

Section 5.24 AHO AIRPORT HAZARD OVERLAY DISTRICT

(Ordinance No. 2170, 12-23-2017)

5.24.01 INTENT

This district is established as an overlay district for application over any primary zoning district in order to protect the safe use, public investment, and utility of public airports and their Airport Hazard Area, within the city of Wahoo, NE and its extraterritorial zoning jurisdiction, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are licensed by the Nebraska Department of Aeronautics, as designated on the Airport Zoning Map prepared by the Nebraska Department of Aeronautics for the Wahoo Municipal Airport (Dwg. No. ZN-AHQ-09 dated December 18, 2013)

5.24.02 DESIGNATED PUBLIC AIRPORT

The designated public airport for which these regulations have been prepared is the Wahoo Municipal Airport located in Section 26, Township 15 North, Range 7 East of the 6th P.M., in Saunders County which is within the planning and zoning jurisdictional area of Wahoo, Nebraska. Information on the Wahoo Municipal Airport can be obtained from the Nebraska Department of Aeronautics at www.aero.nebraska.gov or at www.airnav.com/airports/ .

5.24.03 DEFINITIONS

For purposes of the Airport Hazard Overlay, the following terms are defined:

Airport means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft and includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.

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 at an airport or is otherwise hazardous to such landing or taking off of aircraft; or penetrates any approach, operation, transition, or turning zone.

Airport Hazard Area means any area of land or water upon which an airport hazard might be established if not prevented as provided in the Nebraska Airport Zoning Act, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.

Airport Layout Plan means a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.

Approach Zone means a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

Electric Facility means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Section 70-1001.01, R.R.S. 1943, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing Runway means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Height of Structure means the height of any building, structure or object measured from its highest point to the nearest existing or proposed runway end elevation.

Instrument Runway means an existing runway with precision or nonprecision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this zoning regulation, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

Operation Zone means a zone that is longitudinally centered on each existing or proposed runway.

Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

Political Subdivision means any city, village, or county.

Proposed Runway means an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

Runway means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Transition Zone means a zone that extends outward at a right angle to the runway centerline and upward at a rate of one (1) foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of 150 feet above the highest elevation on the existing or proposed runway.

Tree means any object of natural growth.

Turning Zone shall comprise all portions of the hazard area not contained in the Operation Zones, Approach Zones and in the Transitional Zones.

Turning Zone's Outer Limit means the area located at a distance of three (3) miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is 150 feet above the highest elevation on the existing or proposed runway.

Visual Runway means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

5.24.04 HAZARD AREA DESCRIPTION

In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones and Transitional Zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones. The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents five hundred (500) feet from and parallel to the centerline of the instrument runway or landing strip and two hundred fifty (250) feet from and parallel to the respective centerlines of all other runways or landing strips and connecting the inner boundaries of adjacent Approach Zones at the ends of the runways, landing strips or proposed runways or landing strips.

5.24.05 ZONE DESCRIPTIONS AND REGULATIONS

The following are intended for use with this overlay district.

1. **Operation Zones** are longitudinally centered on each existing or proposed runway:
 - a. Length. For existing and proposed paved runways, the operation zone extends two hundred (200) feet beyond the ends of each runway. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends;
 - b. Width. For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline; and
 - c. Height. The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.

2. **Approach Zones** extend from the end of each operation zone and are centered along the extended runway centerlines. The dimensions of the zones are as follows:
 - a. For an existing or proposed instrument runway:
 - (1) Length and Width. An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is 1,000 feet wide at the end of the zone nearest the runway and expands uniformly to 16,840 feet wide at the farthest end of the zone; and
 - (2) Height Limit. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 50 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the ten-mile limit.
 - b. For an existing or proposed visual runway:
 - (1) Length and Width. An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide; and
 - (2) Height. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 40 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end.
3. **Transition Zones** extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.
4. **Turning Zones** extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

5.24.06 *HEIGHT RESTRICTIONS*

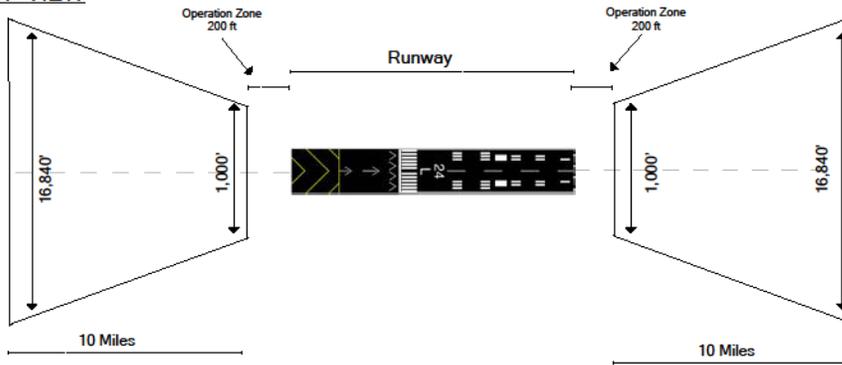
No building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 5.24.05 above:

INSTRUMENT APPROACH RUNWAY

CROSS-SECTION SIDE VIEW

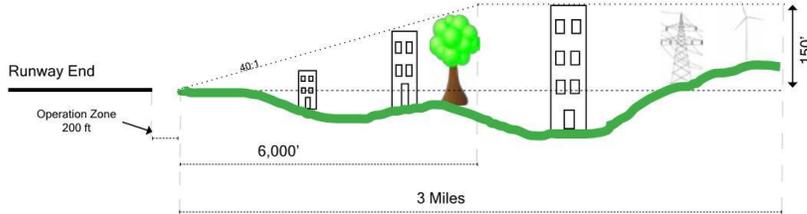


TOP VIEW

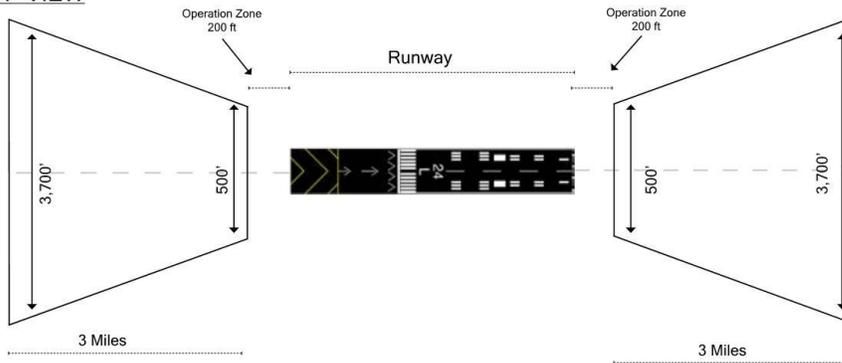


VISUAL APPROACH RUNWAY

CROSS-SECTION SIDE VIEW



TOP VIEW



5.24.07 LOCATION SKETCH AND ZONING MAP

The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of the Wahoo Municipal Airport are as indicated on the maps identified in Section 5.24.01, which accompany and are hereby made a part of these regulations, copies of which shall at all times be on file in the office of the City Clerk of Wahoo, Nebraska.

5.24.08 PERMIT REQUIRED, EXCEPTIONS, APPLICATION FORMS AND PERMIT FEES

1. Permit Required:

It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth within the boundary of the zoned airport hazard area of the Wahoo Municipal Airport without first obtaining a zoning permit from the City Zoning Administrator and review of the Wahoo Airport Authority.

2. Exceptions:

In the outer area of Approach Zones and within Turning Zones, no such permit shall be required for construction of planting which is no higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip, except for any permits required by other sections of these Regulations.

3. Application Forms:

Application for a zoning permit as required under these regulations shall be made upon a form or forms to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting (Mean Sea Level Elevation).

4. Permit Fees:

The fee for each zoning permit shall be the normal fee charged by the City plus any other additional fees determined by the City and/or the Wahoo Airport Authority.

5.24.09 NON-CONFORMING USES AND STRUCTURES

1. Within the zoned airport hazard area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations were adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of eighty (80) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other

equipment necessary for the operation and maintenance of same within the airport hazard zone.

2. Except as provided in subsection (3) of this section for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.
3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

5.24.10 MARKING OF NON-CONFORMING STRUCTURES

Whenever the Zoning Administrator shall determine, or shall be notified by the Nebraska Department of Aeronautics or the Wahoo Airport Authority, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Zoning Administrator and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Zoning Administrator as is based on recommendations of the Nebraska Department of Aeronautics and/or Wahoo Airport Authority. The cost of such marking shall not be assessed against the owner or lesser of said premise.

5.24.11 ADMINISTRATIVE AGENCY

The Zoning Administrator of Wahoo, Nebraska shall administer and enforce these regulations, and Wahoo Airport Authority shall be the administrative agency provided for in Neb. Rev. Stat. Section 3-319 (Reissued 2007), and shall have all the powers and perform all the duties of the

administrative agency as provided by the Airport Zoning Act within the zoning jurisdictional area of the City.

5.24.12 *VARIANCE FROM REGULATIONS*

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the board of adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the board of adjustment makes the same findings for the granting of variances generally as set forth in subsection section 19-907 through 19-912.01, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this regulation.
2. In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or board of adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

5.24.13 *BOARD OF ZONING ADJUSTMENT*

The Board of Adjustment of Wahoo, Nebraska shall be the Board of Zoning Adjustment with respect to these regulations, to have and to exercise the powers conferred by Neb. Rev. Stat. Section 3-320, et. Seq. (Reissued 2007), and duties as are conferred and imposed by law.

5.24.14 *CONFLICTS*

In the event of any conflict between these airport hazard regulations and any other regulations established by these or other regulations, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.