, or any structure for which the construction or alteration of such structure was legally begun prior to the date the Ordinance is recorded at the Goodhue County Recorder’s Office and the Pierce County Clerk’s Office. As stated in Minnesota Statutes 360.065 Subdivision 2, “A copy of the regulations as adopted shall be filed with the county recorder in each county in which the zoned area is located.” In addition, the ordinance will be retained at the Village of Bay City offices.

SECTION 4: NONCONFORMING USE

The owner of any preexisting permitted use, building, structure, tree or plant which, as a result of fire, explosion or other natural disaster is destroyed, shall be allowed to rebuild, reconstruct or rehabilitate the same preexisting permitted use on the same parcel, provided that the preexisting permitted use complies with the height limitation imposed by this chapter and a permit or statement showing such compliance is signed by the Administrator prior to any rebuilding, reconstructing or rehabilitation.

Any preexisting permitted uses, as described in this Ordinance, may be expanded, altered or otherwise enlarged as long as the following requirements are met:

- 1) All required permits are obtained prior to rebuilding, reconstruction or rehabilitation.
- 2) The expansion, alteration or enlarging meets the requirements of height limitation zoning and a statement showing such compliance is signed by the Administrator prior to the expansion, alteration or enlargement.
- 3) The expansion, alteration or enlargement does not increase or create any hazard within the airspace required for the flight of aircraft in landing or takeoff or creates or increases any potential hazard to persons assembled within the preexisting permitted use.

SECTION 5: AIR SPACE OBSTRUCTION SURFACES

A. AIR SPACE SURFACES: In order to carry out the purpose of this Ordinance, as set forth above, the following air space surfaces are hereby established: Primary Surface, Horizontal Surface, Conical Surface, Approach Surface, Precision Instrument Approach Surface, and Transitional Surface, and whose locations and dimensions are as follows:

1. PRIMARY SURFACE: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:
 - a. Extending 200 feet beyond each end of Runway 9/27.
The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
 - b. The width of the primary surface is:
1,000 feet for Runway 9/27.
2. HORIZONTAL SURFACE: All that land which lies directly under an imaginary horizontal surface 150 feet above the ground elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - a. 10,000 feet for Runway 9/27
3. CONICAL SURFACE: All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured outward from the periphery of the horizontal surface. No airport land use zoning is in place beneath the conical surface.
4. APPROACH SURFACE: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:
 - a. 34:1 for Runway 27.

The approach surface expands uniformly to a width of:
 - b. 3,500 feet at a distance of 10,000 feet for Runway 27.
5. PRECISION INSTRUMENT APPROACH SURFACE: All that land which lies directly under an imaginary precision instrument approach surface longitudinally centered on the extended centerline at the end of Runway 9, a precision instrument runway. The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of 10,000 feet expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40:1, expanding uniformly to an ultimate width of 16,000 feet. No airport land use zoning is in place beneath any of the precision instrument approach surface that extends outside of the horizontal surface.
6. TRANSITIONAL SURFACE: All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface. Transitional surfaces for those portions of the precision instrument approach surface which project through and beyond the limits

of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the precision instrument approach surface and at right angles to the extended precision instrument runway centerline. No airport land use zoning is in place beneath the transitional surfaces for those portions of the precision instrument approach surface which project through and beyond the limits of the conical surface.

SECTION 6: HEIGHT LIMITATIONS

All zones established by **Section 5, Air Space Obstruction Surfaces**, are as shown on the map dated January 26, 1998 (see **Exhibit 2**) and entitled "Height Limitation Zoning Map, Red Wing Municipal Airport, Red Wing Minnesota," which are located in and can be obtained from the Pierce County Land Management Department or City of Red Wing offices.

Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be erected, constructed, altered, located, allowed to grow or permitted to remain in excess of the height depicted on the Height Limitation Zoning Map referred to in this Ordinance.

SECTION 7: BOUNDARY LIMITATIONS

The airspace obstruction height zoning restrictions set forth in this ordinance shall apply to the area defined on the Height Limitation Zoning Map. The land use zoning restrictions set forth in this ordinance shall apply to the areas defined as Zones A, B and C.

SECTION 8: AIRPORT SAFETY ZONE REGULATIONS

In order to carry out the purpose of this Ordinance to limit those uses which may be hazardous to the operational safety of aircraft operating to and from the Red Wing Regional Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following land use safety zones. The land use safety zones apply to all existing parcel owners in addition to any future parcel owners.

Safety Zone A: All land in that portion of the approach zones of a runway which extends outward from the end of the primary surface a distance equal to two-thirds of the existing length of 5,010 feet for Runway 9/27, which distance shall be:

- 1) 3,340 feet for each end of Runway 9/27.

Safety Zone B: All land in that portion of the approach zones of a runway, which extends outward from Safety Zone A a distance equal to one-third of the existing length of 5,010 feet for Runway 9/27, which distance shall be:

- 1) 1,670 feet for each end of Runway 9/27.

Safety Zone C: All land which is enclosed within the perimeter of the horizontal surface, except for the area located under the perimeter of the horizontal surface in Minnesota, and which is not located in Safety Zone A or Safety Zone B (see **Exhibit 3**).

SECTION 9: AIRPORT MAPS

The several zones herein established are shown on the Red Wing Regional Airport Zoning Maps consisting of five (5) sheets, prepared by Short, Elliott, Hendrickson, Inc., (SEH) and dated October 3, 2012, attached hereto and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this Ordinance.

SECTION 10: USE RESTRICTIONS

General:

Subject at all times to the height restrictions set forth in **Section 6, Height Limitations**, no use shall be made of any land in any of the safety zones defined in **Section 8, Airport Safety Zone Regulations**, which creates or causes interference with the operations of radio or electronic facilities on the Airport or with radio or electronic communications between the Airport and aircraft, make it difficult for pilots to distinguish between Airport lights and other lights, results in glare in the eyes of pilots using the Airport, impairs visibility in the vicinity of the Airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

Safety Zone A:

Subject at all times to the height restrictions set forth on the Height Limitation Zoning Map and to the general restrictions contained in **Section 10, Use Restrictions**, areas designated as Safety Zone A shall follow the Pierce County Land Use Zones as identified in **Exhibits 4 and 5**, and as defined on the date this Ordinance is recorded at the Goodhue County and Pierce County Recorder's offices. Preferred uses in Safety Zone A include agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, , light outdoor recreation (non-spectator), and parking lots. These uses do not create, attract, or bring together an institutional or commercial use of an assembly of persons thereon.

Safety Zone B:

Subject at all times to the height restrictions set forth on the Height Limitation Zoning Map and to the general restrictions contained in **Section 10, Use Restrictions**, areas designed as Safety Zone B shall follow the Village of Bay City Land Use Zoning regulations for the portions of Safety Zone B that are within the Village limits. All Safety Zone B areas outside of the Village of Bay City limits will follow the existing Pierce County Land Use Zones as identified in **Exhibits 4 and 5**, and as defined on the date this Ordinance is recorded at the Goodhue County and Pierce County Recorder's offices. Preferred uses in Safety Zone B include agricultural crops, horticulture, raising livestock, animal husbandry, , outdoor recreation (non-spectator), cemeteries and parking lots.

Safety Zone C: Zone C is subject only to height restrictions set forth on the Height Limitation Zoning Map, and to the general restrictions contained in **Section 10, Use Restrictions**.

SECTION 11: EXCEPTIONS – ESTABLISHED RESIDENTIAL NEIGHBORHOODS

The following described lands, as shown on **Exhibits 4 and 5**, are designated as Established Residential Neighborhoods (ERN) in Built-Up Urban Areas. Land uses in these areas are exempt from the Use Restrictions of **Section 10, Use Restrictions** and qualify as a Preexisting Permitted Use.

All properties included in an ERN, as shown on **Exhibits 4 and 5**, are subject to any existing underlying County and/or township land use and zoning requirements.

SECTION 12: AIRPORT ZONING ADMINISTRATOR

It shall be the duty of Pierce County Zoning Administrator and the Village of Bay City Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to Pierce County or the Village of Bay City, wherever the area for the permit or variance is located, upon a form furnished by that entity. Permit applications shall be considered and granted or denied in accordance with the regulations prescribed herein.

SECTION 13: PERMITS

Permits shall be obtained from the Pierce County Zoning Administrator when applicable as stated in Pierce County Zoning Code Article XI §240-73 - §240-76. A courtesy copy of all permits not awarded as administrative will be sent to the City of Red Wing Public Works Director.

Nothing shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this Ordinance as set forth in **Section 5, Air Space Obstruction Surfaces.**

SECTION 14: BOARD OF ADJUSTMENT

The Pierce County Board of Adjustment and the Bay City Board of Adjustment shall serve as the Board of Adjustment for the Red Wing Regional Airport Zoning Ordinance. The Pierce County Board of Adjustment shall exercise the powers and procedures as established in the Pierce County Zoning Code Article X §240-70. The Village of Bay City Board of Adjustment shall exercise the powers and procedures as established in the Village of Bay City Zoning Code.

SECTION 15: VARIANCES

Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his or her property not in accordance with the regulations prescribed in this Ordinance may apply to either the Pierce County or Village of Bay City Board of Adjustment, hereinafter provided for, for a variance from such regulations. The review time allowed and procedures for the variance review are found in Pierce County Zoning Code Article XI §240-78 and the Village of Bay City Zoning Code.

SECTION 16: APPEALS

Any person aggrieved, or any taxpayer affected by any decision of the zoning administrator made in their administration of this Ordinance may appeal to the Board of Adjustment as listed in this Ordinance. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is the opinion that a decision of the zoning administrator is an improper application of this Ordinance as it concerns such governing body or board.

The appeal process for the Pierce County Board of Adjustment is found in Pierce County Zoning Code Article XI §240-79. The appeal process for the Village of Bay City Board of Adjustment is found in the Village of Bay City Zoning Code.

SECTION 17: JUDICIAL REVIEWS

Any person aggrieved, or any taxpayer affected by any decision of either Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of either Board of Adjustment is illegal may present to the Circuit Court of Pierce County a verified petition setting forth that the decision or action is illegal, in whole or in party, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in either office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this Ordinance before availing them self of the right to petition a court as provided by this section.

SECTION 18: PENALTIES

Any person violating any of the provisions of this Ordinance shall, upon conviction, be subject to the penalties described in Pierce County Zoning Code Article XII §240-85 or the Village of Bay City Zoning Code.

SECTION 19: CONFLICTS

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 structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION 20: 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 nay part thereof other than the parts so declared to be unconstitutional or invalid.

SECTION 21: EFFECTIVE DATE

This Ordinance shall take effect on the _____ day of _____, 20_____.

Copies thereof shall be filed with the Commissioner through the Office of Aeronautics, State of Minnesota, with the Bureau of Aeronautics, State of Wisconsin, and the Recorder's Office for Pierce County, Wisconsin, Bay City, Wisconsin and Goodhue County, Minnesota.

Passed and adopted after public hearing by the:

Red Wing Regional Airport
Joint Airport Zoning Board

This _____ day of _____, 20_____

Rick Moshwa
Member

Brian Peter
Member

John
Member

James Kleinhans
Member

Bernard Schoeder
Member

Jeff Holst
Member

Larry Johnson
Member

Member

Sue Moldenhauer
Member

Member

Steve Humble
Member

Member

Barry Barringer
Member

Member

Michael A. Wagnier
Member

Member