

ORDINANCE NO. 3290

AN ORDINANCE AMENDING THE ADOPTED ZONING REGULATIONS OF THE CITY OF McPHERSON, KANSAS IN ORDER TO ENSURE CONTINUED VIABILITY OF FLIGHT PATHS ASSOCIATED WITH THE MCPHERSON AIRPORT.

WHEREAS, the City of McPherson, Kansas previously adopted zoning regulations;

WHEREAS, concerns have been raised regarding future obstructions to the flight paths associated with the McPherson Airport; and

WHEREAS, the governing body, with recommendations for the City Planning Commission and staff, believe it to be in the best interests of the citizens to protect the viability of the McPherson Airport.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF McPHERSON, KANSAS.

Section 1. **Additions and Modifications.** From and after the effective date of this Ordinance, Ordinance 2963 previously adopting by reference zoning regulations of the City of McPherson, Kansas, as prepared and published in book form as model regulations by the McPherson City Planning Commission with the technical assistance of Foster & Associates, Planning Consultants of Wichita, Kansas and the City Zoning Administrator and entitle "Zoning Regulations of the City of McPherson, Kansas" shall be amended to read as follows:

From and after the effective date of this Ordinance, Article 1, Section 103 of the Zoning Regulations shall be deleted in its entirety and in its place the following inserted:

103 Zoning Jurisdiction. These regulations shall apply to all structures, trees and uses of land which may obstruct the airspace required for the flight of aircraft in landing and taking off at the McPherson Airport as may be located within the airport zones as described herein and as delineated on the Airport Zoning Map, except for an area southeast of the Airport as delineated on the Zoning Map in Section 32, T19S, R3W and Section 5, T20S, R3W which is exempted from all provisions of these regulations. The provisions of these regulations are also applied to areas that would be affected by existing runways as indicated by the active Airport Layout Plan (ALP or e-ALP) for the McPherson Airport, McPherson, Kansas; and updated as noted by ordinance by when jointly approved by the McPherson County Board of Commissioners and the McPherson City Commissioners.

And,

Further, from and after the effective date of this Ordinance, Article 2, Section 100 of the Zoning Regulations shall be deleted in its entirety and in its place the following inserted:

100 Definitions. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of these regulations:

- A. AIRPORT: The McPherson Airport.
- B. AIRPORT AUTHORITY: A legal entity established by an interlocal cooperation agreement between the City of McPherson and McPherson County, Kansas for the express purpose of performing comprehensive management and operation of the McPherson City-County Airport.
- B. AIRPORT ELEVATION: 1,497 feet above mean sea level(MSL).
- C. APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- D. APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONE: These zones are set forth in Section 3-100 herein.
- E. BOARD: The Board of Zoning Appeals of the City of McPherson.
- F. CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet and extending to a height of 350 feet above the airport elevation.
- G. HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- H. HEIGHT: For the purpose of determining the height limits in all zones set forth in these regulations and shown on the Airport Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.
- I. HORIZONTAL SURFACE: A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to these arcs. (The Horizontal surface is established at 1,647 feet above mean sea level.)
- J. LARGER THAN UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and turbine powered aircraft.

- K. NONCONFORMING USE: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of these regulations or an amendment thereto.
- L. NONPRECISION INSTRUMENT RUNWAY: A runway having an approved or planned straight-in instrument approach procedure which has no existing or planned precision instrument approach procedure.
- M. OBSTRUCTION: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 3-101 herein and which thereby obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport and is otherwise hazardous to such landing and taking-off of aircraft.
- N. PERSON: Any individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, receiver, assignee, or similar representative of any of them.
- O. PLANNING COMMISSION: The McPherson City Planning Commission has been appointed by the City Commission to also serve as the Airport Zoning Commission for all property located within the corporate boundary of the City of McPherson. The McPherson County Planning Commission has been appointed by the Board of County Commissioners to also serve as the Airport Zoning Commission for all property located outside of the corporate boundary of the City of McPherson.
- P. PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway, but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 3-100 herein. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- Q. RUNWAY: A defined area on an airport prepared for landing and take-off of aircraft along its length.
- R. STRUCTURE: Any object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, tanks, cranes, smokestacks, earth formation, and overhead transmission lines.
- S. TRANSITIONAL SURFACES: These surfaces slope upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and the same elevation as the approach zones, and extending to where they intersect the

conical surfaces. Where the precision instrument runway approach zone projects beyond the conical zone, height limits sloping upward and outward seven (7) feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

- T. TREE: Any object of natural growth.
- U. UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
- V. VISUAL RUNWAY: A runway without an existing or planned straight-in instrument approach procedure.

And

Further, from and after the effective date of this Ordinance, Article 3, Section 100 of the Zoning Regulations shall be deleted in its entirety and in its place the following inserted:

100 Airport Zones. In order to carry out the provisions of these regulations, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Airport, except as otherwise exempted by Section 1-103. Such zones are shown on the Airport Zoning Map consisting of one sheet, prepared by Delamater, Freund & Scherer, P.A., in February 1974, revised by Poe & Associates of Kansas, Inc., on August 22, 1980, and further updated by McPherson City staff and readopted by Ordinance No. 2963, dated July 21, 2008 which is incorporated into these regulations by reference and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Utility Runway visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runways 8-26.)
- B. Runway Larger Than Utility With A Visibility Minimum Greater Than 1 1/4 Mile Non-precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly at a horizontal distance of 30,381 feet (five nautical miles) along the extended runway centerline, and extending 18,228 feet (three nautical miles) either side of the centerline at the Initial

Approach Fix (IAF) for the Instrument Approach Zone. (Applicable to Runway 18-36.)

- C. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
- D. Horizontal Zone. The horizontal zone is established at 150 feet above the airport elevation, by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- E. 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.

And

Further, from and after the effective date of this Ordinance, Article 3, Section 101 of the Zoning Regulations shall be deleted in its entirety and in its place the following inserted:

101 Airport Zone Height Limitations. Except as otherwise provided in these regulations, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by these regulations to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- A. Utility Runway Visual Approach Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. (Applicable to Runways 8-26.)
- B. Runway Larger Than Utility With A Visibility Minimum Greater Than 1 1/4 Mile Non-precision Instrument Approach Zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 30,381 feet (five nautical miles) along the extended runway centerline, and extending 18,228 feet (three nautical miles) either side of the centerline at the Initial Approach Fix (IAF) for the Instrument Approach Zone. (Applicable to Runway 18-36.)
- C. Transitional Zones. Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,497 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface.

- D. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1,647 feet above mean sea level.
- E. Conical Zone. Slopes 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.
- F. Excepted Height Limitations. Except in the Approach Zones, nothing in these regulations shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

And

Further, from and after the effective date of this Ordinance, Article 4, Section 100 of the Zoning Regulations shall be deleted in its entirety and in its place the following inserted:

100 Use Restriction. Notwithstanding any other provisions of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the Airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the Airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the Airport. No sanitary landfill or bodies of water may be established, operated, or maintained within 10,000 feet of the airport boundary, per the recommendations of FAA Advisory Circular 150/5200-33B, without first obtaining a Conditional Use from the Board of Zoning Appeals. The Board of Zoning Appeals shall follow the procedures set forth in Sections 10-106 and 10-107 of the City's Zoning Regulation or the appropriate sections of the County's Zoning Regulations, depending upon jurisdiction.

And

Further, from and after the effective date of this Ordinance, Article 5, Section 101 of the Zoning Regulations shall be deleted in its entirety and in its place the following inserted:

101 Administration and Enforcement. It shall be the duty of the Zoning Administrator of the appropriate City or County jurisdiction to administer and enforce these regulations. Applications for permits, including the filing of FAA Form 7460-1 – *Notice of Proposed Construction or Alteration*, appeals, and variances shall be made to the Zoning Administrator upon forms provided for that purpose. Applications required by these regulations to be submitted shall be considered and approved or not approved in accordance with the procedures set forth in Article 9 of the City's Zoning Regulations or Article 9 of the County's Zoning Regulations depending upon

jurisdiction, including the fee schedule. In issuing permits, technical advice may be requested from the Airport Authority, the Airport Manager and/or the Federal Aviation Administration.* Applications for action by the Board of Zoning Appeals shall be forthwith transmitted to said Board.

*Note: FAA provides such a request form entitled, "Notice of Proposed Construction or Alteration." –FAA Form 7460-1

Section 2. **Public Hearing:** The advertised public hearing required by Kansas Law was duly held on November 6, 2018 and continued to November 20, 2018 by the City of McPherson Planning Commission, and a discussion of said Zoning Regulations and maps was held at the hearing.

Section 3. **Jurisdiction:** From the effective date of this Ordinance, the Zoning Regulations as amended shall govern the use of the land and the location of buildings and other structures placed within the City of McPherson, Kansas and the extraterritorial floodplain jurisdiction in certain unincorporated areas of McPherson County.

Section 4. **Invalidity of a Part:** Any provisions of this Ordinance which shall be declared by a competent court to be unconstitutional or invalid shall not affect the validity and authority of any other sections of said Ordinance.

Section 5. **Repeal:** Any other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 6. **Effective Date:** This Ordinance shall take effect from and after its passage, approval and publication once in the official city newspaper.

PASSED BY THE GOVERNING BODY and SIGNED BY THE MAYOR this 10th day of December, 2018.

ATTEST: (SEAL)

Thomas A. Brown, Mayor
City of McPherson

Tamra K. Seely, City Clerk