

## CHAPTER 24

### AIRPORT ZONING DISTRICTS

**24.01 TITLE.** This ordinance shall be known, cited and referred to as THE AUSTIN STRAUBEL INTERNATIONAL AIRPORT ZONING ORDINANCE.

**24.02 PURPOSE.** It is the purpose of this ordinance to regulate the use of property and to regulate and restrict the height of structures and objects of natural growth in the vicinity of Austin Straubel International Airport to promote the health, safety and general welfare of the general public, to increase safety in the use of the airport, and to protect persons and property within the airport's zoning districts.

**24.03 STATUTORY AUTHORIZATION.** This ordinance, designed to protect the approaches and crash hazard areas to Austin Straubel International Airport, is adopted pursuant to the authorization contained in Sections 59.69, 59.693, 59.694, 114.135 and 114.136, Wisconsin Statutes.

**24.04 JURISDICTION.** The jurisdiction of this ordinance shall extend over all lands and waters within three (3) statute miles of the boundaries of Austin Straubel International Airport.

**24.05 DEFINITIONS.** Words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

**Airport.** Austin Straubel International Airport , owned and operated by Brown County, Wisconsin.

**Airport Hazard.** Any structure, object, whether man-made or natural, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off, or to persons using such land or structure.

**Airport Master Plan.** Austin Straubel International Airport Master Plan Report, 1999, as updated.

**Alteration.** Any construction which would result in a change in height or lateral dimensions of an existing structure or object.

**Construction.** The erection or alteration of any structure or object either of a permanent or temporary character.

**Director.** The Director of the Austin Straubel International Airport.

Growth. Any object of natural growth, including trees, shrubs or foliage, except farm crops which are cut at least once a year.

Height. The overall height of the top of a structure, including any appurtenance installed thereon, or the top of any object of natural growth.

LDN. Day/night average of noise measurement in decibels. Department of Housing and Urban Development (HUD) has determined that exposure to noise levels of 65 ldn or greater is generally incompatible with normal residential activities.

Non-conforming Use. Any structure, tree, or use of land which does not conform with a regulation prescribed in this chapter or an amendment thereto, as of the effective date of such regulation.

Person. Any individual, firm, partnership, corporation, company, association, or body politic and includes any trustee, receiver, assignee or other similar representative thereof.

Preexisting Permitted Use. Any use of land lawfully in existence at the time this ordinance or amendment thereto becomes effective.

Runway. A portion of the airport having a surface specially developed and maintained for the landing or taking off of airplanes.

Structure. Any object constructed or installed by man.

Tree. 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 (5) feet.

## **24.06 GENERAL PROVISIONS.**

(1) Use Restrictions. Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any districts established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; no use or installation of flashing or illuminated advertising or business signs, billboards or other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

(2) Height Zones. All height zones established by this chapter are as shown on the maps, dated March, 2003, entitled, "Airport Zoning District Map Atlas and Airport Zoning District Maps, Austin Straubel International Airport, Brown County, Wisconsin", on file in the office of the County Clerk and adopted as part of this Chapter.

(3) Height Limitations. No structure, tree or growth shall be erected, altered, allowed to grow or be maintained within any zoning district established by this ordinance to a height in

excess of the applicable height limitations as shown on the Airport Zoning District Maps, which are maintained in the Airport Director's office. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers shown within the various zoning districts encompassed by this ordinance.

(4) Severability. If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision of the application, and to this end, the provision of these regulations are declared to be severable.

(5) Exceptions. The restriction contained in Section 24.06(3) shall not apply to legal fences or to farm crops which are cut at least once each year.

(6) Conflicting Regulations. Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same site, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulations or ordinance shall govern and prevail.

#### **24.07 PREEXISTING PERMITTED USE.**

(1) Nothing contained in this ordinance shall require the removal of or any change in the construction, alteration, or use of any preexisting permitted use, the construction, alteration or use of which was begun prior to the effective date May 1, 2003 of this ordinance and has been completed or is being diligently pursued and further provided that the height limits shall in no event be exceeded.

(2) Partial Destruction. Any preexisting permitted use, building, structure, tree or plant which, as a result of fire, explosion or other casualty is destroyed or partially destroyed, shall be allowed to rebuild, reconstruct or rehabilitate the same preexisting permitted use on the same parcel, provided the following requirements are met:

(a) The preexisting permitted use complies with the Airport Zoning Districts Ordinance and a statement showing such compliance is signed by the Airport Director or his designee prior to any rebuilding, reconstruction or rehabilitation.

(b) The preexisting permitted use that is rebuilt, reconstructed or portions rehabilitated utilize construction techniques that provide the minimum noise level reduction over the industry, or commercial standard or the State of Wisconsin One- and Two-family Dwelling Code, conforming to the noise level reduction standards appropriate to the zoning district in which the parcel is situated.

(3) Expansion of Preexisting Permitted Uses. Any preexisting permitted uses, as described in these regulations, may be expanded, altered, or otherwise enlarged as long as the following requirements are met:

(a) The preexisting permitted use is not expanded, altered or otherwise enlarged to a higher or more intensive use; e.g., single-family residence shall not be expanded to a two-family residence, etc.

(b) The expansion, alteration or enlarging meets the requirements of the Airport Zoning Districts Ordinance and a statement showing such compliance is signed by the Airport Director or his designee prior to the expansion, alteration or enlargement.

(c) The expansion, alteration or enlargement in no way increases or creates 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.

(4) Removal. This section shall not interfere with the removal of preexisting permitted uses by purchase or the use of eminent domain.

**24.08 ADMINISTRATION. Procedure.** The administration of this ordinance requires the cooperation of the affected municipalities Building and Inspector and the Airport Director. Whenever a person applies for a building permit within either District A or District B, the affected municipality's Building Inspector shall forward a copy of the "Building Noise Level Reduction Work Sheet" attached or if a satisfactory reduction cannot be met, submit the proposed site plans, architectural drawings or building plan to the Airport Director. Whenever a person applies for a building permit within District C except where structure is more than one-half statute mile from the Airport and less than fifty (50) feet in height, the affected municipality's Building Inspector shall direct applicant to obtain "application for Height Permit" from the Airport Director. The Airport Director or his designees shall review the proposed development based upon land use recommendations contained within the Austin Straubel International Airport Master Plan Report and the provisions, standards and requirements contained in this ordinance within ten (10) working days. If the proposed development is approved by the Airport Director and meets the requirements of the affected municipality, a building permit may be issued by the municipality. If the proposed development is not approved by the Airport Director, no building permit shall be issued.

Whenever a person applies for a building permit in District C, the municipality's Building Inspector shall inform the person that the property is located in an area subject to occasional noise from aircraft. The Building Inspector, prior to the issuance of a building permit, shall also provide the person with the brochure, prepared by the Airport that discusses the effect of aircraft noise and measures that may be implemented to effectively reduce that noise. In addition, if the proposed development exceeds fifty (50) feet in height, the Building Inspector shall require the person to meet with the Airport Director and get the required permits prior to the issuance of any building permit by the municipality.

#### **24.09 APPEALS.**

(1) Any person aggrieved by any decision made in the administration of this ordinance may apply to the Brown County Planning, Development and Transportation Committee to reverse wholly or partly, or modify or otherwise change, abrogate, or rescind any such decision upon meeting the following requirements:

(a) Such appeals be filed within thirty (30) calendar days following the administrative decision.

(b) Such appeals shall be filed with the Airport Director, who shall accept it on behalf of the Transportation Committee.

(c) The appeal shall specify:

(1) The exact location of the parcel of land that was affected by the administrative decision.

(2) The reason(s) for the appeal.

(2) The Brown County Planning, Development and Transportation Committee, upon the receipt of the appeal, shall include discussion and action on the appeal at its next regularly scheduled meeting, provided the appeal is received at least ten (10) working days prior to the regularly scheduled meeting.

(a) Any party may appear in person, or by agent, or by attorney in conjunction with the appeal.

(b) A decision regarding the appeal shall be made unless additional information, facts or testimony is deemed necessary. In such cases, the decision on the appeal shall take place at the next regularly scheduled meeting of the Brown County Planning, Development and Transportation Committee.

(3) The disposition of the appeal shall be by majority decision of the Brown County Planning, Development and Transportation Committee. Such decision shall state the specific facts which are the basis for the committee's decision and shall either affirm, reverse, vary or modify the administrative decision in whole or in part.

(4) Any person aggrieved by a decision of the Brown County Planning, Development and Transportation Committee may apply to the Brown County Board of Adjustments to reverse wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision provided:

(a) The appeal follows the procedures prescribed by Section 59.694 Wisconsin Statutes.

(b) Such appeals shall be filed within thirty (30) calendar days following the Brown County Planning, Development and Transportation Committee's decision.

(c) A copy of the appeal is filed by the aggrieved party with the Airport Director.

(d) The appeal specifies:

(1) The exact location of the parcel of land that was affected by the Committee's decision.

(2) The reason(s) for the appeal.

(5) The final disposition of an appeal shall take into consideration any recommendation from the Brown County Planning, Development and Transportation Committee and shall be in the form of a resolution signed by the chairperson and secretary of the board. Such resolution shall state the specific facts which were the basis for the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application.

**24.10 HAZARDS MARKING AND LIGHTING.** Any permit, variance appeal granted under Sections 24.07, 24.08, or 24.09 may, if such action is deemed advisable by the Director to effectuate the purpose of this Chapter 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 or lights as may be necessary to indicate the presence of an airport hazard.

**24.11 VIOLATIONS/PENALTIES.**

(1) Violations. In case of any violation, the Airport Director or the Brown County Zoning Administrator may institute appropriate legal action or proceeding to enjoin a violation of this chapter.

(a) Each violation of these regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and such hazard shall be removed by proper legal proceedings. Each day a violation continues to exist shall constitute a separate offense. In addition, Brown County may institute in the Circuit Court of Brown County or the Circuit Court of any county in which the airport hazard is wholly or partially located an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

(b) Any person, firm or corporation found guilty of violating any provision(s) of this ordinance shall, upon conviction thereof, forfeit not less than \$25.00 nor more than \$100.00 for each such offense, together with the costs of prosecution and, upon failure to pay said forfeiture, shall be confined in the county jail for not more than five (5) days.

**24.12 EFFECTIVE DATE.** Amendments shall be effective as adopted and published.

**24.13 DISTRICTS.**

(1) Purpose. For the purpose of this ordinance, the lands and waters within three (3) statute miles from the boundaries of the airport is divided into the following zoning districts.

- (a) Noise Contour/Crash Hazard/Height.
- (b) Overflight/Noise/Height.
- (c) Height/Noise.
- (c1) Open Water Restriction

(2) Zoning District Map. The location and boundaries of the districts established by this ordinance are set forth on the zoning maps entitled "Airport Zoning District Map for Austin Straubel International Airport, Brown County, Wisconsin, dated March, 2003" and are incorporated herein and hereby made a part of this ordinance. The said maps, together with everything shown thereon and all amendments thereto, shall be as much a part of this ordinance as though fully set forth and described herein. Copies of said maps are located in

the Airport Director's office, Brown County Zoning Administrator's office, and in the municipal offices of all communities affected by said ordinance. The Airport Zoning District Maps shall overlay existing municipal zoning districts. Should conflicts with existing municipal zoning districts arise, Section 24.06(4) shall apply.

(3) Zoning Boundaries. The following rules shall apply with respect to the boundaries of the various districts as shown on the Airport Zoning District maps:

(a) District boundary lines have been established, based upon global positioning satellite (GPS) coordinates, or specific distances from the runway thresholds, unless otherwise indicated.

(b) Where a district line divides a lot/parcel or series of contiguous lots/parcels in single ownership or where at least one common owner exists on the date of the adoption of the ordinance, the property owner may request a change in the zoning. The Brown County Planning, Development and Transportation Committee shall review the proposed rezoning based on documentation of intent to develop and expenditures to attain such development prior to the effective date of this ordinance included in Criteria for District Changes and other pertinent input submitted by the property owner. The Brown County Planning, Development and Transportation Committee, after due hearing, may extend the regulation from either portion of such lot/parcel or series of lots/parcels to the next less or more restrictive district; e.g., A to B, B to A, B to C, or C to B. The term divides, as used above, does not include situations where the district line coincides with lot/parcel lines.

(c) When a district line divides a lot/parcel of record existing prior to the effective date of this ordinance, in such a manner that a use not permitted in the most restrictive district of such lot is permitted on that portion of such lot in the lesser restrictive district, the permitted use may be developed only on that portion of the lot/parcel where it is permitted, provided:

1. The use is permitted by the underlying municipality's zoning ordinance;
2. The use complies with all applicable setback requirements;
3. A site plan drawn to scale showing the location of the use and the district line on the lot/parcel is submitted to the Airport Director and is reviewed and approved pursuant to the procedure contained in Section 24.08(1) Procedure.
4. The permitted use, if developed, in no way creates or increases any hazard within the airspace required for takeoff, landing, or flight of aircraft.

(4) Review Procedure and Proposed District Changes

1. Applicant for district change shall contact the Brown County Airport Director who shall provide a copy of "Criteria for District Changes" (attached) and instructions on the correct method of filling out the form.

2. Applicant shall complete the "Criteria for District Change" forms and submit them to the Airport Director, along with all additional information required to support the information including: copies of approved subdivision plats, certified survey maps,

assessments or billings for public improvement, percolation tests, site plans and bills/receipts for costs incurred.

3. The Airport Director shall include the request for a district change on the next regularly scheduled meeting of the Brown County Planning, Development and Transportation Committee provided the request for a change is submitted at least ten (10) working days prior to the officially scheduled meeting.

4. The Planning, Development and Transportation Committee shall review the request for a district change based upon the information submitted and any additional information they may deem necessary. A maximum of 100 total points (based on the numerical values assigned in Part B of the "Criteria for District Change") may be accrued. A minimum of fifty one (51) points shall be accrued before the Brown County Planning, Development and Transportation Committee shall consider approving the requested district change. The Brown County Planning, Development and Transportation Committee shall only approve those requests for a district change that:

a. Will not result in potential health or safety problems for either aircraft or property owners/users, and;

b. Are compatible with both the recommended long and short term uses of the airport.

(5) Zoning District Amendments.

(a) Amendments to the ordinance shall follow the procedure contained in Section 114.136 Wisconsin Statutes.

(b) Any amendment of the underlying municipal zoning ordinances that affects any district created by this ordinance shall require prior notification of the Airport Director by the Clerk of the municipality considering the change. If the proposed amendment would conflict with this ordinance, cause potential harm to aircraft or result in incompatible land uses, the Airport Director shall file a protest against the proposed amendment. The protest shall detail the reason for the protest. The municipality considering the proposed amendment shall consider such a protest as equal to any protests filed pursuant to either 59.69, 60.61, 61.35 or 62.23, Wisconsin Statutes and follow the procedures contained therein.

**24.14 DISTRICT'S PURPOSE.** The District's purpose is to protect and provide for the public health, safety, convenience and to protect the aerial approaches to the airport. These provisions are also intended to implement the recommendations of the current Austin Straubel International Airport Master Plan Report as updated. The recommendations take into account the need to protect approaches to the airport from incompatible land uses that would limit or adversely affect the airport's ability to serve the present and future air transportation needs of Brown County.

**24.15 DISTRICT A. NOISE CONTOUR/CRASH HAZARD.**

(1) District A shall be mapped to encompass areas which, due to the operation of aircraft, have a noise rating of 65 ldn or greater and are within the aircraft Crash Hazard area.



(2) Permitted Uses. In addition to the limitations on development and uses contained in the underlying zone, uses allowed in this zone are limited to:

(a) Agriculture, including incidental non-residential facilities (provided they meet the required height regulations), except mink and poultry production.

(b) Floriculture, horticulture, silviculture, hatcheries, orchards, game farms, mammal or wildlife sanctuaries and game preserves.

(c) Mining and excavation.

(d) Open Space.

(e) Transportation routes including roads and rail lines.

(f) Parking lots or parking facilities.

(g) Airport owned or airport operated facilities.

(h) Limited Commercial, including the following:

(1) Automotive related:

- a. Automotive body repair shops
- b. Automotive parts and supply distributors
- c. Automotive rental/leasing agencies
- d. Automotive sales and service

(2) Bakeries-wholesale

(3) Business forms printing/production

(4) Commercial printing

(5) Construction - general building contractors

(6) Florists - wholesale

(7) Forestry services - those services relating to forestry economics, marketing and preparation of forest management plans

(8) Furniture repair/reupholstery

(9) Greenhouses

(10) Landscape and horticultural services

(11) Laundry cleaning and garment services

(12) Lawn and garden supply stores - wholesale

(13) Lumber and construction materials - wholesale

(14) Machinery equipment and supplies

(15) Mail order house

(16) Mobile home sales - only

(17) Motor vehicle sales

(18) Newspaper publishing, publishing and printing

(19) Periodicals: publishing, publishing and printing

(20) Plumbing/heating equipment supplies

(21) Service industries for the printing trade

(22) Veterinary services.

(23) Any other commercial activity that does not encourage concentrations of people and is found appropriate by the Airport Director/Planning, Development and Transportation Committee, pursuant to Section 24 of this ordinance, provided the proposed development meets the following requirements:

- a. The affected parcel is zoned for that use by the underlying municipal zoning ordinance.
- b. All enclosed office, sales, and work areas that will be subject to a minimum of four hours of continuous human occupancy per working day shall utilize construction techniques that provide a minimum of twenty (20) decibels outdoor to indoor noise level reduction over the industry standards for similar structures.

(i) Industrial Park uses that meet the following:

- (1) The affected parcel is zoned for that use by the underlying municipal zoning ordinance.

(j) Light Industrial uses that meet the following:

- (1) The affected parcel is zoned for that use by the underlying municipal zoning ordinance.

(k) Heavy Industrial uses that meet the following:

- (1) The affected parcel is zoned for that use by the underlying municipal zoning ordinance.

(3) Uses which are specifically prohibited are: residential (except that directly related to a farm operation that exceeds 35 acres and includes soundproofing construction techniques that provide a minimum of twenty (20) decibels outdoor to indoor noise level reduction over current industry standards), hospitals, churches, schools, theaters, amphitheaters, stadiums, campgrounds, any construction activity or use that would encourage the concentration of bird (avian) populations, places of public or semi-public assembly and any other structure or use which may be susceptible to being adversely affected by loud and extensive noise or would interfere in the use or operation of the airport.

#### **24.16 DISTRICT B. OVERFLIGHT/NOISE.**

(1) District B shall be mapped to include areas subject to noise levels and crash hazards resulting from frequent overflights of aircraft and to encourage land uses which, with proper construction, will not be adversely affected by such noise and are compatible with the airport's activities and operations. District B shall be divided into two separate subdistricts: urban and rural. The urban subdistrict includes those lands within the Brown County Year 2000 Sewer Service Area as delineated by the Brown County Planning Commission and approved by the Wisconsin Department of Natural Resources. The rural subdistrict encompasses the remaining land within this district.

(2) Permitted Uses.

(a) All uses permitted in District A.

(b) Residential uses that meet the following:

(1) Density

(a) Urban Subdistrict: shall meet the requirements of the underlying municipal zoning ordinance. In no event shall churches, schools, colleges, universities or artificial lakes be allowed.

(b) Rural Subdistrict: shall meet the minimum required lot size, 40,000 square feet, contained in the Brown County Subdivision and Platting Regulations of the Brown County Code.

(2) Construction techniques provide a minimum of five (5) decibels outdoor to indoor noise level reduction over the industry standard for similar structures.

(c) Cemeteries.

(d) Commercial activity that is in accord with the underlying municipal zoning ordinance including: manufacturing, transportation facilities, retailing services, utilities, warehousing and wholesaling, provided they meet the following minimum requirements:

(1) Density:

(a) Urban Subdistrict; shall meet the requirements of the underlying municipal zoning ordinance.

(b) Rural Subdistrict; shall meet the minimum lot size, 40,000 square feet, contained in the Brown County Subdivision and Platting Regulations of the Brown County Code.

(2) All enclosed office, sales and work areas that will be subject to a minimum of four hours of continuous human occupancy per working day shall utilize construction techniques that provide a minimum of five (5) decibels outdoor to indoor noise level reduction over industry standards for similar structures.

(e) Industry that meets the following requirements:

(1) Density

(a) Urban Subdistrict: shall meet the requirements of the underlying municipal zoning ordinance.

(b) Rural Subdistrict: shall meet the minimum lot size, 40,000 square feet, contained in the Brown County Subdivision and Platting Regulations of the Brown County Code.

#### **24.17 DISTRICT C. HEIGHT/NOISE.**

(1) District C shall be mapped to include all areas within three (3) statute miles of the airport boundaries. Whenever a property owner within this district applies for a building permit, he/she shall be informed by the municipal building inspector of the amount of the property located within the zone. The building inspector shall inform the property owner of construction or remodeling techniques that would decrease the noise associated with the airport operation. These techniques include additional insulation and air conditioning.

(2) Permitted Uses.

(a) All uses permitted in the underlying zone of the affected community, provided the use meets the airport's height restrictions.

**COPIES OF THE AIRPORT ZONING DISTRICTS MAPS ARE AVAILABLE UPON REQUEST  
IN THE BROWN COUNTY CLERK'S OFFICE.**