

ORDINANCE NO. 327-2015

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NEW MEADOWS, ADAMS COUNTY, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; ENACTING THE “NEW MEADOWS AIRPORT ZONING CHAPTER”; PROVIDING FOR THE PURPOSE; ALLOWING FOR COMPLIANCE OF FEDERAL AND STATE LAWS; ESTABLISHING A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR GENERAL REGULATIONS; CREATING DEFINITIONS; DEFINING AIRPORT ZONES; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; REQUIRING PERMITS AND APPLICATIONS; ESTABLISHING HEARING PROCEDURES, APPEALS AND ACTION BY AFFECTED PERSONS; ESTABLISHING AMENDMENT PROCEDURES AND PROVIDING AN EFFECTIVE DATE FOR ADOPTION.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NEW MEADOWS IDAHO AS FOLLOWS:

A. SHORT TITLE:

- 1) This section shall be known and may be cited as the “New Meadows Airport Zoning Chapter”.

B. PURPOSE:

- 1) The purpose of this chapter shall be to promote the safety and general welfare of the people of the city and the aviation public utilizing the New Meadows Airport by:
 - a. Establishing zoning districts on and in the vicinity of the New Meadows Airport;
 - b. Establishing height limitations of structures and growth within the zoning districts;
 - c. Limiting construction of structures which could cause electrical interference with navigational signals or radio communication between the airport and aircraft;
 - d. Limiting construction of structures which could make it difficult for pilots to distinguish between airport lights and others;
 - e. Limiting construction of structures which could result in glare in the eyes of pilots using the airport;
 - f. Limiting the creation of bird strike hazards; and
 - g. Limiting construction which otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- 2) An obstruction has the potential for endangering the lives and property of users of the New Meadows Airport and property or occupants of land in its vicinity; an obstruction may affect future instrument approach minimums of the New Meadows Airport; and an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the New Meadows Airport and the public investment therein. Accordingly, it is declared:

- a. That the creation or establishment of an obstruction has the potential of be in a public nuisance and may injure the region served by the New Meadows Airport;
- b. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- c. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.

C. COMPLIANCE WITH LAWS:

- 1) If there is a conflict with State or Federal laws, different from the provisions of this chapter, compliance with the State or Federal law shall be sufficient to give action validity.

D. PENALTY:

- 1) Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment in the county jail for not more than one (1) year or both; and each day a violation continues to exist shall constitute a separate offense.

E. ESTABLISHMENT OF ZONES:

- 1) In order to carry out the provisions of this chapter, there are hereby created and established zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the New Meadows Airport. Such zones are shown on the New Meadows Airport Zoning Map, which is attached to this chapter and made a part thereof. An area located in more than one of the following zones is considered to only be in the zone with the more restrictive height limitation. The various zones are hereby established:
 - a. Runway Visual Approach Zone
 - b. Transitional Zone
 - c. Horizontal Zone
 - d. Conical Zone

F. SEVERABILITY:

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

G. GENERAL REGULATIONS:

- 1) **Minimum Requirements:** Interpretation and applying the provisions of this chapter shall be held to be the minimum requirements for the promotion of safety, and promotion of the general welfare of the residents of the city and the aviation public utilizing the New Meadows Airport.
- 2) **Interpretation:** Where this chapter imposes greater restrictions upon the height of structures than are imposed or are required by other regulations, the provisions of this chapter shall control.
- 3) **Use Restrictions:** Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communications 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.
- 4) **Nonconforming Uses:**
 - a. **Regulations not retroactive:** The regulations prescribed by this chapter 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 chapter, 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 chapter, and is diligently prosecuted.
 - b. **Marking and Lighting:** Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to install, operate, and maintain, at the owner's expense, such markings and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction.

H. DEFINITIONS:

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

AIRPORT: New Meadows Airport

AIRPORT COMMISSION: The New Meadows Airport Commission, appointed by the Mayor of the City of New Meadows and approved by the New Meadows City Council.

AIRPORT ELEVATION: Three thousand nine hundred and eight feet (3908') above mean sea level.

AIRPORT MANAGER: The person appointed by the Mayor and confirmed by the New Meadows City Council to administer the operation of the New Meadows Airport.

APPROACH SURFACE: A surface 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 approach zone height limitation slope. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL, and CONICAL ZONES: These zones are set forth in Section I of this chapter.

BUILDING OFFICIAL: The City of New Meadows staff or contracted building official.

COMMISSION: The New Meadows Planning & Zoning Commission.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface of a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').

COUNCIL: The New Meadows City Council.

FAR PART 77: Federal Aviation Regulations, Title 14, Part 77; Safe, Efficient Use, and Preservation of the Navigable Airspace; establishes the standards used to determine obstructions to air navigation, and navigational and communications facilities.

HAZARD TO AIR NAVIGATION: An obstruction determined to have an adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT: For the purpose of determining the height limits in all zones set forth in this chapter, and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE: A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

NONCONFORMING USE: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

OBSTRUCTION: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section I of this chapter.

PERMIT: An official document or certificate issued authorizing performance of a specified activity.

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

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has no specially prepared surface, the primary surface ends at each end of the runway. The width of the primary surface is set forth in Section I of this chapter. 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 defined area on an airport prepared for 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 formation, and overhead transmission lines.

TRANSITIONAL SURFACES: These surfaces extend outward at ninety degrees (90°) angles to the runway centerline extended at a slope of seven feet (7') horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TREE: Any object of natural growth.

UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures.

I. AIRPORT ZONES:

Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone.

1) Runway Visual Approach Zone:

- a. The inner edge of this approach coincides with the width of the primary surface and is two hundred fifty feet (250') wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty feet (1,250') at a horizontal distance of five thousand feet (5,000') from the primary surface. Its centerline is the continuation of the centerline of the runway.

- a. The runway visual approach zone slopes twenty feet (20') 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 five thousand feet (5,000') along the extended runway centerline.

2) Transitional Zones:

- a. The transitional zones are the areas beneath the transitional surfaces.
- b. The transitional zones slope seven feet (7') 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 one hundred fifty feet (150') above the airport elevation which is three thousand nine hundred and eight feet (3908') above the mean sea level. In addition to the foregoing, there are established height limits sloping seven feet (7') 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.

3) Horizontal Zones:

- a. The horizontal zone is established by swinging arcs of five thousand feet (5,000') 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 zones do not include the approach and transitional zones.

4) Conical Zones:

- a. 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 four thousand feet (4,000')
- b. The conical zone slopes twenty feet (20') outward for each foot upward, beginning at the periphery of the horizontal zone, and at one hundred fifty feet (150') above the airport elevation and extending to a height of three hundred fifty feet (350') above the airport.

J. ADMINISTRATION AND ENFORCEMENT:

1. Airport Commission Creation:

- a. There is hereby created an Airport Commission. The commission shall consist of three members, including a chairman, appointed by the Mayor and confirmed by the New Meadows City Council to staggered three year terms. Each member shall serve for a term of three years unless such term is extended by the City Council, or until the resignation or removal of the member. The Chairman of the Airport Commission shall serve as the Airport Manager. Members of the commission may be removed for cause by the City Council upon receipt of written charges and after a public hearing. The City Council will enforce this ordinance.

- b. In the event an Airport Commission is not appointed or is not functioning, the City Council shall serve as the Airport Commission.

2. Airport Commission Duties:

- a. It shall be the duty of the Airport Commission to administer the regulations prescribed herein. Applications for permits as governed by this chapter shall be upon a form published for that purpose and made to the Chairman of the Airport Commission for transmission to the other Commissioners. Said applications shall be promptly considered and approved or denied. Approval or denial shall be by at least a majority of the Airport Commission.
- b. The Airport Commission shall also review proposals and plans for airport space leases and proposals for the use of airport space. The Airport Commission will furnish recommendations to the New Meadows City Council or if a public hearing is required regarding land use issues recommendations shall be made to the New Meadows Planning & Zoning Commission.
- c. The Airport Commission shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the Airport Commission shall be held at the call of the Chairman and at such other times as the Airport Commission may determine. The Chairman or, in the absence of the Chairman, the Acting Chairman may administer oaths and compel the attendance of witnesses. All hearings of the Airport Commission shall be open to the public and comply with the Open Meeting Laws of Idaho. The Airport Commission 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 action, all of which shall immediately be filed in the office of the City Clerk and on due cause shown.
- d. The Airport Commission shall make written Reasoned Statement(s) giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this chapter.

K. PERMITS AND APPLICATIONS:

- 1. **Future Uses:** Except as specifically provided in a, b or c of this subsection no change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit has been applied for and granted.
 - a) In the area lying within the limits of the horizontal zone and conical zone, approval of the Airport Manager shall not be required for any tree or structure less than seventy five feet (75') of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

- b) In the areas lying within the limits of the approach zone, but at a horizontal distance of not less than four thousand two hundred feet (4,200') from each end of the runway, approval of the Airport Manager shall not be required for any tree or structure less than seventy five feet (75') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zone.
 - c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, approval of the Airport Manager shall not be required for any tree or structure less than seventy five feet (75') of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
 - d) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter except as set forth in Section K-4.
2. **Existing Uses:** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made.
 3. **Nonconforming Uses, Abandoned or Destroyed:** Whenever the Airport Manager determines that a nonconforming tree or structure has been abandoned, or more than eighty percent (80%) 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 regulations.
 4. **Obstruction Marking and Lighting:** Any permit granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree 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 Airport Commission, this condition may be modified, with approval of the City Council, to require the owner to install, operate, and maintain the necessary markings and lights.
 5. **Applications for Permits:**
 - a) **Building Permit:** To obtain a permit, the applicant shall first file an application therefor in writing, on a form furnished by the office of the City Clerk.
 1. The contents of the application shall be in conformance with the New Meadows Building Code.
 2. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether resulting use, structure, or tree would conform to the regulations herein prescribed.

3. No permit for use inconsistent with the provisions of this chapter shall be granted.

6. Issuances of Permits:

- a) The application for a building permit, along with the plans and specifications and other data required, shall be reviewed by the Building Official. If the Building Official finds that the work described in an application for the permit, and the plans and specifications and other data filed, therewith, conform to the requirements of this chapter and other pertinent laws and ordinances, he shall issue the permit.
- b) If the Building Official finds that the work described in an application for a building permit and the plans, specifications and other data filed do not conform to the requirements of this chapter and together pertinent laws and ordinances, he shall require that the applicant also submit a request to the Airport Commission as prescribed in Section K-5-a-2.
- c) The Airport Commission shall have a minimum of fifteen days (15), after receipt of the application from the Building Official, in which to examine the application and related data.
- d) After examination of the application, the Airport Commission shall have a maximum of fifteen days (15), at which time a decision must be rendered, or a recommendation, on the application, is submitted to the New Meadows Council or if required the New Meadows Planning & Zoning Commission for a public hearing – SEE SECTION L.
- e) Whenever the Airport Commission grants or denies a permit, it shall specify:
 1. The ordinance and standards used in evaluating the application;
 2. The reasons for approval or denial; and
 3. The actions, if any, that the applicant could take to obtain a permit.
- f) Upon approval of an application for a permit, the Commission will return the application to the Building Official, for issuance of the permit.

L. HEARING PROCEDURES, APPEALS, AND ACTION BY AFFECTED PERSONS:

1. General:

- a) Upon receipt of an application, the Airport Commission shall set a date for and hold a public hearing as outlined in Section L-1-b.
- b) A filing fee, set by resolution of the New Meadows City Council, will accompany each application, and an additional amount will be paid by the applicant for actual costs of mailing notice and publication of hearing. This additional amount will be paid prior to conducting the public hearing.

2. PUBLIC HEARINGS:

- a) Prior to granting an application, the Airport Commission shall conduct at least one public hearing, in which interested person shall have an opportunity to be heard. At least fifteen days (15) prior to the hearing, notice of time, place, and a summary of the proposal to be discussed, shall be published in the official newspaper or paper of general circulation within the City of New Meadows. Notice shall also be provided to property owners within three hundred feet (300') of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposal, as determined by the Airport Commission, or staff; and
- b) Within fifteen days (15) after a public hearing, the Airport Commission shall approve, or recommend to the New Meadows Planning & Zoning Commission and/or New Meadows City Council disapproval of the application.

3. APPEALS:

- a) Within twenty days (20) after final action on any permit by the Airport Commission, an appeal of that decision may be filed by any affected person(s) with the New Meadows City Council. Such appeal shall be in writing, stating the error(s) of the Airport Commission, with particularity, and shall be filed with the City Clerk prior to the expiration of the said twenty days (20); and
- b) The New Meadows City Council shall set a time and place for a hearing of such appeal, which hearing shall be held within twenty days (20) of the filing date of such appeal, and cause notice at such time and place to be delivered to the appellant and the respondent, and publish one notice thereof, requiring all other persons wishing to participate in such appeal to file with the City Clerk, at least five days (5) prior to the time set for the hearing, a statement of their position, and appear at such hearing in support of their statement. Failure to file such statement or appear at the hearing shall be deemed a waiver of such appeal.

4. ACTION BY AFFECTED PERSONS:

- a) As used herein, an affected person shall mean one having an interest in real property, which may be adversely affected by the issuance or denial of a permit authorizing the development or the use of property; and
- b) An affected person aggrieved by a decision may within twenty eight days (28), after all remedies have been exhausted under local ordinances, seek judicial review under the procedures provided by sections 67-5277, Idaho Code.

M. AMENDMENT PROCEDURES:

1. GENERAL:

- a) Whenever a change in Federal Regulations or a change to the New Meadows Airport require, the New Meadows City Council may, by ordinance adopted, after receipt of recommendations thereon from the Airport Commission, amend, the regulations, restrictions, and boundaries.

2. INITIATION OF AMENDMENTS:

- a) Initiation of amendments to this chapter may be initiated in one of the following ways:
 1. By adoption of a motion of the Airport Commission;
 2. By adoption of a motion of the Planning & Zoning Commission;
 3. By adoption of a motion of the City Council.

3. PROCEDURES:

- a) The Airport Commission shall:
 1. Make recommendation to the New Meadows Planning & Zoning and New Meadows City Council for amendment to this chapter;
 - a. Upon receipt of a change to part 77, Federal Air Regulations, from the Airport Manager; and
 - b. Upon a change in the primary surface of the New Meadows Airport as to length, type of surface (paving), or change in width.
 2. The Council shall conduct a public hearing using the same procedures as defined in Section L-2.

N. EFFECTIVE DATE:

Whereas, the immediate operation of the provisions of this chapter is necessary for the preservation of public health, public safety, and general welfare, this chapter shall be in full force and effect from and after its passage by the New Meadows City Council and publication as required by law.

Passed and approved this 13th day of April, 2015

/s/ Anthony J Koberstein
Anthony J Koberstein, Mayor

ATTEST: /s/ Jacob M Qualls
Jacob M Qualls, City Clerk