O-20- 111

ORDINANCE NO. _____

AN ORDINANCE ADOPTING A CHAPTER ON AIRPORT ZONING AS PART OF THE NORTH LITTLE ROCK MUNICIPAL CODE; REPEALING ARTICLE 22 (AIRPORT ZONING) OF THE OLD ZONING ORDINANCE (ORDINANCE NO. 7697); DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to the Airport Zoning Enabling Act, Ark. Code Ann. § 14-363-201, et. seq., cities are given the power to promulgate, administer, and enforce zoning regulations with respect to any airports of the public utility class by which they may be served, dividing the areas surrounding such airports into zones and limiting the height of existing and future structures and objects of natural growth therein; and

WHEREAS, pursuant to this authority, the North Little Rock City Council adopted Ordinance No. 8918 on June 12, 2017, which included airport zoning as a new article in the previous Zoning Ordinance (Ordinance No. 7697); and

WHEREAS, based upon the recommendation of the City's Planning Department and the North Little Rock Municipal Airport, the City Council has determined that the enforcement and administration of the Airport Zoning Ordinance should be delegated to the North Little Rock Municipal Airport and the North Little Rock Airport Commission; and

WHEREAS, on July 13, 2020, the City Council adopted Ordinance No. 9263, which repealed the majority of the previous Zoning Ordinance (Ordinance No. 7697) with the exception of Article Fourteen (Signs), Article Twenty-Two (Airport Zoning), and Section 19.2 (Sign Board of Adjustment) because the City Attorney's office and City staff were working toward revising those articles and sections, but the revisions had not been completed; and

WHEREAS, it is in the best interest of the citizens and residents of North Little Rock that a separate chapter on Airport Zoning be adopted and added to the North Little Rock Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That North Little Rock Municipal Code Chapter 1, **Airport Zoning**, attached hereto as Exhibit A and incorporated herein by reference, is hereby adopted in its entirety.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict. Specifically, Article Twenty-Two (Airport Zoning) of Ordinance No. 7697 (the previous Zoning Ordinance) is hereby repealed in its entirety.

SECTION 3: That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 4: It is hereby found and determined that the adoption of this Ordinance is immediately necessary to insure the proper administration and enforcement of airport zoning regulations of the City of North Little Rock, Arkansas, and is necessary for the immediate preservation of the public health, safety and welfare, THEREFORE, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

Mayor Joe A. Smith

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/ABF

FILED 10:45 A.M. _____ P.M.
By Amy Fields, GA
DATE 12/9/20
Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas
RECEIVED BY

CITY OF NORTH LITTLE ROCK, ARKANSAS MUNICIPAL CODE

CHAPTER 1

AIRPORT ZONING

Adopted _-_-_, Ordinance No. _____

EXHIBIT
A

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Section 1– Purpose and Authority

Through its approval and adoption of this ordinance, the North Little Rock City Council has delegated the power to promulgate, administer and enforce Airport Zones contained herein to the North Little Rock Airport Commission.

Section 2 – Airport Commission

Operation and management of the airport for the City, its related properties and facilities has been delegated by the City to the North Little Rock Airport Commission.

Section 3 – Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this ordinance, except where the context clearly indicates a different meaning:

Airport: North Little Rock Airport.

Airport Elevation: 544 feet above mean sea level.

Airport Commission: A commission consisting of members appointed by the Mayor with the approval of the City Council.

Airport Manager: The person responsible for the day-to-day operations and management of the airport appointed by the Airport Commission.

Approach Surface: An imaginary plane longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the appropriate approach zone height limitation slope set forth in this ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Board of Zoning Adjustment: A commission consisting of five members appointed by the Mayor with the approval of the City Council. The Board of Zoning Adjustment is established by the Zoning Ordinance.

Permits: A document awarded by the North Little Rock Airport Commission allowing an applicant to proceed with a proposed alteration or new construction in a designated area, following a determination of the proposal's suitability according to applicable criteria.

Conical Surface: An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

Non-conforming Use: Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or any amendment thereto.

Non-precision Instrument Runway: A runway having an existing or planned instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Obstruction: A structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this ordinance.

Person: An individual, firm, partnership, public or private corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). Such term also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary Surface: An imaginary surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 2.1.1. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway: A paved area on the airport prepared for the landing and takeoff of aircraft along its length.

Structure: 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.

Transitional Surfaces: Imaginary surfaces extending outward at 90 degree angles to the runway centerline, and the extended runway centerline at a slope of seven feet horizontally for each foot vertically from the sides of the primary, and approach surfaces to where they intersect the horizontal and conical surfaces.

Tree: An object of natural growth.

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.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

Section 4 – Zones

In order to carry out the provisions of this ordinance, there are hereby created and established certain Zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surface, and conical surface as they apply to the airport. Such Zones are shown on the North Little Rock Airport Layout Plan prepared for the Airport Commission.

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, Non-precision Instrument Approach Zone (Runways 17 and 35): 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 to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

B. Precision Instrument Runway Approach Zone (Runway 5): The inner edge of this Approach Zone coincides with the width of the primary surface and is 1,000 feet wide. The Approach Zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. Larger-than-Utility Runway, Non-Precision Approach Zone (Runway 23): 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 to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

D. Transitional Zones: Areas beneath the transitional surfaces as described in 1.3.

E. Horizontal Zone: The Horizontal Zone is established by swinging arcs of 5,000 feet radii for the runways designated as utility (Runways 17 and 35), and 10,000 feet radii for the runways designated as precision instrument (Runway 5) and non-precision instrument (Runway 23), measured from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing a line tangent to these arcs. The Horizontal Zone does not include the Approach and Transitional Zones.

F. Conical Zone: The area that commences at the periphery of the Horizontal Zone and extends outward for a horizontal distance of 4,000 feet.

Section 5 – Airport Zone 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 limitation established in this ordinance for each of the zones as follows:

A. Utility Runway, Non-precision Instrument Approach Zone: Slope 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.

B. Precision Instrument Runway Approach Zone: Slope 50 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 10,000 feet along the extended runway centerline; thence slopes upward

40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

C. Larger-than-Utility Runway, Non-Precision 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 10,000 feet along the extended runway centerline.

D. Transitional Zone: Slopes 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 695.4 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 at the same elevation as the approach surface, and extending to where they intersect the conical surface.

E. Horizontal Zone: One hundred fifty feet above the airport elevation, i.e., at a height of 695.4 feet above mean sea level.

F. 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, i.e., to a height of 895.4 feet above mean sea level.

G. Excepted Height Limitations: Nothing in this ordinance 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.

Section 6 – Land 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 other lights, 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.

Section 7 – Nonconforming Uses

A. Regulations Not Retroactive: The regulations prescribed by 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 September 27, 1993, or otherwise interfere with the continuance of nonconforming use. Nothing contained in this ordinance shall require any change in the construction, alteration or intended use of any structure or alteration which was begun prior to the effective date of this ordinance and is diligently prosecuted.

B. Marking and Lighting: Notwithstanding the preceding provisions of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary

by the Airport Commission 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 City.

C. Lowering or Removal of Nonconforming Use: In order to eliminate or mitigate existing hazards to landing and taking-off at the airport, to improve and make safer the airport, and to permit public use of any obstructed navigable airspace needed for such use, the Airport Commission may acquire, by purchase, grant or condemnation, such estate or interest in any structure or tree of nonconforming use for which a permit has been granted in accordance with this ordinance as is necessary to conform to the applicable height limitation prescribed in this ordinance. In cases of imminent danger to the health, safety and general welfare of the public, the Airport Commission shall take such immediate steps as are necessary to remove such danger, and a hearing shall thereafter be held to determine what compensation, if any, should be made to the owner of the structure or tree causing such danger.

Section 8 – Permit

A. Future Uses: Except as specifically otherwise provided:

No material change shall be made in the use of land, no structure shall be erected or otherwise established in any Zone hereby created unless a permit has been applied for and granted by the Airport Commission. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity for it to be determined whether the resulting use or structure would conform to the regulations prescribed in this ordinance. If such determination is in the affirmative, the permit shall be granted. The permit shall be presented to the Planning Department at the time a building permit is applied for. No building permit that is inconsistent with the provisions of this ordinance or the Zoning Ordinance shall be granted unless a variance has been approved by the Board of Adjustment.

1. In the area lying within the limits of the Horizontal Zone and Conical Zone, a permit shall be required for any structure taller than 40 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such structure would extend above the height limit prescribed for such Zones.

2. In areas lying within the limits of the Approach Zone, but at a horizontal distance of not less than 4,200 feet from each end of the runway, a permit shall be required for any structure taller than 40 feet of vertical height above the ground, except when such structure would extend above the height limit prescribed for such Approach Zones.

Nothing contained in any of the foregoing exceptions shall be construed as allowing or intending to allow any construction or alteration of any structure, or growth of any tree, in excess of any of the height limits established by this ordinance or the Zoning Ordinance except as otherwise allowed in this ordinance or the Zoning Ordinance.

B. Existing Uses: No permit or building permit shall be granted that would allow the establishment or creation of an obstruction, or that would allow a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on September 27,

1993 or on the effective date of any amendments to this ordinance or than it is when the application for such permit or building permit for existing uses shall be granted.

C. Continuance of Nonconforming Uses: The owner of any structure or tree which is nonconforming to the regulations of this ordinance on September 27, 1993 shall be granted a permit authorizing continuance of such nonconforming use, upon application therefore made by him; provided that, if such application is not made within 90 days of such date, the Airport Commission shall by appropriate action compel the owner of the nonconforming structure or tree, at his own expense, to lower or remove such object to the extent necessary to conform to this ordinance.

D. Change and Repair of Nonconforming Uses: Before any existing nonconforming structure or tree for which a permit has been issued may be altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured from the Airport Commission authorizing such change or repair. No such permit shall be granted that would allow the structure or tree in question to be made higher or become a greater hazard to air navigation than it was when the permit for its continuance was granted.

E. Nonconforming Uses Abandoned or Destroyed: Whenever the Airport Commission determines that a nonconforming tree or structure has been abandoned or more than 50 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 Zoning Ordinance. In all such cases of 50 percent destruction, deterioration or decay, whether application is made for a permit for repair or not, the Airport Commission shall, by appropriate action, compel the owner of the nonconforming tree or structure, at his own expense, to lower or remove such object to the extent necessary to conform to the applicable height limit.

F. Variances: Any person desiring to erect or increase the height of any structure, or allow the growth of any tree, not in accordance with the regulations prescribed in this ordinance, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by: a written recommendation from the Airport Commission and/or Airport Manager and a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and the relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance. Additionally, no application for a variance to the requirements of this ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager and/or Airport Commission. If the Airport Manager and/or Airport Commission does not respond to the application within 30 days after receipt, the Board of Adjustment may act on its own to grant or deny such application.

G. Obstruction Marking and Lighting: Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate or maintain, at the owner's expense, such markings and lights as may be

necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City, at the City's expense, to install, operate and maintain the necessary markings and lights.

Section 9 – Enforcement

It shall be the duty of the Airport Manager to administer and enforce the regulations prescribed in this ordinance. Applications for permits shall be made to the Airport Manager upon a form published for that purpose. Applications required by this ordinance to be submitted to the Airport Manager shall be considered and granted or denied. Applications for action by the Board of Adjustment shall be submitted to the Planning Department by the applicant. A copy of each application for a permit shall be furnished to the Airport Commission by the Airport Manager.

Section 10 – Board of Zoning Adjustment

The Board of Zoning Adjustment shall consider appeals and variances of the enforcement and application of this ordinance.

Section 11 – Violations and Penalties

Each violation of this ordinance or of any regulation, order or ruling promulgated under this ordinance shall constitute a misdemeanor. In addition, the North Little Rock Airport Commission may institute, in any court of competent jurisdiction, an appropriate action or proceeding to prevent, restrain, correct or abate any violation of the regulations of this ordinance, or any order or ruling made in connection with its administration or enforcement, and the court shall adjudge then to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise as may be proper under all the facts and circumstances of the case, in order to fully carry out and effectuate the purposes of this ordinance and the orders and rulings made pursuant to the authority herein given.

Section 12 – Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.