

City of Scottsbluff, Nebraska

Monday, December 7, 2015

Regular Meeting

Item Resolut.4

Council to consider an Ordinance text change regarding the Airport Overlay District.

Staff Contact: Annie Folck, City Planner

Agenda Statement

Item No.

For meeting of: December 7, 2015

AGENDA TITLE: Council to consider an ordinance text change in the Airport Overlay District

SUBMITTED BY DEPARTMENT/ORGANIZATION: Planning and Zoning

PRESENTATION BY:

SUMMARY EXPLANATION: As a result of the passage of LB 140 in 2013, the Neb. Revised Statute §3-301 et seq., was amended, changing the requirements regarding airport zoning. The Scotts Bluff County Airport asked us to make the required changes to our Airport Overlay zoning requirements. The changes included adding definitions, some changed terminology, and referencing a zoning map that shows the boundaries, approach zones, operations zone, transition zones, and turning zones of the airport (see attached map).

BOARD/COMMISSION RECOMMENDATION: Planning Commission recommends approval of this ordinance (see attached minutes).

STAFF RECOMMENDATION: Recommend approval of the ordinance

EXHIBITS

Resolution Ordinance Contract Minutes Plan/Map

Other (specify) _____

NOTIFICATION LIST: Yes No Further Instructions

APPROVAL FOR SUBMITTAL: _____
City Manager

Rev 3/1/99CClerk

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 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 fo 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 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 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

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**Planning Commission Minutes
Regular Scheduled Meeting
November 23, 2015
Scottsbluff, Nebraska**

6 The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on
7 Monday, November 23, 2015, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff,
8 Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general
9 circulation in the City, on November 13, 2015. The notice stated the date, hour and place of the meeting,
10 that the meeting would be open to the public, that anyone with a disability desiring reasonable
11 accommodation to attend the Planning Commission meeting should contact the Development Services
12 Department, and that an agenda of the meeting kept continuously current was available for public
13 inspection at Development Services Department office; provided, the City Planning Commission could
14 modify the agenda at the meeting if the business was determined that an emergency so required. A
15 similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission
16 member. An agenda kept continuously current was available for public inspection at the office of the
17 Development Services Department at all times from publication to the time of the meeting.

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

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

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

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

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

34 **ITEM 6:** The minutes of October 12, 2015 were reviewed and approved. A motion was made to accept
35 the minutes by Gompert, and seconded by Huber. **"YEAS"**: Huber, Gompert, Chadwick, Zitterkopf, and
36 Estrada. **"NAYS"**: None. **ABSTAIN**: Redfern, & Weber. None. **ABSENT**: Wayman, Westphal, and
37 Aguallo. Motion carried.

39 **ITEM 7A:** Annie Folck, City Planner, addressed the Planning Commission regarding recent updates for
40 the Comprehensive Development Plan. The City continues to gather input from the public on the
41 Comprehensive Plan, the online surveys will be open until Monday, November 30th. This has been a
42 great way to obtain public feedback, with over 175 responses collected so far. When the survey is
43 closed, those comments as well as the information collected at the open houses will be compiled to draft
44 the parts of the Comp plan referring to overall community vision, parks and recreation, and transportation.

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

53 **ITEM 7B:** The Planning Commission opened a public hearing for a proposed text amendment change to
54 Article 23 Airport Zoning Overlay area. With the passage of LB 140, 2013, Neb. Revised Statute, §3-301
55 et seq., was amended, changing the requirements regarding Airport Zoning. The Scotts Bluff County
56 Airport asked us to make the required changes on our Airport Overlay zoning requirements.

57 Changes include - Under 25-23-2. Definitions, four definitions were added, Electrical Facility, Existing
58 Runway, Proposed Runway and Political Subdivision, the definition of Runway was also changed.
59 Section 25-3-4. Airport Encroachment Area was changed to Airport Hazard Area Description with a
60 definition of the different zones within the area.
61 Section 25-23-5 Height Limits was changed to Zone Description. With descriptions of the Operation
62 zones and Approach Zones, these zones describe length, width & height for operation zones, length,
63 width & height limit for instrument runways & visual runways. The Transition and Turning zones are
64 defined separately. These changes combined and cleaned up the previous language.
65 Section 25-3-6. Is now Height Restrictions.
66 Section 25-23-7 Use Regulations. Language is the same. (section numbers realigned with the change &
67 addition of 25-23-6)
68 Section 25-23-8 Non-Conforming Uses. Language is the same.
69 Section 25-23-9 Administration & Enforcement of Article language was reworded and the Development
70 Services Department will still be in charge of enforcing this article.
71 Section 25-23-10. Permit; Required & Exceptions. New language this information describes permits
72 needed with requirements and the permit exceptions.
73 Section 25-23-11. Appeals. This language remains the same.

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75 Attached is the ordinance along with highlighted areas noting the proposed changes.

76
77 **Conclusion:** A motion was made by Weber and seconded by Zitterkopf to approve the ordinance
78 amendment change to the Airport Zoning Overlay Area. **"YEAS"**: Huber, Zitterkopf, Chadwick,
79 Gompert, Redfern, and Estrada. **"NAYS"**: None. **ABSTAIN**: None. **ABSENT**: Aguallo, Westphal, &
80 Wayman. Motion carried.

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82 **ITEM 8: Unfinished Business:** None.

83
84 There being no further business, a motion to adjourn was made by Weber and seconded by Chadwick.
85 The meeting was adjourned at 6:40 p.m. **"YEAS"**: Gompert, Zitterkopf, Chadwick, Huber, Redfern, and
86 Estrada. **"NAYS"**: None. **ABSTAIN**: None. **ABSENT**: Wayman, Westphal, and Aguallo. Motion carried.

87
88 _____
89 Becky Estrada, Chairperson

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91 Attest: _____
92 Annie Folck