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ORDINANCE NO. 1398

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1257, DATED APRIL 15, 1997, BY ADDING SECTION 21-116, AIRPORT ZONING REGULATIONS TO REGULATE AND RESTRICT THE HEIGHT OF STRUCTURES, OBJECTS OF NATURAL GROWTH, USE OF LAND, MODE OF CONSTRUCTION OF STRUCTURES, AND NOISE WITHIN AREAS IN PROXIMITY OF SHALZ FIELD; AND REPEALING ORDINANCE NO. 949 DATED AUGUST 15, 1978.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COLBY, KANSAS:

SECTION 1: Pursuant to Ordinance No. 1257, Section 21-205, a public hearing was held before the Colby/Thomas County Metropolitan Area Planning Commission on July 13, 2006, adding Airport Zoning Regulations.

SECTION 2: This Ordinance is adopted pursuant to the authority conferred by Sections 19-2927 through 19-2937 of the General Statutes of Kansas. It is hereby found that an airport obstruction has the potential for being hazardous to aircraft operations as well as to persons and property on the ground in the vicinity of such an obstruction. An obstruction may affect land use in its vicinity and may reduce the size of areas available for taking off, maneuvering and landing of aircraft, thus, tending to impair or destroy the utility of Shalz Field, and the public investment therein. Certain other land uses in the vicinity of the airport also have the potential for being hazardous to normal aircraft operations or to increase the potential for personal and property damage in the event of an aircraft accident.

Further, it is hereby found that aircraft noise may be an annoyance or objectionable to residents in the community surrounding Shalz Field.

Accordingly, it is declared that:

- A. The creation or establishment of an airport obstruction which is hazardous to aircraft operations or which reduces the size of the area available for such operations is a public nuisance and an injury to the region served by Shalz Field.
- B. It is necessary in the interest of the public health, public safety, and general welfare that the creation of airport obstructions and the incompatible use of land within certain airport zones be prevented; and
- C. The prevention of these obstructions and incompatible land uses should be accomplished to the extent legally possible, by the exercise of police power without compensation.

It is further declared that preventing the creation or establishment of airport obstructions and incompatible land uses and their elimination, removal, alteration, or mitigation to include marking and lighting of existing airport obstructions is a public purpose for which the political subdivision may raise and expend public funds and acquire land or interests in land.

SECTION 3: That Section 21-116, *Airport Zoning Regulations* be added as follows:

21-116. AIRPORT ZONING REGULATIONS

Design: The purpose of the Airport Zoning Regulations is to establish standards of heights and land uses to prevent the creation of obstructions hazardous to aeronautical operations or which would impair utility and capacity of Shalz Field. These regulations create specific land use limitations and establish procedures for their orderly administration and enforcement.

1. DEFINITIONS

As used in this Ordinance, unless the context otherwise requires:

- A. **AIRPORT** - An area of land or water designed and set aside for the landing and taking off of aircraft, utilized or to be utilized in the interest of the public for such purpose and validly licensed by the State in the Public Airport category.
 - B. **AIRPORT ELEVATION** - The highest point of the airport's usable landing area measured in feet Above Mean Sea Level.
 - C. **AIRPORT OBSTRUCTION** - Any object of natural growth or structure or use of land which would exceed the federal obstructions standards as contained in 14 CFR S.S. 71.21, 77.23, 77.25, 77.28, 77.29 or which obstruct the airspace required for flight of aircraft in taking-off, maneuvering or landing, or otherwise be hazardous to the taking-off, maneuvering, or landing of aircraft.
 - D. **AIRSPACE HEIGHT** - The height limits as established in all zones set forth in this Ordinance. Above Mean Sea Level (AMSL) elevation shall be the datum unless otherwise specified.
 - E. **CLIMB GRADIENT** - Aircraft instrument departure procedure requiring adherence to a minimum climb slope or grade expressed in feet per nautical mile.
 - F. **DECISION HEIGHT** - The height at which a pilot must decide, during an Instrument Landing System (ILS) approach, to either continue the approach or to execute a missed approach.
 - G. **MINIMUM DESCENT ALTITUDE** - The lowest AMSL altitude to which descent is authorized on final approach or during circling - to - land maneuvering in execution of a Standard Instrument Approach Procedure (SIAP) where electronic glide slope is not provided.
 - H. **MINIMUM ENROUTE ALTITUDE (MEA)** - The lowest published altitude between radio fixes that assures acceptable navigational signals coverage and meets obstruction clearance requirements between those fixes.
 - I. **MINIMUM OBSTRUCTION CLEARANCE ALTITUDE (MOCA)** - The lowest published altitude between radio fixes on Federal VOR airways, off-airway routes, or route segments which meet obstacle clearance requirements for the entire route segment and assures acceptable navigational signal coverage only within 22 nautical miles of a VOR.
 - J. **MINIMUM VECTORING ALTITUDE (MVA)** - The lowest AMSL altitude at which aircraft operating on Instrument Flight Rules (IFR) will be vectoring by a radar controller, except when otherwise authorized for radar approaches, departures, or missed approaches.
 - K. **NONCONFORMING USE** - Any pre-existing structure, object or natural growth or use of land which is inconsistent with the provisions of this Ordinance, or amendments thereto.
 - L. **NON-PRECISION INSTRUMENT RUNWAY** - A runway having an instrument approach procedure utilizing air navigational facilities with only horizontal guidance, or area type navigational equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned, and for which no precision instrument approach facilities are planned or indicated on an appropriate civil or military airport planning document.
 - M. **NONSTANDARD TAKE-OFF MINIMUMS** - Conditions of existing weather required for take-off at an airport which exceed the standards prescribed in Federal Aviation Regulations Part 91.
 - N. **OTHER THAN UTILITY RUNWAY** - A runway designed for and intended to be used by all types of aircraft including those having gross weights greater than 12,500 pounds.
 - O. **PRECISION INSTRUMENT RUNWAY** - A runway having an instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MLS), or a Precision Approach Radar (PAR) including a runway for which such a system is planned and is so indicated on an approved civil or military airport layout plan; other FAA planning documents, or comparable military service planning documents.
 - P. **RUNWAY** - A defined area on an airport prepared for landing and take-off of aircraft along its length.
 - Q. **STRUCTURE** - Any object, constructed or installed by man, including but not limited to: buildings, towers, smokestacks, cranes, utility poles, and overhead transmission lines.
 - R. **UTILITY RUNWAY** - A runway that is constructed for and intended to be used only by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
 - S. **VISUAL RUNWAY** - A runway intended solely for the operation of aircraft using visual approach procedures with no instrument approach procedure planned or indicated on an approved civil or military airport layout plan, or by any other planning document submitted to the FAA by competent authority.
 - T. **ZONING ADMINISTRATOR** - The administrative office or agency responsible for administering and enforcing the requirements of this Ordinance within Colby/Thomas County Metropolitan Area or within each political subdivision that adopts this Ordinance. The zoning administrator in Colby/Thomas County Metropolitan Area is the Building Official of Colby, Kansas.
- 2. AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS**
- There are hereby created and established certain zones which include all land lying beneath the approach, transitional, horizontal, and conical surfaces as

they apply to a particular airport. Such zones are shown on the Colby Airport Layout Plan attached to this Ordinance and made a part thereof as Appendix (1). An area located in more than one of the described zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

A. **PRIMARY ZONE** - An area longitudinally centered on each runway, extending 200 feet beyond each end of that runway with the width specified for the most precise approach existing or planned for either end of the runway. The width of each primary zone is as follows:

- Shalz Field**
 - (a) Precision Instrument Runway 17/35; 1,000 feet.
 - (b) Other than utility, non-precision Instrument Runway 12/30; 500 feet.

Zone Height

No structure or obstruction will be permitted within a primary zone that is not part of the landing and take-off facility and is of a greater elevation AMSL height than the nearest point of the runway centerline.

B. **HORIZONTAL ZONE** - An area around each public-use airport with an outer boundary the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary zone of each airport's runways and connecting the adjacent arcs by lines tangent to those arcs. The radius of the arc specified for each end of the runway will have the arithmetic value, and the value will be the highest composite value determined for either end of that runway. When a smaller arc is encompassed by the tangent connecting two adjacent larger arcs, the smaller arc will be disregarded in the construction of the perimeter of the horizontal zone. The radius of each runway arc is:

- Shalz Field**
 - (a) Precision Instrument and Other than Utility, Non-precision Runways 17/35 and 12/30; 10,000 feet.

Zone Height

No structure or obstruction will be permitted in the horizontal zone that has a height greater than 150 feet above the airport height.

C. **CONICAL ZONE** - An area extending outward from the periphery of the airport's horizontal zone for a distance of 4,000 feet.

Zone Height

No structure or obstruction will be permitted in the conical zone that has a height greater than 150 feet above the airport height at its inner boundary with permitted height increasing one (1) foot vertically for every twenty (20) feet of horizontal distance measured outward from the inner boundary to a height 350 feet above airport elevation at the outer boundary.

D. **APPROACH ZONE** - An area longitudinally centered on the extended runway centerline and extending outward from the end of the primary surface. The approach zone is designated for each runway based upon the type of approach available or planned for that runway end.

Approach Zone Widths

The inner edge of the approach zone is the same width as the primary zone. The outer width of the approach zone is prescribed for the most precise approach existing or planned for that runway end expanding uniformly outward to a width of:

- Shalz Field**
 - (a) Precision Instrument Runway 17/35; 16,000 feet.
 - (b) Other than Utility, Non-precision Instrument Runway 12/30; 3,500 feet

Approach Zone Lengths

The approach zone extends for a horizontal distance of:

- Shalz Field**
 - (1) Precision Instrument Runway 17/35; 50,000 feet.
 - (2) Other than Utility, Non-precision Instrument Runway 12/30; 10,000 feet

Approach Zone Heights

No structure or obstruction will be permitted within approach zones having a height greater than the runway end elevation at its inner edge, increasing with horizontal distance from the inner edge as follows:

- Shalz Field**
 - (1) Precision Instrument Runway 17/35, one (1) foot vertically for every fifty (50) feet horizontally for the first 10,000 feet increasing to one (1) foot vertically for every forty (40) feet horizontally for an additional 40,000 feet.
 - (2) Other than Utility, Non-Precision Instrument runway 12/30; one (1) foot vertically for every 34 feet horizontally.

E. **TRANSITIONAL ZONE** - An area extending outward from the sides of each primary zone and approach zone connecting them to the horizontal zone and an area outward 5,000 feet horizontally or until intersection with the conical zone from the side of that portion of the approach zone of a Precision Instrument Runway extending through and beyond the Conical Zone.

Zone Height

No structure or object will be permitted within the transitional zone greater in height than the primary or approach zone at their adjoining lines increasing at a rate of one (1) foot vertically for every seven (7) feet horizontally, with the horizontal distance measured at right angles to the runway centerline and extended centerline, until the height matches the height of the horizontal zone, or the height of the conical zone for a horizontal distance of 5,000 feet from each side of that part of the approach zone for a Precision Instrument Runway extending beyond the conical zone.

F. **OTHER AREAS** - In addition to the height limitations imposed in paragraphs 1. through 5. above, no structure or obstruction will be permitted within Colby/Thomas County Metropolitan Area that would cause a MDA, MOCA, MVA, or a decision height to be raised nor which would impose either the establishment or restrictive minimum climb gradients or nonstandard take-off minimums for any runway at Shalz Field.

AIRPORT LAND USE RESTRICTIONS

NOTWITHSTANDING any other provisions of this Ordinance, no use may be made of the land or water within any zones established by this Ordinance in such manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

- A. All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such manner that it is not misleading or dangerous to aircraft operating from a public airport or in vicinity thereof.
- B. No operations from any type shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of a public airport.
- C. No operations of any type shall produce electronic interference with navigational signals or radio communication between aircraft, the airport, or other air traffic control facility.
- D. Within any airport primary zone or within any runway approach zone area where the zone height is fifty (50) feet or less above the end of the runway, no operations of any type shall involve the storage, distribution or manufacture of flammable, explosive, toxic or other hazardous materials. This restriction shall apply to those materials in a quantity or of a type which if exposed to an aircraft accident, would further jeopardize the safety or health of the aircraft occupants, of facilities in the vicinity, bystanders and emergency personnel or would prevent, delay, limit or otherwise curtail appropriate response actions by emergency personnel.
- E. Within any airport primary zone or within any runway approach zone area where the zone height is fifty (50) feet or less above the end of the runway, no operations of any type shall involve the congregation of people for either short or long-term purposes. This restriction shall apply to any use involving individuals who by their numbers, condition, age or other factor, should they be exposed to an aircraft accident, escalate the resultant effect.
- F. Sanitary landfills shall be considered as an incompatible use if located within areas established for the airport through the application of the following criteria:
 - (1) Landfills located within 10,000 feet of any runway used or planned to be used by turbo jet or turbo prop aircraft.
 - (2) Landfills located within 5,000 feet of any runway used only by piston aircraft.
 - (3) Any landfill located so that it places the runways and/or approach departure patterns of an airport between bird feeding, water, or roosting areas.

- (4) Landfills outside the above perimeters but still within the lateral limits of the airport zones described in 3. Airport Land Use Restrictions, Paragraphs A. through F. will be reviewed on a case-by-case basis.

4. OBSTRUCTION MARKING AND LIGHTING

Any variance or permit granted as a specific condition, requires the owner to mark and light the structure to indicate to aircraft pilots the presence of an obstruction. Such marking and lighting shall conform to the specific standards established by Chapter 14-60, Rules of the Department of Transportation and Federal Aviation Administration Advisory Circular 70/7460-1 as amended.

5. VARIANCES

Any person desiring to erect or increase the height of any structure or use his property not in accordance with the regulations prescribed by this Ordinance, may apply to the Board of Appeals for a variance from such regulations. Additionally, no application for a variance may be considered unless the applicant shows evidence the requirement for Notice of Construction or Alteration Under Title 14, Code of Federal Regulations, Part 77 has been complied with. No application for a variance to the requirements of this Ordinance may be considered by the Board of Appeals unless a copy of the application has been furnished to the Colby/Thomas County Metropolitan Area Planning Commission Zoning Administrator. The Board of Appeals may proceed with consideration of an application only upon receipt of Department of Transportation comments.

6. NONCONFORMING USE

The requirements prescribed by this Ordinance shall not be construed to necessitate the removal, lowering or other changes or alternations of any existing structure or tree not conforming to the requirements as of the effective date of this Ordinance. Nothing herein contained shall require any change in the construction or alteration which has begun prior to the effective date of this Ordinance, and is diligently pursued and completed within two (2) years thereof. The cost of removing or lowering any tree not conforming to the requirements of this Ordinance shall be borne by the proprietor of the airport affected by the non-conforming tree. Before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt or allowed to grow higher or replanted, a permit must be secured from the Building Official of the City of Colby or his duly-appointed designee. No permit shall be granted that would allow the establishment or creation of an obstruction hazardous to aircraft operations or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was as of the effective date of this Ordinance. Whenever the Building Official of the City of Colby determines that a nonconforming use of nonconforming structure or tree has been abandoned or that the cost of repair, reconstruction or restoration exceeds the value of the structure or tree, no permit shall be granted that would allow said structure or tree to be repaired, reconstructed, or restored except by a conforming structure or tree.

7. ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the Building Official of the City of Colby to administer and enforce the requirements prescribed herein within the territorial limits over which the Colby/Thomas County Metropolitan Area Planning Commission has jurisdiction through the permitting process. Prior to the issuance or denial of a Permit by the Building Official of the City of Colby, the Federal Aviation Administration must have reviewed the proposed construction or alteration and issued a determination of the proposal's effect on navigable airspace where such prior notification under Title 14, Code of Federal Regulations, Part 77 is required. Temporary or conditional permits pending completion of the Federal Aviation Administration's review shall not be issued. In the event that the Building Official of the City of Colby finds any violation of the requirements contained herein, the Building Official of the City of Colby shall give notice to the person responsible for such violation in writing. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation. A copy of said notice shall be sent to the Board of Appeals. The Building Official of the City of Colby shall order discontinuance of any work being done, or shall take any or all other action necessary to correct violations and obtain compliance with all the provisions of this Ordinance.

8. BOARD OF APPEALS

A. The Colby/Thomas County Metropolitan Area Planning Commission Zoning Board of Appeals shall have and will exercise the following power on matters relating to areas within their territorial limit of authority:

- (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Building Official of the City of Colby in the enforcement of this Ordinance;
- (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Appeals may be required to pass;
- (3) to hear and decide specific variances.

B. The Board of Appeals shall be administered in accordance with Article 2, Section 21-201 of the adopted Zoning Ordinance.

9. APPEALS

A. Any person aggrieved, or any taxpayer, by any decision of the Building Official of the City of Colby made in the administration of this Ordinance, may appeal to the Board of Appeals.

B. All appeals hereunder must be made within a reasonable time as provided by the rules of the Board of Appeals and shall be submitted in accordance with Article 2, Section 21-201 of the adopted Zoning Ordinance.

C. The Board of Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances.

10. JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected by any new decision of the Board of Appeals, may appeal to the Circuit Court as provided in the State Statutes of Kansas.

11. PENALTIES

Each violation of this Ordinance or of any regulation, order, or ruling promulgated herein shall constitute a misdemeanor of the second degree and be punishable by a fine of not more than 500 dollars or imprisonment for not more than 60 days or both; each day a violation continues to exist shall constitute a separate offense.

12. CONFLICTING REGULATIONS

Where there exists a conflict between any of the requirements or limitations prescribed in this Ordinance and any other requirements, regulations, or zoning applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. The variance to or waiver of any such more stringent limitation or requirement shall not constitute

automatic variance or waiver of the less stringent limitations or requirements of this Ordinance.

13. SEVERABILITY

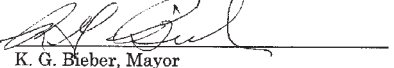
If any of the provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

14. EFFECTIVE DATE

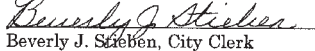
This Ordinance shall take effect on adoption by the Colby/Thomas County Metropolitan Area Planning Commission and acknowledgment from the Department of State of Kansas that it has been filed and does hereby repeal all ordinances or provisions thereof in conflict herewith.

SECTION 4: This Ordinance shall take effect and be in force from and after its passage and publication once in the official City newspaper.

PASSED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR this 18th day of July, 2006.


K. G. Bieber, Mayor

ATTEST:


Beverly J. Schaben, City Clerk

(Seal)