

## **Chapter 14 AVIATION** [\(1\)](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - ALPINE ADVISORY BOARD

ARTICLE III. - AIRPORT ZONING

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FOOTNOTE(S):

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**Cross reference**— Streets, sidewalks and other public places, ch. 86. [\(Back\)](#)

**State Law reference**— Aviation, V.T.C.A., Transportation Code ch. 21 et seq. [\(Back\)](#)

### **ARTICLE I. IN GENERAL**

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#### **Sec. 14-1. General powers of the city.**

The city shall, when necessary, employ legal, technical or other skilled services; appropriate and authorize disbursements from the Alpine Municipal Airport Fund (hereinafter created); apply for, receive and accept from the United States of America and/or the state and its agencies, grants, deed of gift, transfers, releases and other benefits, and receipt therefor; withdraw and/or reject applications made to the United States of America and/or the state and its agencies for grants, deeds of gift, transfers, releases and other benefits; deal with, negotiate and enter into licensing agreements and other franchises from the United States of America and/or the state; enforce by suit, or otherwise, in the name of the city, the payment of any monies due under any lease or contract, or for any charges, or by reason of the use made of any facilities, equipment or services, or for repairs or improvements to or storage or care of any personal property in connection with the operation of the municipal airport or the facilities thereof;

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designate and appoint members of any airport zoning board which may be created under the provisions of the laws of the state applicable to airport zoning; buy and sell materials and supplies as required in the operation and maintenance of the airport and airport facilities, and to sell or make other proper disposition of any materials, supplies or other items of personal property no longer required for the operation and maintenance of the airport and facilities, subject, however, to any restrictions upon the title to any such property.

(Code 1978, § 3-6)

**Sec. 14-2. Supplies and labor for airport.**

The city council shall purchase, rent or lease such material or equipment, and employ such labor as it may consider desirable or necessary for the maintenance, equipment, operation, improvement, enlargement, development, construction, protection or policing of the municipal airport.

(Code 1978, § 3-7)

**Sec. 14-3. Airport employees.**

The city council shall employ or contract for a competent airport manager of the municipal airport with assistants, airport guards, firefighters and such other employees and servants as the city council may deem necessary, and fix the terms of employment and all wages and salaries. The cost of providing fidelity bonds for employees in positions of trust shall be paid as a cost of operation of the airport.

(Code 1978, § 3-8)

**Sec. 14-4. Regulations authorized.**

The city council shall make and establish rules and regulations for the safety and efficiency of operation of the airport and airport facilities, and for the protection of persons and property within the limits of the airport. All rules and regulations made and established by the city council shall be filed with the city secretary and shall become effective upon filing.

(Code 1978, § 3-9)

**Sec. 14-5. Budget; fiscal year.**

The city finance officer, working with the Alpine Advisory Board shall prepare annual budget for the development, equipment, operation and maintenance of the municipal airport which shall be submitted to the city council for approval. The fiscal year of the municipal airport shall commence on October 1 of each year and shall end September 30 of the following calendar or in the same fiscal year as determined by the city council.

(Code 1978, § 3-10; Ord. No. 2009-04-01, 4-21-09)

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**Sec. 14-6. Airport fund.**

All fees, charges, rentals commissions and other revenues from the operation of municipal airport shall be collected by the city secretary or finance officer or any other agents or employees designated by the city council, from time to time, and deposited in an account with the designated depository banking institution as selected by the city. The fund shall be a part of the regular general fund account and shall be designated as a department of the city. All accounting practices shall be followed as set by the General Governmental Accounting Principles (GAAP). All revenues derived from taxation for improvements, operation or maintenance of the municipal airport and all other income or grants for the use or benefit of the municipal airport shall likewise be deposited in the general fund of the city. The city council, or an employee designated by the city council, shall, from time to time, approve and pay for all expenses of current operation and maintenance and other accounts of the municipal airport. All payments made shall be approved by the city council or the designee as set by the city council and shall be countersigned by the city manager, or the city employee designated by the city council to countersign such payments.

(Code 1978, § 3-11; Ord. No. 2009-04-01, 4-21-09)

**Sec. 14-7. Construction of chapter to be consistent with state law.**

No section of this chapter shall be construed to delegate to the Alpine Advisory Board any power not capable of being delegated under provisions of V.T.C.A., Transportation Code ch. 22, known as the Municipal Airports Act, and all powers delegated in this chapter, if any, shall be subject to any restrictions otherwise imposed by the laws of the state and the Charter of the city. The Alpine Advisory Board shall not have or exercise any power of eminent domain, or other powers not expressly provided in this chapter and only then by express authorization of the city council.

(Code 1978, § 3-13)

**Secs. 14-8—14-40. Reserved.**

**ARTICLE II. ALPINE ADVISORY BOARD <sup>[2]</sup>**

[Sec. 14-41. Definitions.](#)

[Sec. 14-42. Advisory board established; membership, appointment.](#)

[Sec. 14-43. Qualifications of board members; compensation.](#)

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[Sec. 14-45. Advisory duties of board.](#)

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**Sec. 14-41. Definitions.**

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

*Board* means the Alpine Advisory Board.

(Code 1978, § 3-1)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 14-42. Advisory board established; membership, appointment.**

There is hereby established a board to be designated the "Alpine Advisory Board," for the purposes of advising the city in planning, development and operation of the municipal airport. The board shall consist of five members appointed annually by the city council and shall have duties as set out in this article.

(Code 1978, § 3-1)

**Sec. 14-43. Qualifications of board members; compensation.**

To be eligible to serve on the board, each member of the board shall be a resident citizen and/or own property as a taxpayer and be a qualified voter of Brewster County, Texas. All members of the board shall serve without compensation, but shall be entitled to reimbursement for all expenses reasonably incurred by the members of the board in the performance of their duties as members of the board. Members of the board shall serve terms of two years which align and coincide with that of the appointing city official. Members missing three consecutive meetings may be dismissed from the board.

(Code 1978, § 3-2; Ord. No. 2009-07-02, 8-4-09; Ord. No. 2016-10-02, 11-1-16)

**Sec. 14-44. Board officers; meetings; quorum, vote.**

The city council shall appoint a chairperson and vice-chairperson and shall also appoint a secretary who may be a member of the board. The members of the board shall meet at least quarterly at places of their choosing. A majority of the board shall constitute a quorum, and all actions taken by the board shall be upon a majority vote of those present at any meeting.

(Code 1978, § 3-3; Ord. No. 2016-10-02, 11-1-16)

**Sec. 14-45. Advisory duties of board.**

The board shall, from time to time, advise the city council on matters of planning, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing of the municipal airport, and upon other matters in regard to which the council may, from time to time, seek such board's advice.

(Code 1978, § 3-4)

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**Sec. 14-46. Board authority to lease, charge rentals.**

Under the city council's policy guidelines the board may rent or lease buildings, structures, facilities, spaces or privileges within the municipal airport for such periods and rentals and upon such terms and provisions as the council may direct, and charge for the use of the various facilities located within the municipal airport as the city council may direct and permit.

(Code 1978, § 3-5)

**Sec. 14-47. Board may not bind city.**

The board shall have no power to contract, and shall not contract, or in any manner undertake to contract, for or on behalf of the city. No undertaking, contract, action or inaction of the board, singly or collectively, or of anyone employed by or acting or holding under it, shall render the city liable to respond in damages or make indemnity or compensation of any character from any source. No contract, lease or agreement pertaining to the airport shall be valid unless it has been executed by the order of the city council.

(Code 1978, § 3-12)

**Secs. 14-48—14-80. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Boards and commissions, § 2-176 et seq.; joint airport zoning board, § 14-93. ([Back](#))

**ARTICLE III. AIRPORT ZONING** <sup>[3]</sup>

[Sec. 14-81. Authority; findings; declarations.](#)

[Sec. 14-82. Definitions.](#)

[Sec. 14-83. Airport zones.](#)

[Sec. 14-84. Airport zone height limitations.](#)

[Sec. 14-85. Use restrictions.](#)

[Sec. 14-86. Nonconforming uses.](#)

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[Sec. 14-91. Penalties.](#)

[Sec. 14-92. Conflicting regulations.](#)

[Sec. 14-93. Joint airport zoning board.](#)

**Sec. 14-81. Authority; findings; declarations.**

This article is adopted pursuant to the authority conferred by V.T.C.A., Transportation Code ch. 22, and V.T.C.A., Local Government Code ch. 241. It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, this tending to destroy or impair the utility of the airport and the public investment in the airport. It is declared that:

- (1) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the airport;
- (2) It is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and
- (3) The prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of police power, without compensation.

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

(Ord. No. 502, 2-7-1976)

**Sec. 14-82. Definitions.**

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

*Airport* means the Alpine Municipal Airport.

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

*Airport hazard* means a structure or object of natural growth that obstructs the air space required for the taking off, landing and flight of aircraft or that interferes with visual, radar, radio or other systems for tracking, acquiring data relating to, monitoring or controlling aircraft.

*Approach, transitional, horizontal and conical zones* means the area under the approach, transitional, horizontal and conical surfaces defined in Federal Aviation Regulations Part 77.

*Height* means for the purpose of determining the height limits in all zones set forth in the ordinance from which this article is derived and shown on the zoning map, the datum shall be the mean sea level elevation unless otherwise specified.

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

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*Non-precision 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 non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on a Federal Aviation Administration planning document or military service's military airport planning document.

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

*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; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

*Runway* means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

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

*Tree* means any object of natural growth.

*Utility runway* means 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* 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 a Federal Aviation Administration approved airport layout plan, a military service's approved military airport layout plan, or by any planning document submitted to the Federal Aviation Administration by competent authority.

(Ord. No. 502, § II, 2-7-1976)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 14-83. Airport zones.**

In order to carry out the provisions of the ordinance from which this article is derived, there are created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a particular airport. Such zones are shown on the Alpine Municipal Airport Hazard Zoning Map consisting of one sheet, prepared by Freese, Nichols and Esmond, dated December 15, 1975, which is attached to the ordinance from which this article is derived and made a part of this article. <sup>[4]</sup> 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 established and defined as follows:

- (1) *Utility runway visual approach zone.* The inner edge of the utility runway visual approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. The approach zone's centerline is the continuation of the centerline of the runway.

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- (2) *Utility runway non-precision instrument approach zone.* The inner edge of the utility non-precision instrument 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. The approach zone's centerline is the continuation of the centerline of the runway.
- (3) *Transitional zone.* Transitional zones are established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90 degree angles to the runway centerline and the runway centerline extends 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. Transitional zones for those portions of the precision approach zones which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90 degree angles to the extended runway centerline.
- (4) *Horizontal zone.* The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (5) *Conical zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward from the horizontal zone a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zones and the transitional zones.

(Ord. No. 502, 2-7-1976)

**Sec. 14-84. Airport zone height limitations.**

Except as otherwise provided in the ordinance from which this article is derived, no structure or tree shall be erected, altered, allowed to grow or be maintained in any zone created by the ordinance from which this article is derived to a height in excess of the applicable height limit established for such zone. Applicable height limitations are established for each of the zones as follows:

- (1) *Utility runway visual approach zone.* Slopes upward 20 feet horizontally for each foot vertically, beginning at the end of and same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (2) *Utility runway non-precision instrument approach zone.* Slopes upward 20 feet horizontally for each foot vertically beginning at the end of and same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (3) *Transitional zone.* Slopes upward and outward seven feet horizontally for each foot vertically beginning at the sides of and same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation which is 4,513 feet above mean sea level. There are also established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of and same elevation as the approach zones, and extending to where they intersect the conical surface.
- (4) *Horizontal zone.* One hundred fifty feet above the airport elevation or a height of 4,663 feet above mean sea level.
- (5) *Conical zone.* Slopes upward and outward 20 feet horizontally for each foot vertically 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.



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- (6) *Excepted height limitations.* Nothing in this article shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the surface of the land, except within restricted areas of clear zone approaches to any runway.

Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

(Ord. No. 502, 2-7-1976)

**Sec. 14-85. Use restrictions.**

Notwithstanding any other provisions of the ordinance from which this article is derived, no use may be made of land or water within any zone established by the ordinance from which this article is derived 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 or otherwise in any way create a hazard or endanger the landing, takeoff or maneuvering of aircraft intending to use the airport.

(Ord. No. 502, 2-7-1976)

**Sec. 14-86. Nonconforming uses.**

- (a) *Regulations not retroactive.* The regulations prescribed by the ordinance from which this article is derived 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 the ordinance from which this article is derived, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this section 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 the ordinance from which this article is derived, and is diligently prosecuted.
- (b) *Marking and lighting.* Notwithstanding subsection (a) of this section, the owner of any existing nonconforming structure or tree is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the airport administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the city.

(Ord. No. 502, 2-7-1976)

**Sec. 14-87. Permits.**

- (a) *Future uses.* No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted or otherwise established in any zone created in the ordinance from which this article is derived unless a permit shall have been applied for and granted.
- (1) A permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for the respective zone.
- (2) Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure or tree would conform to

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the regulations prescribed in this section. If such determination is in the affirmative, the permit shall be granted.

- (b) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance from which article is derived or any amendments to this article or than it is when the application for a permit is made. Except as indicated, all applications for such permit shall be granted.
- (c) *Nonconforming uses abandoned or destroyed.* Whenever the airport administrator determines that a nonconforming tree or structure has been abandoned or more than 80 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 regulations.
- (d) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any street, or use his property not in accordance with the regulations prescribed in the ordinance from which this article is derived, may apply to the city for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest, but will do substantial justice and be in accordance with the spirit of the ordinance from which this article is derived.
- (e) *Hazard marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of the ordinance from which this article is derived and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the city, at its own expense, to install, operate and maintain such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

(Ord. No. 502, § VII, 2-7-1976)

**Sec. 14-88. Enforcement.**

It shall be the duty of the airport administrator to administer and enforce the regulations prescribed in this article. Applications for permits and variances shall be made to the airport administrator upon a form furnished by the airport administrator. Applications required by the ordinance from which this article is derived shall be promptly considered and granted or denied by the airport administrator.

(Ord. No. 502, 2-7-1976)

**Sec. 14-89. Airport administrator unable to act or office vacant.**

The city council shall have full authority to act in all matters set out in this article for the airport administrator should such office be vacant or unable to act for any reason.

(Ord. No. 502, § X, 2-7-1976)

**Sec. 14-90. Judicial review.**

Any person who is aggrieved or a taxpayer who is affected by a decision of the airport administrator, or the city council, that believes a decision of the airport administrator is illegal, may appeal to a court of record, as provided in V.T.C.A., Local Government Code § 241.041.

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(Ord. No. 502, § XI, 2-7-1976)

**Sec. 14-91. Penalties.**

Each violation of the ordinance from which this article is derived or of any regulation, order or ruling promulgated under the ordinance from which this article is derived shall constitute a misdemeanor and be punishable by a fine of not more than \$500.00. Each day a violation continues to exist shall constitute a separate offense.

(Ord. No. 502, 2-7-1976)

**Sec. 14-92. Conflicting regulations.**

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

(Ord. No. 502, 2-7-1976)

**Sec. 14-93. Joint airport zoning board.**

- (a) *Created.* As authorized by the provisions of the Airport Zoning Act, V.T.C.A., Local Government Code § 241.001 et seq., there is created a joint airport zoning board, to be known as the Alpine-Brewster County Joint Airport Zoning Board, which board shall have the powers and exercise the duties set forth in V.T.C.A., Local Government Code §§ 241.002, 241.011, 241.012 and 241.014.
- (b) *Membership.* The Alpine-Brewster County Joint Airport Zoning Board shall be composed of five members, two members to be appointed by the city council and two members to be appointed by the commissioner's court of Brewster County, Texas. The fifth member shall be elected by a majority of the members appointed, and the fifth member shall serve as chairman of such board.

(Code 1978, §§ 13-21, 13-22)

**Cross reference**— Boards and commissions, § 2-176 et seq.; aviation advisory board, § 14-41 et seq.

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FOOTNOTE(S):

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--- (3) ---

**Cross reference**— Zoning, app. C. ([Back](#))

- CODE OF ORDINANCES

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**Editor's note**— The map is not included herein, but is on file in the city secretary's office. ([Back](#))