

CHAPTER 802

REGULATING THE HEIGHT OF STRUCTURES IN THE VICINITY OF THE RICHLAND AIRPORT

[History: Ord 2011-17]

802.01 STATUTORY AUTHORIZATION. This chapter is adopted pursuant to sec. 114.136, Wisconsin Statutes.

802.02. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

(1) "Airport" means the Richland Airport located in Section 6, Town of Buena Vista, Town 9 North, Range 2 East, Richland County, Wisconsin.

(2) "Nonconforming use" means any structure which does not conform to the provisions of this chapter or an amendment thereto, as of the effective date of this chapter.

(3) "Person" means any individual, firm, partnership, corporation, limited liability company, association, joint stock association, body politic or other legal entity, and includes any trustee, receiver, assignee, or other similar representative thereof.

(4) "Structure" means any object, including a mobile object, constructed, installed or located by a person.

(5) "Height" means the elevation above Mean Sea Level of the top of the structure, including any appurtenance installed thereon.

(6) "Permit" means written permission from the City of Richland Center on a form provided by the City stating that the proposed structure site either conforms to the Height Limitation Zoning Ordinance or has been granted a variance per Section 802.06.

(7) "Zoning Administrator" means the person duly appointed to act as the Richland Center Zoning Administrator unless otherwise specified.

802.03 AIRPORT ZONES. All zones established by this section are as shown on the map dated October 20, 2011, entitled, "HEIGHT LIMITATION ZONING MAP, RICHLAND AIRPORT, RICHLAND CENTER, WISCONSIN", which is attached hereto and adopted as part of this ordinance.

802.04 PRIOR NONCONFORMING USES.

(1) Regulations Not Retroactive. The regulations prescribed by this ordinance shall not be construed to require the removal, lowering or other change 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 otherwise provided by Section 802.06(2). 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.

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

802.05 AIRPORT ZONE HEIGHT LIMITATIONS. No structure shall be constructed, altered or located to a height in excess of the elevation shown on the map referred to in Section 802.03 of this ordinance. Any structure constructed, altered or located in violation of this ordinance shall be removed at the owner's expense.

802.06 PERMITS.

(1) Future Uses. No structure shall hereafter be constructed or located that exceeds the height indicated in any zone created by Section 802.03 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 indicate 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 the affirmative, the permit shall be granted.

(2) 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 802.06(1) 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.

(3) Exemptions. Permits are not required for structures which are less than thirty-five (35) feet in height above ground level at the structure site.

(4) 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.

(5) Variances. Upon appeal in special cases the Board of Appeals 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.

802.07 ADMINISTRATION.

(1) It shall be the duty of the Zoning Administrator of the City of Richland Center to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made on a form provided by the Zoning Administrator.

(2) Applications for permits shall be granted or denied within 60 days of the date of filing with the Zoning Administrator, except that such time may be extended by the Zoning Administrator if additional information has been requested from the applicant and not yet received.

802.08 BOARD OF APPEALS. The Board of Zoning Appeals of the City of Richland Center

created by sec. 400.05 of the Code of Ordinances of the City shall act as the board of appeals under this chapter. The Board of Zoning Appeals shall have the following powers in regard to the regulations imposed by this chapter:

- (1) To hear and decide appeals from any act of the zoning administrator, and
- (2) To hear and decide requests for specific variances from the regulations imposed by this chapter.

802.09 APPEAL & VARIANCE INVESTIGATION BOARD.

(1) There is hereby created an Appeal & Variance Investigation Board, consisting of six members. Two of the members shall be appointed by the City of Richland Center, and one member each by the Town Board of the Towns of Buena Vista, Ithaca, Orion, and Richland.

(2) Appointed members of the Appeal & Variance Investigation Board are subject to confirmation by the City Council of the City of Richland Center for terms of three years, excepting that of those first appointed. Of the members first appointed, two shall serve for one year; two for two years and two for three years.

(3) The Appeal & Variance Investigation Board is empowered to review appeals from any determination made by the Zoning Administrator in the enforcement of this ordinance and all requests for variance from the regulations imposed by this chapter and to make a report and recommendation to the Board of Zoning Appeals prior to consideration and determination of the appeal or request for variance by the Board of Appeals. The Appeal & Variance Investigation Board does not have the power to grant an appeal or variance, but only to review and investigate and make a report and recommendation to the Board of Zoning Appeals.

802.10 PROCEDURE ON APPEALS. The procedure for appeals to the Board of Zoning Appeals under this Chapter shall be as set forth in sec. 400.05(4) of the Code of Ordinances of the City of Richland Center except that, prior to the hearing of the appeal by Board of Zoning Appeals the matter shall be referred to the Appeal & Variance Investigation Board for its review, report and recommendation. The applicant shall be notified of the time and place where the Appeal & Variance Investigation Board will meet to investigate the matter, and may appear and be heard at such meeting. If no such report and recommendation is made by the Investigation Board within 40 days after the matter is referred to it, the Board of Zoning Appeals may proceed to hear and determine the appeal without such report and recommendation.

802.11 PROCEDURE ON REQUESTS FOR VARIANCES.

(1) The procedure for appeals to the Board of Zoning Appeals under this Chapter shall be as set forth in sec. 400.05(8) of the Code of Ordinances of the City of Richland Center except that, prior to the hearing on the request for variance by the Board of Zoning Appeals the matter shall be referred to the Appeal & Variance Investigation Board for its review, report and recommendation. The applicant shall be notified of the time and place where the Appeal & Variance Investigation Board will meet to investigate the matter, and may appear and be heard at such meeting. If no such report and recommendation is made by the Investigation Board within 40 days after the matter is referred to it, the Board of Zoning Appeals may proceed to hear and determine the request without such report and recommendation.

(2) Applications for variances shall include evidence of Federal Aviation Administration review of the proposed construction and FAA determination after review (FAA form 7460-1 "Notice of Proposed Construction").

802.12 FEES FOR APPEALS AND REQUESTS FOR VARIANCES. There shall be a fee of \$150.00 for an appeal or a request for a variance, which shall be due at the time of the filing of the application. The City need not take any action upon the application until the fee has been paid.

802.13 PENALTIES.

(1) **FORFEITURE.** Any person, partnership, corporation, limited liability company, voluntary association or other legal entity who shall violate or fail or refuse to comply with any section of this chapter may be prosecuted for such violation and shall, upon conviction, forfeit to the City of Richland Center not less than \$100.00 nor more than \$400.00, plus all applicable costs, fees and surcharges imposed under Ch. 814 Wis. Stats., and in the event such forfeiture, costs, fees and surcharges are not paid, such person, any partner of such partnership, or any officer, director or managing member of any corporation or limited liability company or any officer of such voluntary association may, upon order of the Circuit Court, be imprisoned in the Richland County jail until such forfeiture, costs and assessment are paid, but not to exceed 90 days, or may be subject to any other sanctions imposed by the Court for such failure to pay. Each day that a violation is maintained or permitted to exist shall constitute a separate violation.

(2) **OTHER REMEDIES.** In addition to or as an alternative to the imposition of a forfeiture or other procedures under this Chapter, the City may, in circumstances deemed appropriate by the City, proceed by court action against any violation or violator of this Chapter for injunction or other remedy available to the City

(3) **REMEDIES NOT EXCLUSIVE.** Such proceeding seeking other remedies shall not be deemed waived by the City by the imposition of a forfeiture for the same violation, nor shall imposition of a forfeiture be deemed a waiver of or a bar to proceeding for other remedies.

802.14 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.

802.15 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.

Enacted the 20th day of December, 2011