



# **SCOTTSBLUFF CITY**

## **PLANNING COMMISSION AGENDA**

**Monday, November 23, 2015, 7:00 PM**

### **PLANNING COMMISSIONERS**

BECKY ESTRADA  
CHAIRPERSON

ANGIE AGUALLO  
VICE CHAIRPERSON

DANA WEBER

HENRY HUBER

MARK WESTPHAL

CALLAN WAYMAN

DAVID GOMPERT

JIM ZITTERKOPF

ANITA CHADWICK

LINDA REDFERN  
ALTERNATE

- 1. WELCOME TO THE PLANNING COMMISSION MEETING:** Chairman
- 2. NEBRASKA OPEN MEETINGS ACT:** For all interested parties, a copy of the Nebraska Open Meetings Act is posted on a bulletin board at the back of the council chambers in the west corner.
- 3. ROLL CALL:**
- 4. NOTICE OF CHANGES IN THE AGENDA:** Additions may not be made to this agenda less than 24-hours prior to the beginning of the meeting unless added under item 5 of this agenda.
- 5. CITIZENS WITH ITEMS NOT SCHEDULED ON THE REGULAR AGENDA:** As required by State Law, no item may be considered under this item unless the Planning Commission determines that the matter requires an emergency action.
- 6. APPROVAL OF THE PLANNING COMMISSION MINUTES FROM:**
  - A Minutes**  
Approve minutes of 10/12/15
  - B Comprehensive Plan**  
Update: Comprehensive Plan
  - C Airport Zoning**  
Ordinance text Change: Airport Zoning  
Applicant: Scotts Bluff County  
Owner(s) Scotts Bluff County  
Location: N/A
- 7. UNFINISHED BUSINESS:**
  - A Unfinished Business**  
Unfinished Business: None
- 8. ADJOURN**

The public is invited to participate in all Planning Commission Meetings. If you need special accommodations to participate in the meeting, please contact the Development Services Department at (308) 630-6243, 24-hours prior to the meeting.

**City of Scottsbluff, Nebraska**  
**Monday, November 23, 2015**  
**Regular Meeting**

**Item Appr. Min.1**

**Minutes**

*Approve minutes of 10/12/15*

Staff Contact: Annie Urdiales

**Planning Commission Minutes  
Regular Scheduled Meeting  
October 12, 2015  
Scottsbluff, Nebraska**

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, October 12, 2015, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on October 2, 2015. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

**ITEM 1:** Chairman, Becky Estrada called the meeting to order. Roll call consisted of the following members: Anita Chadwick, Angie Aguillo, Callan Wayman, David Gompert, Jim Zitterkopf, Henry Huber, and Becky Estrada. Absent: Dana Weber, Mark Westphal, & Jim Zitterkopf. City officials present: Annie Urdiales, Planning Administrator, Annie Folck, City Planner, and Gary Batt, Code Administrator II.

**ITEM 2:** Chairman Estrada informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on bookcase in the back area of the City Council Chamber, for those interested parties.

**ITEM 3:** Acknowledgment of any changes in the agenda: None.

**ITEM 4:** Business not on agenda: None

**ITEM 5:** Citizens with items not scheduled on regular agenda: None

**ITEM 6:** The minutes of September 14, 2015 were reviewed and approved. A motion was made to accept the minutes by Wayman, and seconded by Gompert. **"YEAS"**: Huber, Wayman, Gompert, Chadwick, and Estrada. **"NAYS"**: None. **ABSTAIN**: Aguillo. None. **ABSENT**: Weber, Westphal, and Zitterkopf. Motion carried.

**ITEM 7A:** The Planning Commission opened a public hearing for an Ag Estate Dwelling Site (AEDS). This AEDS is located on West 42<sup>nd</sup> street. The Jean Pieper Family Trust applied for a variance from the Board of Adjustment for an AEDS on the southwest corner of their farm. The farm property is addressed as 1605 W. 42<sup>nd</sup> Street. The variance requested was to allow for two (2) Agricultural Estate Dwellings sites (AEDS) on the farm ground. The property is situated in our extra territorial jurisdiction northwest of the City and zoned Agricultural, our code allows for one Agricultural Estate Dwelling is allowed in an A - Agricultural zoning district. The Pieper Family was approached about buying a separate two acres of land on the southwest corner which is cut off by the Scottsbluff drain which makes the area difficult & unproductive to farm. In the future, if the property were to be subdivided, this area would remain cut off from the rest of the property by the Scottsbluff Drain the family asked for the variance to allow them to do two Ag Estate Dwellings on the farm land. The Board of Adjustment approved the variance at their meeting of August 10, 2015. Both areas front West 42<sup>nd</sup> Street (an existing dedicated public road) and will have a width of 150 feet; they will also meet the two acre minimum lot size requirement for an AEDS. City sewer runs along 42<sup>nd</sup> Street and to the back of the area on the SW corner. A well will be used for this Ag dwelling site. The second AEDS will come before the Planning Commission at one of our future Planning Commission meetings.

**Conclusion:** A motion was made by Huber and seconded by Wayman to make a positive recommendation to approve the Ag Estate Dwelling – a tract of land situated in the east half of the SW ¼ of Section 10, T22N, R55W of the 6th P.M., Scotts Bluff County, Nebraska located in an A – Agricultural zoning district. **“YEAS”:** Aguillo, Chadwick, Gompert, Wayman, Huber, and Estrada. **“NAYS”:** None. **ABSTAIN:** None. **ABSENT:** Weber, Westphal, & Zitterkopf. Motion carried.

**ITEM 7B:** The Planning Commission re-opened a public hearing for a proposed text amendment change to Chapter 21 of the Subdivision Code 21-1-20 alley location – an alley shall be provided at the rear of every lot proposed for business purposes. At the last meeting we discussed how we have had a few commercial developments/subdivisions come before the Planning Commission and discussed is the placement of alleys on these developments. These alley requirements have hindered some of the proposed developments and the developers have asked for variances to this requirement. We checked with legal and they proposed some language to the code. The Planning Commission asked if there was anyway stronger language could be added that would allow for stronger enforcement on the maintenance of the easements and alleys. When the City reviews new commercial development and subdivisions alleys and easements are shown on the plats/plats this is when we can ask for changes and requirements from the owners/developers, there are city wide alleys and easements and the City maintains what's required by us (grading, gravel & general maintenance) and if the property owner is responsible we have our code enforcement send notices if and when we get complaints. The change to code adds more flexibility to new development allowing for the best plan for each type of development and puts the burden on the developer on how access will be provided for the best plan for all types of maintenance and emergency vehicles.

The following language was added to the code - *An alley shall be provided at the rear of every lot used or proposed to be used for business purposes. Provided, however, a subdivision may be approved without an alley at the rear of a lot, if the following conditions are met:*

*(1) The applicant has provided and will maintain access sufficient for emergency vehicles and City vehicles needed for trash, sewer, water or other City services, as well as access for delivery vehicles; or*

*(2) The applicant has provided and will maintain an access easement(s) sufficient for the City to use for emergency vehicles, other city vehicles for trash, sewer or water.*

*If the Owner agrees to provide access under subparagraph (1) or subparagraph (2), in either situation, the City, through its Planning and Development Department, Public Works Department and Fire Department (“Departments”), will conduct a review of the proposed subdivision to determine if sufficient access or easements are present, if the Departments make such a determination they will recommend the Mayor or Council President sign a written waiver on behalf of the City for the required alley and its location.*

**Conclusion:** A motion was made by Wayman and seconded by Aguillo to approve the ordinance amendment change to 21-1-20 alley location on commercial development. **“YEAS”:** Huber, Aguillo, Chadwick, Gompert, Wayman, and Estrada. **“NAYS”:** None. **ABSTAIN:** None. **ABSENT:** Weber, Westphal, & Zitterkopf. Motion carried.

**ITEM 8: Unfinished Business:** Annie Folck, reminded the Planning Commission about the Planning Conference to be held on Thursday, October 15<sup>th</sup>, we hope to see some of the members there. Also the open houses for the public hearings regarding updates to the Comprehensive Development, she will email the information for the website which is [scottsbuffplanning.org](http://scottsbuffplanning.org). The open houses are scheduled for October 17<sup>th</sup> at the Winter Farmers Market, parent teacher conferences will be held on October 27<sup>th</sup> at Bluff's Middle School 4:00 p.m. to 7:30 p.m., the 28th Roosevelt Elementary School 4:00 p.m. to 7:30 p.m., and the 29th Westmoor Elementary from 8:00 a.m. to 11:00 a.m. Information will be available to the public and we will have a survey people can do on line; the schools have also agreed to have their computer labs open and made available to the public who do not have access to a computer, we hope that they will take the time while at the conference and fill out the surveys.

112 There being no further business, a motion to adjourn was made by Aguallo and seconded by Chadwick.  
113 The meeting was adjourned at 6:25 p.m. **"YEAS"**: Gompert, Aguallo, Wayman, Chadwick, Huber, and  
114 Estrada. **"NAYS"**: None. **ABSTAIN**: None. **ABSENT**: Weber, Westphal, and Zitterkopf. Motion carried.

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Becky Estrada, Chairperson

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119 Attest: \_\_\_\_\_

120 Annie Urdiales

**City of Scottsbluff, Nebraska**  
**Monday, November 23, 2015**  
**Regular Meeting**

**Item Appr. Min.2**

**Comprehensive Plan**

*Update: Comprehensive Plan*

**Staff Contact: Annie Folck**



# SCOTTSBLUFF PLANNING COMMISSION Staff Report

**To:** Planning Commission  
**From:** Development Services Department  
**Date:** November 23, 2015  
**Subject:** Comprehensive Development Plan Update  
**Location:** N/A

The City is continuing to gather input from the public on the Comprehensive Plan. The online surveys will be open until November 30th. This has been a great way to obtain public feedback, with over 175 responses collected so far. Once the survey is closed, those comments as well as the information collected at the open houses will be compiled to draft the parts of the Comp plan referring to overall community vision, parks and recreation, and transportation.

In the meantime, staff has been drafting the chapters on utilities and land use. The City's options and opportunities in these two areas are dependent on existing conditions and physical limitations, which are explained in the draft chapters. While we may add some of the community comments into these chapters later on, for the most part, these chapters will explain existing conditions and outline the options that the City has for encouraging growth.

No action at this time.

## RECOMMENDATION

***Approve: N/A***

***Deny: N/A***

***Table: N/A***

**City of Scottsbluff, Nebraska**  
**Monday, November 23, 2015**  
**Regular Meeting**

**Item Appr. Min.3**

**Airport Zoning**

*Ordinance text Change: Airport Zoning*

*Applicant: Scotts Bluff County*

*Owner(s) Scotts Bluff County*

*Location: N/A*

Staff Contact: Annie Folck





# SCOTTSBLUFF PLANNING COMMISSION Staff Report

**To:** Planning Commission  
**From:** Staff Development Services  
**Date:** November 23, 2015  
**Subject:** Proposed Ordinance text changes in Chapter 25, Article 23, relating to Airport Zoning Regulations

As a result of the passage of LB 140, 2013, Neb. Revised Statute, §3-301 et seq., was amended, changing the requirements regarding Airport Zoning. The Scotts Bluff County Airport asked us to make these changes on our Airport Overlay zoning requirements.

I have attached current zoning with the proposed changes. Under 25-23-2. Definitions, four definitions were added, Electrical Facility, Existing Runway, Proposed Runway and Political Subdivision, the definition of Runway was also changed.

Section 25-3-4. Airport Encroachment Area was changed to Airport Hazard Area Description with a definition of the different zones within the area.

Section 25-23-5 Height Limits was changed to Zone Description. With descriptions of the Operation zones and Approach Zones, these zones describe length, width & height for operation zones, length, width & height limit for instrument runways & visual runways. The Transition and Turning zones are defined separately. These changes combined and cleaned up the previous language.

Section 25-3-6. Is now Height Restrictions.

Section 25-23-7 Use Regulations. Language is the same. (section numbers realigned with the change & addition of 25-23-6)

Section 25-23-8 Non-Conforming Uses. Language is the same.

Section 25-23-9 Administration & Enforcement of Article language was reworded and the Development Services Department will still be in charge of enforcing this article.

Section 25-23-10. Permit; Required & Exceptions. New language This information describes permits needed with requirements and the permit exceptions.

Section 25-23-11. Appeals. This language remains the same.

Attached is the ordinance along with highlighted area noting the changes.

## RECOMMENDATION

### Approve

Make a motion for positive recommendation for City Council to approve proposed ordinance text amending Chapter 25, Article 23, relating to Airport Zoning Requirements subject to the following condition(s):

### Deny

Make a motion for negative recommendation to City Council to disapprove proposed ordinance text amending Chapter 25, Article 23, relating to Airport Zoning Requirements for the following reason(s):

### Table

Make the motion to TABLE the proposed ordinance text amending Chapter 25, Article 23, relating to Airport Zoning Requirements for the following reason(s):

## ARTICLE 23 AIRPORT ZONING OVERLAY AREA

### Section

25-23-1 Purpose.

25-23-2 Definitions.

25-23-3 Adoption of Western Nebraska Regional Airport, Airport Layout Plan.

25-23-4 Airport Encroachment Area.

25-23-5 Height Limits.

25-23-6 Use Regulations.

25-23-7 Nonconforming Uses.

25-23-8 Administration and Enforcement of Article.

25-23-9 Appeals.

25-23-1. Purpose.

This Article shall be known as airport zoning regulations. These regulations are intended to provide for the safe operation of aircraft into and out of Western Nebraska Regional Airport, William G. Heilig Field.

### **25-23-2. Definitions**

The following definitions shall be used for terms contained in this section that are not otherwise defined.

**Airport.** Western Nebraska Regional Airport, William G. Heilig Field, Scottsbluff, Nebraska.

**Airport Elevation.** William G. Heilig: 3,944 feet MSL.

**Airport Encroachment.** Any structure, tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at Western Nebraska Regional Airport, William G. Heilig Field, or is otherwise hazardous to the operation of aircraft.

**Airport Encroachment Area** Any area of land or water upon which an airport hazard might be established if not prevented by this Article.

**Departure Limit.** The horizontal line perpendicular to the runway center line, established as the beginning of the usable takeoff runway.

**Landing Area.** The area of the airport intended for use for the landing, taking off or taxiing of aircraft.

**Landing Threshold.** A horizontal line, perpendicular to the runway center line, established as the beginning of the usable landing runway.

**Mean Sea Level.** The United States Coast and Geodetic Survey zero datum plane, abbreviated "MSL".

**Nonconforming Use.** Any structure, tree or use of land which does not conform to the requirements of this Article, or an amendment thereto, as of the effective date of this Article or amendment.

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

**Runway.** That portion of the landing area intended for the landing and/or taking off of aircraft. **New-** Runway means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.

**Structure.** Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

**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 feet.

**Zoning Reference Point.** The point of intersection of the center line of William B. Heilig Field, Runway 12/30 with the center line of William B. Heilig Field, Runway 5/23.

**Locations and Borders.** Vicinity of the airport located in Sections 16, 17, 20 and 21, Township 22, Range 54, Scotts Bluff County, Nebraska.

**Electrical Facility.** Electrical facility means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. Rev. Stat., §70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

**Existing Runway.** Existing runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

**Proposed Runway.** Proposed runway means an instrument runway or a visual runway that has not been constructed and is not under construction, but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

**Political Subdivision.** Political subdivision means any municipality, city village, or county.

### 25-23-3. Adoption of Western Nebraska Regional Airport, Airport Layout Plan

In order to define the dimensions of the zones established by these regulations, the City of Scottsbluff adopts the Airport Project No. 3-31-0072-22, Airport Layout Plan, dated May 16, 1994.

All subsequent adopted Airport Layout Plans are incorporated by reference.

Area below has been replaced with new language

#### **OLD LANGUAGE REMOVED 25-23-4. Airport Encroachment Area**

There is created an airport encroachment area which consists of runway area zones, approach departure zones, transition zones, horizontal zone, and conical zone, which are shown on the airport zoning map and defined as follows:

**Runway Area Zones.** Runway area zones are established along the runways, having a width of 1,000 feet symmetrically located along both sides of the center line of the runway and all other area between parallel runways, and extended longitudinally 200 feet beyond the outermost landing threshold, departure limit, or departure threshold at each end of the runway.

**Approach-Departure Zones.** Approach-departure zones are established beyond and outward from the landing thresholds and departure limits of the runways, having a width of 1,000 feet at their beginning, and a distance of 200 feet outward from the landing thresholds and departure limits, symmetrically located along both sides of the extended center line of the runway, and widening uniformly to a width of 16,000 feet at the outer limit of the zone, a distance of 50,000 feet outward from the landing thresholds and departure limits.

**Transition Zones.** Transition zones are established along both sides of all runways, and adjacent to the runway area zone, extending laterally outward therefrom for varying distances to a line formed by the locus of the points where the height limits of the transition zones equal the height limit of the horizontal zone or equal the transition zone of runway area zones, and being between the beginning of the approach-departure zones at each end of the runway.

Further, transition zones are established along both sides of all approach-departure zones, and extending laterally outward therefrom for varying distances to a line formed by the locus of the points where the height limits of the transition zone equal the height limits of the horizontal zone or the height limits of the conical zone, or for a distance of 5,000 feet, whichever is less. Transition zones so established extend longitudinally between the inner and outer limits of the approach-departure zones, which is a distance of 50,000 feet.

**Horizontal Zone.** A horizontal zone is established which has as its outer boundary a line which is at all times 10,000 feet beyond the landing area and 150 feet above airport elevation.

**Conical Zone.** The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

#### **25-23-5. Height Limits**

No structure, tree or other use of land shall be permitted which exceeds the height limit set forth by this section. The following height limits are established for each of the zones, as follows:

**Runway Area Zones.** The height limit for runway area zones shall be level with the runway center line, measured perpendicularly therefrom, except in the areas between a landing threshold or departure

limit and the beginning of its related approach-departure zone, where the height limit will be level with the center line of the runway as it exists at the landing threshold or departure limit.

**Approach-Departure Zones.** The height limit for approach-departure zones shall be one (1) foot in height for each fifty (50) feet in horizontal distance, beginning at the inner limit of the zone at the elevation of the related landing threshold or departure limit, and extending longitudinally along the extended runway center line, to the outer limit of the zone.

**Transition Zones.** The height limit for transition zones established adjacent to runway area zones shall be one (1) foot in height for each seven (7) feet in horizontal distance, beginning at the inner limit of the zone and at the height limit of the runway area zone, and extending laterally, measured perpendicular to the runway center line, to the outer lateral limit of the zone. For such zones established adjacent to the lateral limits of the approach-departure zones, the height limit shall be one (1) foot in height for each seven (7) feet in horizontal distance, beginning at the inner limit of the zone and at the height limit of the adjacent approach-departure zone, and extending laterally, measured perpendicular to

the runway center line, to the outer lateral limits of the zone.

Horizontal Zones. The height limit for horizontal zones shall be 150 feet above the airport elevation.

Conical Zone. A conical zone is established as the area that slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

Conflicts of Height Limits. Where an area is subject to more than one height limit, the most restrictive limit shall apply.

#### **NEW LANGUAGE** 25-23-4. Airport Hazard Area Description.

The Airport Hazard Area shall consist of Operation Zones, Approach Zones, Turning Zones and Transition Zones as described in this article.

#### 25-23-5 Zone Description

1. The Operation Zones are longitudinally centered on each existing or proposed runway.

A. Length. For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway. For existing and proposed turf runways, the operation zones begin and end at the runway ends.

B. Width. For existing and proposed instrument runways, the operation zones are 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zones are 500 feet wide, with two hundred fifty feet on either side of the runway centerline.

C. Height. The height limit of the operation zones is the same as the height of the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.

2. The Approach Zones extend from the end of each operation zone and are centered along the extended runway centerlines. An approach zones' dimensions are as follows:

##### A. Instrument Runways.

i. Length and Width. The approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand (1,000) feet wide at the end of the nearest runway (i.e. adjacent to the operation zone) and expands uniformly to sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone (i.e. ten miles (10) from the operation zone).

ii. Height Limit. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally (50:1), except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at the runway end. At three (3) miles from said operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally (50:1) and continues to the ten (10) mile limit.

##### B. Visual Runways.

i. Length and Width. An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred (500) feet wide at the end of the zone nearest the runway (i.e. adjacent to the operation zone) and expands uniformly so that at a point on the extended runway centerline three (3) miles from the operation zone, the approach zone is three thousand seven hundred feet wide.

ii. Height. The highest limit of an approach zone begins at the elevation of the runway and for which it is the approach and rises one foot vertically for every fourth (40) feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway and elevation within three miles of the end of the operation zone at the runway end.

3. The Transition Zones extend outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.

4. The Turning Zones are located at a distance of three miles (3) radius from the corners of the operational zone and each runway and conceding adjacent arcs with tangent lines, excluding any area within the operation zone, approach zone or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

**25-23-6. Height Restrictions.**

No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 25-23-5.

**25-23-7. Use Regulations**

Notwithstanding any other provision of this Article, no use may be made of any land within any runway area zone, approach-departure zone, horizontal zone, conical zone or transition zone in any manner as to create electrical interference with the radio or radar communication or navigation aids between the airport and aircraft; make it difficult for air crews to distinguish between airport lights and others; result in glare in the eye of air crews using the airport; impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of aircraft within these zones.

**25-23-8. Nonconforming Uses**

Continuation of lawful nonconforming uses. Any land use lawfully existing on the effective date of this chapter may continue, subject to the provisions of this section.

Enlarging degree of nonconformance. No nonconforming structure or tree shall be built, replaced, altered, replanted or allowed to grow to a height that increases the degree of nonconformance or that violates the height limits established by this section.

Damage or destruction.

(1) Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

(2) Any nonconforming tree which has been damaged or decayed to the extent of 50 percent or more shall be removed.

Abandonment. If any structure or property containing a lawful nonconforming use becomes vacant or unused for a continuous period of six months, any subsequent use must conform to all airport zoning regulations.

Unlawful nonconforming uses. These provisions shall not be interpreted as authorization for or approval of the continuation of any structure, use, or tree in violation of any zoning regulations in effect on or before the effective date of this chapter.

**25-23-9. Administration and Enforcement of Article ~~OLD LANGUAGE REMOVED~~**

**Enforcement by Appropriate Political Subdivision.** The location of various encroachment areas is within the zoning authority of the City of Scottsbluff. In order to properly enforce the Airport Zoning Regulations and protect air traffic at Western Nebraska Regional Airport, the City Council for the City of Scottsbluff grants to the City of Scottsbluff Development Services Department authority to act as administrative agency and enforcement agency as it pertains to the enforcement of these Airport Zoning Regulations only.

Administrative Agency. It shall be the duty of the City of Scottsbluff Development Services Department to enforce this Article, and the City of Scottsbluff Development Services Department is appointed the "administrative agency" provided for in R.R.S., 1943, §3-319. The appropriate administrative agency shall have all the powers and perform all duties as provided by the Airport Zoning Act.

Permit applications. Applications for permits shall be made to the City of Scottsbluff Development Services Department upon a form furnished by it. Any application shall be promptly considered and

granted or denied. Applications for action by the zoning Board of Adjustment shall be transmitted in accordance with the applicable provisions of these "Airport Zoning Regulations," appropriate city ordinances and state law.

#### NEW LANGUAGE - 25-23-9 Administration and Enforcement of Article.

Enforcement by Appropriate Subdivision. The location of various encroachment areas is within the City of Scottsbluff. It shall be the duty of the City of Scottsbluff Development Services Department ("Development Services Department") to enforce this article, and the Development Services Department is appointed the "administrative agency" provided for in R.R.S., 1943, §3-319. The Development Services Department shall have all the powers and perform all duties as provided by the Airport Zoning Act.

#### 25-23-10 Permit; Required and Exceptions.

1. Permit Required. It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wires, or any other structure or appurtenance within the Hazard Area without first obtaining a permit from the Development Services Department upon a form furnished by it. Any application shall be promptly considered and granted or denied. Applications for action by the Board of Adjustment shall be transmitted in accordance with the applicable provisions of the Airport Zoning Regulations, appropriate City and/or County Ordinances, and/or State Law. It shall also be unlawful to plant or replant any tree or other object of natural growth without the necessary permit.

2. Permit Exceptions. Within the outer area of the Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting that is not higher than seventy-five (75) feet above the nearest existing or proposed runway end.

The repair, reconstruction, or replacement of non-conforming electric facilities will be permitted in compliance with neb. Rev. Stat. §3-311(3).

3. Location Sketch and Zoning Map. The boundaries, Approach Zones, Operations Zone, Transition Zones, and Turning Zones of the airport are indicated on the Zoning Map that accompanies and is made a part of this article by reference. A copy of the airport hazard area zoning regulations shall at all times be on file in the office of the Airport Director located at Western Nebraska Regional Airport.

#### 25-23-11. Appeals

Designation of Board of Adjustment. The City of Scottsbluff's Board of Adjustment shall be the Board of Adjustment with respect to this section and shall have and exercise the powers conferred by R.R.S. 1943, §3-320, and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decisions or actions made in administration of this Article may appeal such decision or action to the Board of Adjustment for the City of Scottsbluff. Any appeal taken pursuant to this section shall be by the procedure established by law.

Powers of the Zoning Board of Adjustment. The City of Scottsbluff's Board of Adjustment shall have the following powers:

- (1) To hear and decide appeals from any order, requirement or decision made by the permits and inspections division in the enforcement of this section.
- (2) To hear and decide any special exemptions to the terms of this section which such board may be required to pass under this section.
- (3) To hear and decide specific variances under R.R.S. 1943, §3-312.

Appeal from decisions of the Board of Adjustment. Any person aggrieved or affected by a decision of the Board of Adjustment may appeal to the District Court for Scotts Bluff County, Nebraska, in the manner provided in R.R.S. 1943, §3-324 et seq.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA DEALING WITH AIRPORT ZONING REGULATIONS, REPEALING THE PRIOR ARTICLE AT CHAPTER 25, ARTICLE 23 OF THE SCOTTSBLUFF MUNICIPAL CODE AND REPLACING THE ENTIRE ARTICLE, REPEALING ALL PRIOR ORDINANCES, PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Section 1. Chapter 25, Article 23 of the Scottsbluff Municipal Code is amended by repealing the existing language and substituting the following language:

“ARTICLE 23  
AIRPORT ZONING OVERLAY AREA

**Section**

25-23-1	Purpose.
25-23-2	Definitions.
25-23-3	Adoption of Western Nebraska Regional Airport, Airport Layout Plan.
25-23-4	Airport Hazard Area Description.
25-23-5	Zone Descriptions.
25-23-6	Height Restrictions.
25-23-7	Use Regulations.
25-23-8	Non-Conforming Uses.
25-23-9	Administration and Enforcement of Article.
25-23-10	Permit; Required and Exceptions.
25-23-11	Appeals.

**25-23-1. Purpose.**

This Article shall be known as airport zoning regulations. These regulations are intended to provide for the safe operation of aircraft into and out of Western Nebraska Regional Airport, William G. Heilig Field.

**25-23-2. Definitions.**

The following definitions shall be used for terms contained in this article that are not otherwise defined.

Airport. Western Nebraska Regional Airport, William G. Heilig Field, Scottsbluff, Nebraska.

Airport Elevation. William G. Heilig: 3,944 feet MSL.

Airport Encroachment. Any structure, tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at Western Nebraska Regional Airport, William G. Heilig Field, or is otherwise hazardous to the operation of aircraft.

Airport Encroachment Area. Any area of land or water upon which an airport hazard might be established if not prevented by this Article.

Departure Limit. The horizontal line perpendicular to the runway center line, established as the beginning of the usable takeoff runway.

Landing Area. The area of the airport intended for use for the landing, taking off or taxiing of aircraft.

Landing Threshold. A horizontal line, perpendicular to the runway center line, established as the beginning of the usable landing runway.

Mean Sea Level. The United States Coast and Geodetic Survey zero datum plane, abbreviated "MSL".

Non-conforming Use. Any structure, tree or use of land which does not conform to the requirements of this Article, or an amendment thereto, as of the effective date of this Article or amendment.

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

Runway. That portion of the landing area intended for the landing and/or taking off of aircraft.

Structure. Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

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 feet.

Zoning Reference Point. The point of intersection of the center line of William B. Heilig Field, Runway 12/30 with the center line of William B. Heilig Field, Runway 5/23.

Locations and Boarders. Vicinity of the airport located in Sections 16, 17, 20 and 21, Township 22, Range 54, Scotts Bluff County, Nebraska.

Electrical Facility. Electrical facility means an overhead electrical line, including, poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. Rev. Stat. §70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing Runway. Existing runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Proposed Runway. Proposed runway means an instrument runway or a visual runway that has not been constructed and is not under construction, but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to the Federal Aviation Administration.

Political Subdivision. Political subdivision means any municipality, city, village, or county.

### **25-23-3. Adoption of Western Nebraska Regional Airport, Airport Layout Plan.**

In order to define the dimensions of the zones established by these regulations, the City of Scottsbluff hereby adopts the Airport Project No. 3-31-0072-22, Airport Layout Plan, dated May 16, 1994. All subsequent adopted Airport Layout Plans are incorporated by reference.

### **25-23-4. Airport Hazard Area Description.**

The Airport Hazard Area shall consist of Operation Zones, Approach Zones, Turning Zones and Transition Zones as described in this article.

### **25-23-5 Zone Description**

1. The **Operation Zones** are longitudinally centered on each existing or proposed runway.

A. **Length.** For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway. For existing and proposed turf runways, the operation zones begin and end at the runway ends.

B. **Width.** For existing and proposed instrument runways, the operation zones are 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zones are 500 feet wide, with two hundred fifty feet on either side of the runway centerline.

C. **Height.** The height limit of the operation zones is the same as the height of the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.



2. The **Approach Zones** extend from the end of each operation zone and are centered along the extended runway centerlines. An approach zones' dimensions are as follows:

**A. Instrument Runways.**

I. **Length and Width.** The approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand (1,000) feet wide at the end of the nearest runway (i.e. adjacent to the operation zone) and expands uniformly to sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone (i.e. ten miles (10) from the operation zone).

ii. **Height Limit.** The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally (50:1), except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at the runway end. At three (3) miles from said operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally (50:1) and continues to the ten (10) mile limit.

**B. Visual Runways.**

I. **Length and Width.** An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred (500) feet wide at the end of the zone nearest the runway (i.e. adjacent to the operation zone) and expands uniformly so that at a point on the extended runway centerline three (3) miles from the operation zone, the approach zone is three thousand seven hundred feet wide.

ii. **Height.** The highest limit of an approach zone begins at the elevation of the runway and for which it is the approach and rises one foot vertically for every forth (40) feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway and elevation within three miles of the end of the operation zone at the runway end.

3. The **Transition Zones** extend outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.
4. The **Turning Zones** are located at a distance of three miles (3) radius from the corners of the operational zone and each runway and conceding adjacent arcs with tangent lines, excluding any area within the operation zone, approach zone or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

**25-23-6 Height Restrictions.**

No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 25-23-5.

**25-23-7 Use Regulations.**

Notwithstanding any other provision of this article, no use may be made of any land within any runway area zone, approach-departure zone, horizontal zone, conical zone, or transition zone in any manner as to create electrical interference with the radio or radar communication or navigation aids between the airport and aircraft; make it difficult for air crews to distinguish between airport lights and others; result in glare in the eye of air crews using the airport, impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of a aircraft within the zones in this article.

## **25-23-8 Non-conforming Uses.**

1. Continuation of Lawful Non-conforming Uses. Any land use lawfully existing on the effective date of this article may continue, subject to the provisions of this section.
2. Enlarging Degree of Non-conformance. No non-conforming structure or tree shall be built, replaced, altered, replanted or allowed to grow to a height that increases the degree of non-conformance or that violates the height limits established by this article.
3. Damage or Destruction. (a) Should a structure occupied by a lawful non-conforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the non-conforming use shall no longer be permitted; (b) Any non-conforming tree which has been damaged or decayed to the extent of 50 percent or more shall be removed.
4. Abandonment. If any structure or property containing a lawful non-conforming use becomes vacant or unused for a continuous period of six months or longer, any subsequent use must conform to all airport zoning regulations.
5. Unlawful non-conforming Uses. These provisions shall not be interpreted as authorization for or approval of the continuation of any structure, use or tree in violation of any zoning regulations in effect on or before the effective date of this article.

## **25-23-9 Administration and Enforcement of Article.**

Enforcement by Appropriate Subdivision. The location of various encroachment areas is within the City of Scottsbluff. It shall be the duty of the City of Scottsbluff Development Services Department ("Development Services Department") to enforce this article, and the Development Services Department is appointed the "administrative agency" provided for in R.R.S., 1943, §3-319. The Development Services Department shall have all the powers and perform all duties as provided by the Airport Zoning Act.

## **25-23-10 Permit; Required and Exceptions.**

1. Permit Required. It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wires, or any other structure or appurtenance within the Hazard Area without first obtaining a permit from the Development Services Department upon a form furnished by it. Any application shall be promptly considered and granted or denied. Applications for action by the Board of Adjustment shall be transmitted in accordance with the applicable provisions of the Airport Zoning Regulations, appropriate City and/or County Ordinances, and/or State Law. It shall also be unlawful to plant or replant any tree or other object of natural growth without the necessary permit.
2. Permit Exceptions. Within the outer area of the Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting that is not higher than seventy-five (75) feet above the nearest existing or proposed runway end.

The repair, reconstruction, or replacement of non-conforming electric facilities will be permitted in compliance with neb. Rev. Stat. §3-311(3).

3. Location Sketch and Zoning Map. The boundaries, Approach Zones, Operations Zone, Transition Zones, and Turning Zones of the airport are indicated on the Zoning Map that accompanies and is made a part of this article by reference. A copy of the airport hazard area zoning regulations shall at all times be on file in the office of the Airport Director located at Western Nebraska Regional Airport.

## **Section 25-23-11 Appeals.**

1. Designation of Board of Adjustment. The City of Scottsbluff Board of Adjustment shall be the Board of Adjustment with respect to this article, and shall have and exercise the powers conferred by R.R.S. 1943, §3-320, and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decisions or

actions made in administration of this article may appeal such decision or action to the Board of Adjustment. Any appeal taken pursuant to this article shall be by the procedure established by law.

2. Powers of the Zoning Board of Adjustment. The City of Scottsbluff's Board of Adjustment shall have the following powers:

- (1) To hear and decide appeals from any order, requirement or decision made by the Development Services Department in the enforcement of this article.
- (2) To hear and decide any special exemptions to the terms of this article which the Board of Adjustment may be required to pass under this article.
- (3) To hear and decide specific variances under R.R.S. 1943, §3-312.

3. Appeal from the decisions of Board of Adjustment. Any person aggrieved or affected by a decision of the Board of Adjustment may appeal to the District Court for Scotts Bluff County, Nebraska, in the manner provided in R.R.S. 1943, §3-324 et seq.

Section 2. Previously existing Sections 25-23-1 through 25-23-9 and all other ordinances and parts of ordinances in conflict herewith are repealed. Provided, however, this Ordinance shall not be construed to effect any rights, liabilities, duties or causes of action, either criminal or civil, existing or actions pending at the time when this Ordinance becomes effective.

Section 3. This Ordinance shall become effective upon its passage and approval and publication shall be in pamphlet form.

PASSED AND APPROVED on \_\_\_\_\_, 2015.

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk (Seal)

Approved as to form:

\_\_\_\_\_  
City Attorney

**City of Scottsbluff, Nebraska**  
**Monday, November 23, 2015**  
**Regular Meeting**

**Item Unfin. Biz1**

**Unfinished Business**

*Unfinished Business: None*

Staff Contact: Annie Urdiales