

**ORDINANCE NO. 1518**

**AN ORDINANCE ESTABLISHING THE CITY OF COLBY, KANSAS,  
COLBY MUNICIPAL AIRPORT-SHALZ FIELD HEIGHT AND HAZARD  
REGULATIONS**

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

**SECTION 1: DEFINITIONS.** As used in this ordinance, unless the context otherwise requires:

*Abandonment* means any item which has ceased to be used for its designed and intended purpose. The factors used in determining whether or not an item has been abandoned, include, but are not limited to, the following:

- (1) Present operability and functional utility;
- (2) The date of last effective use;
- (3) The condition of disrepair or damage;
- (4) The last time an effort was made to repair or rehabilitate;
- (5) The status of registration or licensing;
- (6) The age and degree of obsolescence;
- (7) The cost of rehabilitation or repair of the item when compared to its market value;  
or,
- (8) The nature of the area and location.

*Airport* means the Colby Municipal Airport-Shalz Field, for which the City of Colby is the airport sponsor.

*Airport airspace administrator* (“*the administrator*”) The airspace administrator is the City of Colby Building Official.

*Airport airspace protection area map* means the map depicting the airspace airport hazard area and attached to the ordinance from which this ordinance derives as exhibit A, and made a part hereof.

*Airport Airspace Protection Commission* means the City of Colby Airport Board appointed by the City Council to recommend height and hazard regulations to the Colby City Council for adoption and to recommend approval or denial of permit applications regarding the adopted ordinance.

*Airport board of appeals* means the City of Colby City Council acting in its capacity as the appeals board for these regulations.

***Airport elevation*** means the highest point of the airport's usable landing area measured in feet above sea level.

***Airport hazard*** means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off or permanently raises the published or planned approach minimums of the airport or is otherwise hazardous to such landing or taking-off of aircraft.

***Airport hazard area*** means any area of land or water upon which an airport hazard might be established including any which may permanently raise the published or planned approach minimums of the airport if not prevented as provided in this ordinance and as depicted on the "Airport Airspace Protection Area Map" adopted by and made a part of the ordinance.

The map depicts an area 20,000 feet from the Colby Municipal Airport-Shalz Field that if the height of an object exceeds a 100:1 (1% slope) from the airport reference point a permit is required. Also depicted is a 6 nautical mile (36,480') radius that if an object is greater than 200' in height a permit is required. It also includes the FAA part 77 Civil Airport Imaginary Surfaces, which consist of the horizontal surface, conical surface, primary surface, approach surface, and transitional surface.

***Airport layout plan (ALP)*** means a plan adopted by the City Council that depicts existing airport facilities and proposed developments as determined from the airport planners' review of the aviation activity forecasts, facility requirements, and alternatives analysis.

***Airport Manager*** means the administrative staff assigned to manage the Colby Municipal Airport.

***Airport Reference Point (ARP)*** is the physical center of the airport.

***Approach minimums*** mean the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure. It also means planned nonprecision or precision instrument approach minimums so indicated on an approved airport layout plan or any other planning document.

***Approach surface*** means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface.

***Approach, transitional, horizontal, and conical zones*** means the zones that are set forth in FAR part 77.

***Building Official*** means the administrative staff assigned to approve building permits for the City of Colby.

***Colby Municipal Airport ("the airport")*** means the public-use airport owned and operated by the City of Colby, Kansas, as the "airport sponsor."

**City Council** means the Governing Body for the City of Colby, Kansas.

**City of Colby** (“*the City*”) means, unless otherwise in an alternative context, the City of Colby, Kansas.

**Conical surface** means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 feet horizontally to each foot vertically (20:1) for a horizontal distance of 4,000 feet.

**County** means Thomas County, Kansas.

**FAA** means the Federal Aviation Administration, a division of the Federal Department of Transportation.

**Hazard to air navigation** means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**Height** means, for the purpose of determining the height limits in all zones set forth in this ordinance and shown on the Colby Municipal Airport airspace map, the datum shall be mean heights as measured from the elevations of CBK runways 17-35, 04-22 and 12-30 unless otherwise specified.

**Horizontal surface** means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**Larger than utility runway** means 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 jet powered aircraft (CBK runway 17-35).

**Nonconforming use** means any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment thereto.

**Nonprecision instrument runway** means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned. (CBK runway 17-35, existing)

**Obstruction** means any structure, growth, or other object, including a mobile object, which exceeds a limiting height and results in a hazard to navigation or a mitigating measure that would reduce the utility of the airport.

**Partner jurisdiction** means Thomas County cooperating with the City of Colby, Kansas.

**Person** means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**Precision instrument runway** means a runway having an existing instrument approach procedure utilizing air navigation facilities with vertical and horizontal guidance, or area type navigation equipment, for which a straight-in precision instrument approach procedure has been approved or planned. (CBK runway 17-35, future)

**Primary surface** means 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; 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 1,000' for precision instrument runways, 500' for non-precision and 250' for visual runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**CBK** means the three-letter identifier assigned by the Federal Aviation Administration to the public-use airport owned and operated by the City of Colby, Kansas, as a “location identifier” for airport navigation aid, weather station, and manned air traffic control facility in air traffic control, telecommunications, computer programming, weather reports, and related services.

**Runway** means a defined area on an airport prepared for landing and taking off of aircraft along its length (CBK runways 17-35, 12-30 and 04-22).

**Structure** means an object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

**Terminal instrument procedures surfaces (TERPS)** means surfaces that are constructed from the electronic signals transmitted by ground-based and satellite-based air navigation electronic equipment, which are the instrument procedures that aircraft pilots use to fly between airports and land on runways.

**Transitional surfaces** means these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

**Tree** means any object of natural growth.

*Vertically guided approach surfaces (VGAS)* means satellite-based approach surfaces which are established to protect instrument approach procedures (IAP) that provide vertical guidance and lower approach minima. Examples of landings systems protected by VGAS include instrument landing system (ILS) based approaches and GPS based procedures utilizing a wide area augmentation system (WAAS) with localizer performance with vertical guidance (LPV); and which can improve airport capacity when ground-based systems are out of service, and provide accurate, reliable access to more airports previously not served by precision approaches.

**SECTION 2. AIRPORT ZONES RECOMMENDED.** Prior to establishing the zones that are set forth in this ordinance there shall be submitted to the City Council a recommendation by the Colby Municipal Airport Board, which shall:

- (1) Recommend the boundaries of the various zones that are set forth.
- (2) Recommend the height and hazard regulations to be adopted.
- (3) Hold a public hearing on the recommended regulations to the Colby City Council.

The airport height and hazard regulations shall apply to the airport hazard areas as recommended by the Airspace Protection Commission and adopted by the Colby City Council. The airport hazard areas, wherein the height and hazard regulations apply, include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and any other territory surrounding the Colby Municipal Airport divided into zones, as depicted on the Colby Municipal Airport Airspace Protection Area Map, which is a regulatory graphic made a part hereof and attached to this ordinance, The map is provided an attachment to this ordinance for illustrative purposes, only, in order to generally show where these regulations apply.

**SECTION 3. AIRPORT ZONES AND SURFACES HEIGHT LIMITATIONS.** Except as otherwise provided in this ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this ordinance to a height in excess of the applicable height herein established for such zone. No structure shall be erected, altered or maintained and no tree be allowed to grow that raises, changes or alters the existing or potential future approach minimums and procedures to the airport. Such applicable height limitations are hereby established for each of the zones in question as follows:

- (1) *FAR part 77 Surfaces, sub-part C Civil Airport Imaginary Surfaces Zones.* The horizontal surface, conical surface, primary surface, approach surface, and transitional surface as designated by the FAA:

- a. *Runway larger than utility with a visibility minimum greater than 3/4 mile nonprecision instrument approach zone* slopes 34 feet outward for each foot upward (34:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended centerlines of each runway (CBK runways 17-35 existing).
  - b. *Runway larger than utility with a visibility minimum less than 3/4 mile precision instrument approach zone* slopes 50 feet outward for each foot upward (50:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended centerlines of each runway. At 10,000 feet the approach zone slopes 40 feet outward for each foot upward (40:1) for 40,000' (CBK runways 17-35 future).
  - c. *Transitional zones* slope seven feet outward for each foot upward (7:1) 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 elevations each runway.
  - d. *Horizontal zone*—Established at 150 feet above the airport elevation.
  - e. *Conical zone* slopes 20 feet outward for each foot upward (20:1) 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 elevations.
- (2) *Runway approach minimums.* The established minimum decent altitude or visibility ceiling under which an aircraft may be landed with the use of a published approach procedure; and by the existing non-precision or planned precision instrument approach minimums so indicated on an approved airport layout plan, published approach plates or any other planning document.
  - (3) *Terminal instrument procedures surfaces (TERPS) zones.* The slopes established by the electronic signals transmitted by ground- and space-based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways, and as referenced on the KDOT “Kansas Airspace Awareness Tool” <http://www.ksdot.org/airspacetool>.
  - (4) *Vertically guided approach surfaces (VGAS) zones.* The surface which is longitudinally centered on the extended runway centerline beginning at the runway threshold and extending outward and upward at a slope of 40:1 (2.5%) for

a horizontal distance of 20,200 feet. The surface is 2,000 feet wide (1,000 feet either side of centerline) at the runway threshold and expands to a width of 8,000 feet at 10,200 feet from threshold. From 10,200 to 20,200 feet the surface is 8,000 feet wide (4,000 feet either side) and parallel to the runway centerline extended; as referenced on the KDOT “Kansas Airspace Awareness Tool” <http://www.ksdot.org/airspaceool>.

#### **SECTION 4. NOTICE OF CONSTRUCTION REQUIREMENTS FORM 7460-1.**

Any application for a permit directed to the Airport Airspace Administrator that potentially affects the navigable airspace of the Colby Municipal Airport must have a completed and submitted Federal Aviation Administration (FAA) form 7460-1, Notice of Proposed Construction or Alteration.

**SECTION 5. USE RESTRICTIONS.** Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance 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.

Sanitary Landfills within 10,000' for any runway used by turbo jet or turbo prop aircraft or 5,000' on any runway used by piston aircraft is an incompatible land use and considered a hazard to navigation.

Water bodies that are greater than 1 acre foot volume within 10,000' for any runway used by turbo jet or turbo prop aircraft or 5,000' on any runway used by piston aircraft is an incompatible land use and considered a hazard to navigation.

No use may be made of the land or water within any zone established by this ordinance that would result in permanently raising the published or planned approach minimums to Colby Municipal Airport.

#### **SECTION 6. NONCONFORMING USES.**

- (a) *Regulations not retroactive.* The regulations prescribed in this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance April 16, 2013, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or

alteration of which was begun prior to the effective date of this ordinance April 16, 2013, and is diligently prosecuted.

- (b) *Marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Airspace Administrator, in consultation with the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Colby Municipal Airport and hence, the City Council of Colby, Kansas.
- (c) *(Nonconforming uses abandoned or destroyed.* Whenever the Airport Airspace Administrator, determines that a nonconforming tree or structure has been abandoned or more than 51 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the height and hazard regulations;

## **SECTION 7. PERMITS.**

- (a) *Permits required when.* Permit applications shall be submitted for proposed structures or hazards in any of the zones or surfaces except as specifically provided in subsection (b), hereunder. Permit applications shall also be submitted for proposed structures or hazards outside any of the zones which change or alter the existing or potential future approach minimums and procedures to the airport. Each permit application shall be submitted on forms required by the City to determine whether the resulting use, structure, or tree would conform to these regulations. If such determination is in the affirmative, the permit shall be granted. The fee for the airspace permit is \$10.00.
- (b) *No permit required when.* No permit shall be required for structures that do not penetrate a 100' run with a 1' rise or 1% slope outward from the airport reference point. If the structure is beyond 20,000' and is less 200' in height no permit is necessary. This permit exception shall not be construed as allowing any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this ordinance.
- (c) *Permit conditioned on FAA form 7460-1, "Notice of Construction."* Any proposed construction, alteration or repair requiring a permit must have filed an FAA form 7460-1 (FAA 77.13 Construction or Alteration Requiring Notice) with the

appropriate FAA regional office. No construction, alteration or repair work may commence until the determination is received from the FAA and said determination is reviewed by the Colby Airport Board.

- (d) *Existing uses.* No permit for a use inconsistent with the provisions of this ordinance shall be granted, or for a use that would allow the establishment or creation of an airport hazard or permit a nonconforming structure to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made; unless a variance has been approved in accordance with subsection (f).
- (e) *Nonconforming uses abandoned or destroyed.* No permit shall be granted that would allow a nonconforming structure to be reconstructed in any way that exceeds the applicable height limit or otherwise deviates from the height and hazard regulations once it has been determined that the nonconforming structure has been abandoned or more than 51 percent torn down, physically deteriorated, or decayed.
- (f) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of property, not in accordance with the regulations prescribed in this ordinance, may apply to the Colby City Council for a variance from such regulations; provided, that any variance may be subject to any reasonable conditions that the City of Colby, as the political sub-division owning, controlling and operating the airport, may deem necessary to effectuate the purposes of these regulations. The application for variance shall be accompanied by a determination from the FAA as to the effect of the proposal on the published or planned approach minimums, operation of air navigation facilities, and the safe, efficient use of navigable airspace. Additionally, no application for variance to the requirements of this ordinance may be considered by the Colby City Council unless a copy of the application has been furnished to the Airport Airspace Administrator for advice as to the aeronautical effects of the variance.
- (g) *Obstruction marking and lighting.* Any permit or variance granted may be so conditioned, if such action is deemed advisable, to effectuate the purpose of this ordinance and be reasonable in the circumstances, as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Colby City Council, upon directives from KDOT or the FAA, this condition may be modified to require the owner to permit the City Council of Colby, at its own expense, to install, operate, and maintain the necessary markings and lights.

**SECTION 8. ADMINISTRATION AND ENFORCEMENT.** It shall be the duty of the Airport Airspace Administrator (“the Administrator”) of the Colby Municipal Airport to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the administrator upon a form published for that purpose. Applications required by this ordinance and submitted to the administrator shall be presented to the Colby Airport Board to be granted or denied at the following Airport Board meeting. All Airport Board decisions are subject to approval by the Colby City Council. In the event the applying party receives what they determine to be an adverse decision, the party shall have the right to apply to the City Council for appeal of the decision.

**SECTION 9. APPEALS.**

- (a) Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board, made in the administration of the ordinance, may appeal to the Colby City Council acting as the Airport Board of Appeals. The fee for the airspace appeal is \$50.00.
- (b) All appeals hereunder must be taken within 60 Days, by filing with the Administrator a notice of appeal specifying the grounds thereof. The administrator shall transmit to the Airport Board of Appeals all the papers constituting the record of the appeal.
- (c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrator certifies to the Airport Board of Appeals, after the notice of appeal has been filed with it that by reason of the facts stated in the certificate a stay would cause, in the opinion of the administrator, imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Airport Board of Appeals or notice to the administrator and on due cause shown.
- (d) The Airport Board of Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- (e) The Airport 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 appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

**SECTION 10. REVIEW BY THE AIRPORT BOARD OF APPEALS. (Colby City Council)**

- (a) The Airport Board of Appeals shall have the following powers:
  - (1) To hear and decide appeals from any order, requirement, decision or determination made by the Airport Airspace Administrator in the enforcement of this ordinance;
  - (2) To hear and decide special exceptions to the terms of this ordinance upon which such Airport Board of Appeals under such regulations may be required to pass; and,
  - (3) To hear and decide specific variances.
- (b) All members of the Airport Board of Appeals shall serve to review appealed decisions of the Airport Board; however, no such review shall have been completed without first receiving and considering findings of fact from the Building Official, Airport Manager, and, if in other than the corporate limits of the City of Colby, from the partner jurisdiction where the applicant is located. Meetings of the Airport Board of Appeals for the purposes of this ordinance and the review of appealed decisions by the Airport Board shall be at a regularly scheduled meeting of the Airport Board of Appeals, unless a special meeting is called. The Airport Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the City Clerk of the City of Colby.
- (c) The Airport Board of Appeals shall make written findings of facts and conclusions of facts upon which it acted, including consideration of the findings of fact from the Building Official, Airport Manager, and the applicant; and giving its conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this ordinance.
- (d) The concurring vote of a majority of the members present as provided by the rules of the Airport Board of Appeals shall be sufficient to reverse any order, requirement, decision or determination of the Airport Board or decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect variation to this ordinance.

- (e) Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board of Appeals shall be entitled to a judicial review of said decision as set forth below.

**SECTION 11. JUDICIAL REVIEW.** Any person aggrieved, or any taxpayer affected, by any decision of the Colby City Council, may appeal within 30 days to the District Court of Thomas County.

**SECTION 12. PENALTIES.** Each violation of this ordinance or of any regulation, order, or ruling promulgated there under shall constitute a misdemeanor and shall be punishable by a fine of 500 dollars and each day a violation continues to exist shall constitute a separate offense until the object is removed at the violator's expense.

In addition to the penalties provided above, the City of Colby may enforce the provisions of this ordinance in an action for legal or equitable relief, including a temporary restraining order and temporary and permanent injunction.

**SECTION 13. AUTHORITY.** This Ordinance is adopted by authority of and under the provisions of K.S.A. 3-701 thru 3-713.

**SECTION 14.** This Ordinance shall be in full force and effect from and after its publication in the Colby Free Press as provided by law.

**PASSED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR** this 16<sup>th</sup> day of April, 2013.

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Gary L. Adrian, Mayor

ATTEST:

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Joni L. Ketchum, City Clerk

SEAL