

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

COUNTY TEXT AMENDMENT NO. 16002:)
TEXT AMENDMENT TO THE LANCASTER)
COUNTY ZONING RESOLUTION, TO AMEND) RESOLUTION NO. R-16-0015
ARTICLE 18, SPECIAL HEIGHT AND USE)
NEAR AIRPORTS, AS PROVIDED IN)
ATTACHMENT A)

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114 (Reissue 2012), the Lancaster County Board of Commissioners is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County, which are consistent with the County’s Comprehensive Plan and after receipt of specific recommendations from the Lincoln/Lancaster County Planning Commission (“Planning Commission”);

WHEREAS, the Director of the Lincoln-Lancaster County Planning Department has requested a text amendment to the Lancaster County Zoning Resolution by amending Article 18, Special Height and Use Near Airports, to extend the approach zone from 3 miles to a new limit of 10 miles, establish the area included within the airport hazard area, revise existing definitions and add new definitions, and other changes to be in accordance with the passage of Nebraska Legislative Bill (LB) 140, and repealing and adding various sections within Article 18 as hitherto existing, as provided in Attachment “A,” attached hereto and incorporated by this reference;

WHEREAS, the Lincoln-Lancaster County Planning Department has concluded that the proposed changes are in conformance with the 2040 Comprehensive Plan, and has recommended approval of this amendment to be in accordance with the passage of Nebraska Legislative Bill (LB) 140 passed in 2013;

WHEREAS, on February 17, 2016, after public hearing, the Lincoln-Lancaster County Planning Commission voted 8 to 0 to recommend approval of said text amendments as a whole; and

WHEREAS, on March 8, 2016, the Board of Commissioners of Lancaster County conducted a public hearing regarding said text amendment;

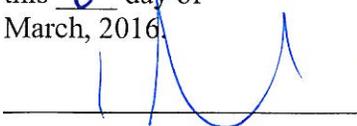
NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Lancaster County, Nebraska, that the amendments to Article 18 of the Lancaster County Zoning Resolution, as provided in Attachment "A," are hereby adopted and approved; and

BE IT FURTHER RESOLVED, that any other references in said Resolution which may be affected by the above specified amendments be, and they hereby are, amended to conform to such specific amendments.

DATED this 8 day of March, 2016, in the County-City Building, Lincoln, Lancaster County, Nebraska.

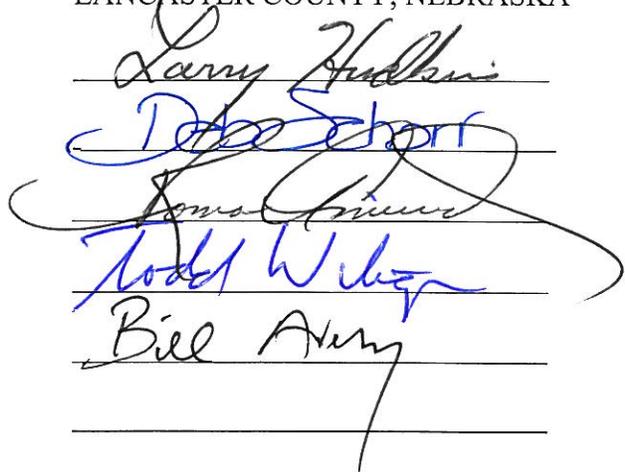
BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this 8 day of
March, 2016.



Deputy County Attorney

for JOE KELLY
Lancaster County Attorney



ARTICLE 18
SPECIAL HEIGHT AND USE REGULATIONS NEAR AIRPORTS

18.001 Lincoln Municipal Airport areas. Areas

Control of the height of structures in the vicinity of the Lincoln Municipal Airport shall be controlled by the City of Lincoln Codes, this Chapter 27.58 and Chapter 27.59 inasmuch as all of Article 18 to the area within extent that the three-mile distance from Airport Hazard Area extends into the airport property line is within the City of Lincoln County of Lancaster zoning jurisdiction. (Resolution No. 5367, August 26, 1996)

18.003 Height limitations. Publicly owned airports or publicly owned airfields that are developed or permitted to be developed in the County "AG" or "AGR" districts shall be controlled to limit and protect the development of the airport by use of the land and the control of the height of structures within the distance of three (3) miles from the airport property line. The conditions and criteria as noted below shall control the areas surrounding the proposed airport or airfield:

a) Airport location, boundaries, zones and height restrictions

The vicinity of a publicly owned airport or publicly owned airfield, from the boundaries of such airport or airfield to a distance of three (3) miles in all directions from the adjacent boundaries of such publicly owned airport/airfield, is hereby declared as an airport/airfield hazard area and shall be zoned as follows:

1) Hazard Area Description

The Hazard Area consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Area is composed of a series of connected tangents and simple curves which also constitutes the outer boundaries of the Approach and Turning Zones.

2) Zone Descriptions

a) The Operation Zones shall be located along each existing or proposed runway, landing area or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing area and 200 feet beyond the end of each runway and shall be 1,000 feet in width for each instrument runway or landing area and 500 feet in width for all other runways and landing areas.

b) The Approach Zones shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended centerline of the respective runway or landing area, to the outer boundary of the Approach Zone at a rate of 30 feet of width for each 100 feet of horizontal length for the instrument runway or landing area and 20 feet of width for each 100 feet of horizontal length for all other runways.

The Inner Area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevation of the end of the respective runway or landing area.

The Clear zone shall be the inner portion of the approach zone, also known as the inner area of the approach zone. As a minimum, the standard clear zone has a width of 250 feet at its beginning near the threshold and 450 feet at a point 1,000 feet from its beginning and centered on the extended runway centerline. The clear zone has a slope of

20:1 upward from the threshold to a height of 50 feet above the end of the runway for airports and special permit airfields. The area beneath the clear zone may be controlled by the airfield owner by fee title or an easement over the land.

The Outer Area of each Approach Zone shall be the area between the outer limit of the Inner Area of the Approach Zone and the outer limit of the Approach Zone.

e) The Transition Zones shall be the areas bounded by the Operation Zones of the Hazard Area, the sides of the contiguous inner areas of approach zones and the outer limits of the Transition Zones; said outer limits of the Transition Zones being the intersections, at elevations of 150 feet above the highest elevation at the end or edges of the closest runway or landing area, or proposed runway or landing area, of a series of contiguous planes originating from bases established by the Operation Zones of the Hazard Areas and the edges of adjacent inner areas of approach zones; said planes rising from the respective bases along lines perpendicular to the centerline of the runway or landing area at the rate of one (1) foot vertically to seven (7) feet horizontally to the lines of intersection previously referred to.

d) The Turning Zones shall comprise all portions of the Hazard Area not contained in the Operation Zones, Approach Zones and in the Transition Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three (3) statute miles from the nearest points along the airport property lines.

3) 18.002 Definitions

As used in this Article unless the context otherwise requires:

Airport means the Lincoln Airport located in Sections 4, 5, 6, 7, 8, 9, 17 and 18, Township 10 North and Sections 31 and 32, Township 11 North, Range 6 East of the Sixth Principal Meridian, Lancaster County, Nebraska.

Airport hazard means any structure or tree or use of land that 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 this Article, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.

Building Official means the Director of the Department of Building and Safety of the City of Lincoln, Nebraska, or his or her authorized representative.

Existing runway means a runway that has been constructed or is under construction.

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 nonprecision instrument approaches reflected on the airport layout plan.

Lessee means any person, other than the owner, in possession of land.

Nonconforming use means any structure or use of land which does not conform to a requirement of this Article or an amendment thereto, as of the effective date of this Article.

Person means any individual, firm, association, corporation, or body politic and includes any receiver, assignee, or similar representative thereof.

Proposed runway means a 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 the Airport that is prepared for the landing and takeoff of aircraft along its length. For purposes of this Article 18, only paved Instrument Runways as defined herein shall be included within the term "runway."

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

Tree means any object of natural growth.

18.003 Zone Descriptions

(a) Approach zone means a zone that extends from the end of each operation zone and is centered along the extended runway centerline. For an existing or proposed runway, an approach zone's dimensions are as follows:

(i) An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand feet wide at the end of the zone nearest the runway and expands uniformly to sixteen thousand eight hundred forty feet wide at the farthest end of the zone; and

(ii) The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally, except that the height limit shall not exceed one hundred fifty feet above the nearest existing or proposed runway end elevation within three 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 fifty feet horizontally and continues to the ten-mile limit.

(b) Operation zone means a zone that is longitudinally centered on each existing or proposed runway. For existing and proposed runways, an operation zone's dimensions are as follows:

(i) The operation zone:

- a. extends two hundred feet beyond the ends of each runway; and
- b. is one thousand feet wide, with five hundred feet on either side of the runway centerline; and

(ii) 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.

(c) Transition zone means a zone that extends outward at a right angle to the runway centerline and the extended runway centerline and upward at a rate of one foot vertically for every seven feet horizontally. 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 one hundred fifty feet above the highest elevation on the existing or proposed runway.

(d) The turning zones comprise all portions of the zoned area not contained in the approach zones, operation zones, and transition zones. The turning zone's outer limit is the area located at a distance of 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 zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

18.004 Airport Hazard Area; Boundaries

All of the area encompassed within the approach zones, operation zones, turning zones, and transition zones as defined in Section 18.003, to the extent that such area is located within the zoning jurisdiction of the County of Lancaster, is hereby declared an Airport Hazard Area. The boundaries of the Airport Hazard Area, approach zones, operation zones, turning zones and transition zones are delineated and shown on the Lincoln Airport Zoning Map.

18.005 Height Restrictions

~~No building, transmission line, communication line, pole, tree, smoke stack, chimney, wires, tower or other~~ Except as otherwise specifically permitted in this Article 18, no structure or appurtenance thereto of any kind or character shall hereafter be erected, -constructed, repaired, or established ~~nor shall any and no tree or other object of natural growth be~~ shall be suffered or allowed to grow within the Airport Hazard Area that exceeds the following height restrictions:

a) ~~In Inner Areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument runway or landing area in excess of 1/50, and all other runways or landing areas in excess of 1/40 of the distance from the end of the approach zone (the end nearest the runway or landing area) to said structure or object;~~

~~(a) b) In the Outer Area of Approach Zones and in Turning Zones~~ In the approach zones, the height of the planes forming the approach zones;

~~(b) In the turning zones, to a height in excess of 150 feet above the elevation at the end or proposed end of the nearest runway or landing area~~ closest runway end, as shown on the Lincoln Airport Zoning Map;

~~(c) e) In the Transitions Zones to a~~ transition zones, the height above of the planes forming the transition transition slopes; and

~~(d) d) In the operation zone and in the existing or proposed Operation Zones to a~~ runways, the height above of the existing or proposed finished grade of said runways. All grades of said runways or landing areas or surface of the ground are hereby established by and referenced to the plans of the Airport on file in the office of the County Clerk, which plans are made a part of this Article by reference.

b) Location sketch and zoning map

The boundaries, operation zones, approach zones, transition zones and turning zones of said airport/airfield will be indicated on the Lancaster County Zoning Map.

e) Permit required, exceptions, application forms and permit fees

1) 18.006 Permit Required; Procedure

~~It~~(a) Except as provided in subparagraph (b), it shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, above ground transmission line, above ground communication line, pole, tower, smokestack, chimney, above ground wires or other structure or appurtenance structure or appurtenances 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 area of said publicly owned airport/airfield Airport Hazard Area of the Airport without first obtaining a height permit from the Building Official. A height permit shall not be issued for any structure or appurtenances thereto that exceeds the height restrictions set forth in Section 18.005.

(b) No height permit from the Building Official shall be required within the turning zones, or that part of the approach zones located more than 7700 feet from the end of the runway, for construction of any proposed structure that will be no higher than 75 feet above the elevation of the natural ground at the location of the proposed construction except for construction in those specifically "shaded" areas (elevation 1,248 feet A.M.S.L. or higher) indicated on the Lincoln Airport Zoning Map that are within four miles from the end of a runway. Structures or building proposed to be construction within such "shaded" areas on said map shall require certification as to elevation. No certification as to elevation or a height permit shall be required for proposed accessory structures or accessory buildings to dwelling units when said proposed accessory structures or accessory buildings or any attachment thereto do not exceed the elevation of said dwelling unit.

2) Exceptions:

In the Outer Area of Approach Zones and within the Turning Zones, no permit shall be required for any construction or planting which is not higher than seventy-five (75) feet above the elevation of the natural ground at the point of construction. Nothing herein shall require a public utility to obtain a permit for making repairs to reestablish service, provided such repairs do not change the height of the original facility.

3(c) Application Forms:

Application for a height permit as required under these regulations the provisions of this Article shall be made upon a form to be which is available in the office of the Building Official, Lincoln, Nebraska and Building Official. The application shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing area and height of the proposed structure or planting measured in North American Vertical Datum (NAVD 88). Notwithstanding the above, documents submitted before March 1, 2000 may be submitted in either NAVD 1988 or in elevations measured in relation to mean sea level. (Resolution No. R-00-18, February 22, 2000) closest point on a runway, and the height of the proposed structure. Said elevation shall be certified by a land surveyor, registered by the State of Nebraska, which certificate must accompany said application.

4) Permit Fees:

The fee for each (d) Upon completion of any structure or building requiring a height permit, the Building Official shall require a registered professional surveyor to verify the actual height and location of any structure or building. The certification shall be submitted to the Building Official at the point of final construction of the structure or building, but prior to operation and occupying the structure or building. Such information shall be recorded and maintained by the Building Official.

(e) A permit issued fee shall be required in accordance with Article 23 of these regulations, and all fees received shall be paid to the County Treasurer for deposit in the County funds, general fund. No fee shall be charged for a permit for any construction or repair whose estimated cost is less than \$100.00.

18.007 Airport Hazards

(a) The Building Official shall examine or cause to be examined any structures or trees, reported to him as an airport hazard within the airport hazard area, and if such is found to be an airport hazard as defined in Section 18-002, and is not otherwise approved or authorized by this Article, it shall be the duty of the Building Official to give the owner of the property where such airport hazard exists written notice thereof, and to take such measures as are necessary and authorized by law to eliminate or alleviate said airport hazard. For the purpose of aiding the Building Official to determine whether the existence of any such reported structures or trees constitute an airport hazard, the Building Official may

in each case request a written report from the State Department of Aeronautics under the provisions of Neb. Rev. Stat. §§ 3-108 and 3-113 to advise whether or not an airport hazard, as defined in this Article, exists.

(b) Notwithstanding any other provisions of this Title, no use may be made of land within any zone established by this Article in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, take-off, or maneuvering of aircraft.

18.008 Non-conforming structures

(a) Within the zoned Airport hazard area as hereinbefore defined, and except as provided in subsection (b) with respect to electric facilities, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, above ground wires, tower or other structure or appurtenance thereto of any kind or character of object of natural growth shall hereafter be replaced, substantially reconstructed, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation above the heights permitted by these regulations; 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 80 percent (80%) or more of the original condition, or abandoned for a period of twelve (12) months or more without first receiving a permit authorizing such replacement, reconstruction, alteration, growth, or replanting. No permit shall be issued if such replacement, reconstruction, alteration, growth, or replanting will result in an increase in height or a greater hazard to air navigation than the condition that existed when these regulations were adopted. For nonconforming structures other than electric facilities as defined in subsection (b), no permit shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy, or for repairs that 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. 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 zoned zone regulated.

e)(b) An electric supplier owning or operating a nonconforming electric facility may 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 such electric facility that exceeds its preexisting height shall require a permit that shall be granted only upon a showing that the excess height will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed. For purposes of this section, an "electric facility" means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. Rev. Stat. § 70-1001.01 (2014 Cum. Supp.) for the transmission or distribution of electrical power to the electric supplier's customers.

18.009 Marking of non-conforming structures

Whenever the Building and Safety Department shall determine that a specific nonconforming non-conforming structure or object exists and has existed prior to the passage of these regulations and within the zoned area hereinbefore described at such 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 or airfield,

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 said official, and shall within a reasonable time permit the marking thereof by suitable ~~lights~~ lighting or other signals designated by the said agency and based on the recommendations of lighting officials or the Nebraska Department of Aeronautics.

~~f)~~ 18.010 Administrative agency

The Building and Safety Department of the City of Lincoln, shall administer and enforce these regulations and shall be the administrative agency provided for in ~~Section 3-319, R.R.S., 1943, Neb. Rev. Stat. § 3-319 (2014 Cum. Supp.),~~ and shall have all the powers and perform all the duties of the administrative agency provided for by the Airport Zoning Act, until otherwise ordered by the Lancaster County Board.

~~g)~~ 18.011 Zoning Board of adjustment

The County Board of Zoning Appeals as contained in Article 19 of these regulations, shall be the Board of Adjustments with respect to these regulations, to have and exercise the powers conferred by ~~Section 3-320, R.R.S., 1943, Neb. Rev. Stat. § 3-320 (2014 Cum. Supp.),~~ and such other powers and duties as are conferred and imposed by law.

~~h)~~ The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Article or to effect any variation in these regulations.

18.012 Notice

Public notice shall be provided in the affected area when it is to be established. (Resolution No. 5367, August 26, 1996)

~~18.005~~ 18.013 Use Limitations-

Publicly owned airports or publicly owned airfields that are developed or permitted to be developed in the "AG" and "AGR" Districts shall require the aircraft or vehicles utilizing such airport or airfield to clear the property line between the airport or airfield and the immediately adjacent property by a height of fifty (50) vertical feet during take off and landing operations. The City-County Planning Commission and the City Building and Safety Department shall recognize this clearance requirement and respect same in any land use and/or proposed changes in use or zoning of adjacent or nearby property.