

Chapter 27.58

AIRPORT ENVIRONS NOISE DISTRICT

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27.58.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are regulations in the Airport Environs Noise District. The regulations shall apply to the area in the vicinity of the Lincoln municipal airport defined as Airport Environs Noise District in Section 27.58.020. References to specific DNL lines shall mean those DNLs as shown on the "Airport Environs Noise District Map." (Ord. 18408 §1; August 2, 2004; prior Ord. 17752 §1; October 30, 2000; Ord. 17699 §1; July 24, 2000; Ord. 14431 §3; July 14, 1986; Ord. 13414 §1; June 14, 1982).

27.58.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined:

Airborne noise shall mean noise radiated initially into and transmitted through air.

Airport Environs Noise District shall mean an area established on the Airport Environs Noise District Map (hereinafter Airport Environs Noise District Map), and more particularly described as follows:

Beginning at a point located on Southwest 12th street at the southeast corner of the north half of Section 9, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, thence northerly along Southwest 12th Street, said line also being the east line of Sections 9 and 4, Township 9 North, Range 6 East, and the east line of Section 33, Township 10 North, Range 6 East a distance of approximately 8,100 feet to the centerline of the Burlington Northern Santa Fe railroad tracks; thence northeasterly along said railroad track centerline a distance of approximately 2,000 feet; thence northerly along the centerline of Southwest 9th Street and its extension north and south through the west half of Sections 34 and 27, Township 10 North, Range 6 East a distance of approximately 8,200 feet to the centerline of a Burlington Northern Santa Fe railroad track. Said

track being approximately 500 feet south of “O” Street; thence northeasterly along the former Burlington Northern Santa Fe railroad centerline through Sections 27 and 22, Township 10 North, Range 6 East to the intersection of said railroad centerline and the east line of Section 22, Township 10 North, Range 6 East; thence northerly along the east line of said Section 22 a distance of approximately 150 feet to the centerline of the Union Pacific railroad tracks; thence northwesterly along said railroad track centerline through Sections 22 and 15, Township 10 North, Range 6 East to an intersection with the west line of Section 15, Township 10 North, Range 6 East; thence north along the west line of Section 15, Township 10 North, Range 6 East to an intersection with the centerline of Northwest 12th Street; thence northerly along the centerline of Northwest 12th Street to its intersection with the centerline of Northwest 13th Street in Section 3 Township 10 North, Range 6 East; thence continuing northerly along the centerline of said Northwest 13th Street to its intersection with the centerline of West Fletcher Avenue; thence westerly along the centerline of said West Fletcher Avenue to a point on the west line of Section 34, Township 11 North, Range 6 East; thence northerly along the west line of said Section 34 to the southeast corner of Section 28, Township 11 North, Range 6 East; thence east along the south line of Section 27, Township 11 North, Range 6 East to an intersection with North 1st Street, said point also being the southeast corner of Section 27, Township 11 North, Range 6 East; thence north along North 1st Street and along the east line of Sections 27, 22, and 15, Township 11 North, Range 6 East to the City of Lincoln’s three-mile zoning jurisdiction line; thence westerly along said three-mile zoning jurisdiction line to its intersection with Northwest 70th Street. Said point being on the west line of Section 24, Township 11, Range 5 East; thence south along the west line of Sections 24, 25 and 36, Township 11 North, Range 5 East, and along the west line of Sections 1, 12, 13, 24, 25 and 36, Township 10 North, Range 5 East, and along the west line of Sections 1 and 12, Township 9 North, Range 5 East to the southwest corner of the north half of Section 12, Township 9 North, Range 5 East; thence east along the south line of the north half of Section 12, Township 9 North, Range 5 East, and along the south line of Sections 7, 8 and 9, Township 9 North, Range 6 East, said line also being along West Claire Avenue and its extension east and west, to the point of beginning at the southeast corner of the north half of Section 9, Township 9 North, Range 6 East.

Day-night average sound level (DNL) shall mean the sum of noise emission equivalent of A-weighted sound level during a 24-hour day typifying annual average conditions after addition of 10 decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m.

Exterior door shall mean all exit doors of a building that are located between conditioned and unconditioned space. A basement, crawl space, or garage is considered unconditioned space unless it is provided with a positive heat supply to maintain a minimum temperature of 50 degrees F.

Habitable space shall mean space or room in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, solariums, sunrooms and similar areas are not considered habitable space.

Noise-sensitive manufacturing and noise-sensitive communication facilities shall include, but not be limited to, the manufacture and assembly of micro-electronics, technical and scientific instruments, photographic and optical goods, and other manufacturing sensitive to speech interference or vibration, and radio and television broadcasting studios. (Ord. 18408 §2; August 2, 2004: prior Ord. 17752 §2; October 30, 2000: Ord. 17699 §2; July 24, 2000: Ord. 14431 §4; July 14, 1986: Ord.13414 §3; June 14, 1982).

27.58.030 Use Regulations.

Any use permitted in the underlying zoning district in which the proposed use is located shall be allowed in the Airport Environs Noise District except as prohibited within the provisions of this chapter and, provided that additional requirements set forth in this chapter are met. References to allowable uses as provided within this chapter are conditioned upon the said use being in compliance with allowable uses within the underlying zoning district. (Ord. 18408 §3; August 2, 2004: prior Ord. 17752 §3; October 30, 2000: Ord. 17699 §3; July 24, 2000: Ord. 13414 §4; June 14, 1982).

27.58.050 Permitted Uses in Relation to Noise Exposure Levels.

(a) The use of a building or premises for any use permitted under Section 27.58.030 shall be allowed in the Airport Environs Noise District if it lies within the specified noise exposure levels set out in Figure 27.58.050 shown at the end of this chapter, conditioned upon compliance with Section 27.58.080 of this chapter.

(b) Where property is undeveloped, only such portion of it as is actually within the DNL lines shall be considered at or within that DNL line. However, at such time as said property shall be subdivided or platted, any platted buildable lots intersected by a DNL line shall be deemed to be wholly within the highest DNL line. (Ord. 18408 §4; August 2, 2004: prior Ord. 17752 §4; October 30, 2000: Ord. 17719 §2; August 21, 2000: Ord. 17699 §5; July 24, 2000: Ord. 13414 §6; June 14, 1982).

27.58.060 Conditional Permitted Uses in Relation to Noise Exposure Levels.

(a) The use of a building or premises for a use designated Y[1] in Figure 27.58.050 shown at the end of this chapter is permitted in the Airport Environs Noise District if it lies within the specified noise exposure levels, in conformance with the requirements of Section 27.58.080 of this title and the conditions prescribed herein:

(1) A building permit may be issued by the Director of Building and Safety provided that the building plan shows a design that incorporates acoustical features described below in addition to all other applicable requirements of the Lincoln Building Code as now existing or hereinafter amended:

(i) All exterior doors shall be either:
A. solid-core or metal-clad construction of at least 1 3/4 inches thick, or

- B. separately equipped with wood or metal storm door.
- C. multiple-glazed.
- (ii) Multiple-glazed windows shall be provided for all habitable space.
- (iii) Through-the-wall/door mailboxes, venting skylights, jalousie windows, or other direct openings from the interior to the exterior of the building shall be prohibited.
- (iv) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used. Commercial cooking areas are exempt from these conditions. (Ord. 18408 §5; August 2, 2004; prior Ord. 17857 §6; June 4, 2001: Ord. 17752 §5; October 30, 2000: Ord. 17719 §3; August 21, 2000: Ord. 17699 §6; July 24, 2000: Ord. 14837 §2(part); February 29, 1988: Ord. 13414 §7; June 14, 1982).

27.58.080 Avigation and Noise Easements.

(a) All uses allowed within the Airport Environs Noise District, except as provided in Section 27.58.090, shall be conditioned upon the grant by the property owner of an avigation and noise easement. Such easement shall be a condition of subdivision, community unit plan, special permit, use permit, or building permit. The avigation and noises easement is to be submitted pursuant to the terms of this chapter and shall conform to the provisions contained in the model - avigation and noise easement, a copy of which is shown in Figure 27.58.080 at the end of this chapter. (Ord. 18408 §6; August 2, 2004; prior Ord. 17752 §7; October 30, 2000: Ord. 17699 §8; July 24, 2000: Ord. 13414 §9; June 14, 1982).

27.58.090 Pre-existing Uses.

Any existing use which was lawfully established at the time of the effective date of this chapter may be continued although such use does not conform to the provisions hereof. However, the requirements set forth in this chapter shall be applicable to the portion of the use subject to enlargement, extension, conversion, reconstruction, or structural alteration, and not be retroactive to the entire existing structure. Nothing shall prohibit the reconstruction of a building legally in use at the time of the adoption of this chapter. A request for enlargement, extension, conversion, reconstruction, or structural alteration of a pre-existing use which does not conform to the provisions of this chapter shall be processed through special permit procedures set forth in Chapter 27.63. No person applying for a special permit to enlarge, extend, convert, reconstruct, or alter a structure lawfully in existence at the time of the enactment of this chapter shall be required to submit an avigation and noise easement as a condition for approval thereof. (Ord. §18408 7; August 2, 2004: prior Ord. 13414 §10; June 14, 1982).

27.58.100 Enforcement and Exemption.

(a) Prior to the issuance of a building permit or other certificate, the Director of Building and Safety shall receive the executed avigation and noise easement for property in the Airport Environs Noise District which shall then be forwarded to the Airport Authority or shall have received evidence that the executed avigation and noise easement was previously furnished to the Airport Authority. All avigation and noise easements shall be forwarded to the Airport Authority, which shall then be filed with the Register of Deeds at Authority's expense.

(b) Uses in connection with the operation of the Lincoln municipal airport, and properties owned or leased by the City of Lincoln, the Airport Authority of the City of Lincoln, military units, or other governmental agencies are hereby declared compatible and shall be exempted from the

requirements of this chapter. (Ord. 18408 § 8; August 2, 2004; prior Ord. 17752 §9; October 30, 2000: Ord. 17699 § 9; July 24, 2000: Ord. 13414 §11; June 14, 1982).

Figure 27.58.050 Generalized Use Matrix for Airport Environs Noise District				
Uses Permitted Within Each Noise Contour Level *	Airport Noise Environs District			
	Below 60 DNL	60 to 65 DNL	65 to 70 DNL	70 to 75 DNL
All residential uses (incl. RV parks and campgrounds)	Y	Y [1]	N	N
Educational and religious facilities	Y	Y [1]	N	N
Health and childcare facilities	Y	Y [1]	N	N
Outdoor sport, recreation, entertainment (except for race tracks for motorized vehicles, open space and natural areas, golf courses and trails) and parks facilities.	Y	Y	N	N
Indoor sport, recreation, and entertainment facilities	Y	Y	Y	N
Noise-sensitive manufacturing and communication facilities	Y	Y	Y	N
Cemeteries, mausoleums and undertaking establishments	Y	Y	Y	N
Hotels/ motels	Y	Y	Y	N
Race Tracks for Motorized Vehicles	Y	Y	Y	N
Offices, retail and service businesses, restaurants, eating and drinking establishments	Y	Y [1]	Y [1]	Y [1]
Open space and natural areas	Y	Y	Y	Y
Golf courses and trails	Y	Y	Y	Y
Service stations and repair services	Y	Y	Y	Y
Assembly, processing, manufacturing, refining, mining, storage, transportation, utility, communication and distribution facilities	Y	Y	Y	Y
Farming, livestock, breeding and feeding; plant nurseries	Y	Y	Y	Y
Parking lots	Y	Y	Y	Y
Signs	Y	Y	Y	Y
<p>Notes: Y - Permitted N - Not permitted</p> <p>1. Development is required to incorporate acoustical features as a condition of building permit issuance, as described in Section 27.58.060 of this chapter.</p> <p>* All uses permitted within the Airport Environs Noise District shall be conditioned upon the grant by the property owner of an avigation and noise easement agreement, as described in Section 27.58.080 of this chapter.</p>				

(Ord. 18408 § 4; August 2, 2004).

Figure 27.58.080
Model Avigation and Noise Easement

INDENTURE made this ____ day of _____, 20__, between _____, hereinafter called "Grantor", and Airport Authority of the City of Lincoln, a public body corporate and politic, hereinafter called "Airport Authority":

WHEREAS, Grantor is the owner in fee simple of a certain tract of land situated in Lancaster County, State of Nebraska, more particularly described as:

See attached Exhibit "A",

said tract of land being hereinafter referred to as "Grantor's Land"; and

WHEREAS, Airport Authority, as an agency of the City of Lincoln, Nebraska, is the owner and operator of a public airport known as Lincoln Municipal Airport situated on land adjacent or in close proximity to the above-described property; and

WHEREAS, Grantor has agreed in consideration of _____ (\$_____) and other valuable consideration, receipt of which is hereby acknowledged, to grant Airport Authority and City of Lincoln, Nebraska, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the City of Lincoln, Nebraska, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the City of Lincoln, Nebraska, for the use of Airport Authority, its successors and assigns, a perpetual easement and right-of-way for the unobstructed and unrestricted flight of aircraft in, through and across the airspace over and above Grantor's Land, at any legally permissible altitude, and the right, to the extent permitted by law, to make noise and cause fumes and disturbance arising from the ground and flight operations of all civil and military aircraft to, from and upon Lincoln Municipal Airport, regardless of the means of propulsion.

The Grantor, for itself, its heirs, successors, and assigns, does hereby waive all right to and interest in any claim or cause of action against the Airport Authority or the City of Lincoln, arising out of or from any legally permissible noise, vibration, avigations, pollution, light or noise generated from, above or on airport property, or sonic disturbance of any description, caused by flight operations of civil and military aircraft regardless of the means of propulsion, to, from and upon Lincoln Municipal Airport, which may result in damage to land or to any person, structure or other property located upon Grantor's Land, excepting, however, any claim or cause of action for any damage or injury to person or property resulting from any aircraft, or object therefrom, falling on, propelled into, or striking any person or property on Grantor's land.

The Grantor, for the said consideration, further agrees, that if Grantor or its heirs, successors or assigns, should sell or alienate any portion of Grantor's Land, Grantor, its heirs, successors or assigns shall include in every deed or conveyance evidencing such sale or alienation, a recitation that the grant is subject to all conditions contained within this Avigation and Noise Easement, and further as a condition of such transaction, Grantor shall require each Grantee to include such recitation in any subsequent deed or conveyance of any of the property herein above described as Grantor's Land.

In the event any condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such easement, condition or provision shall in no way affect any other condition or provision herein contained.

It is understood and agreed that this easement shall be binding upon the heirs, administrators, executors, and assigns of the Grantor, and that this easement shall run with Grantor's Land.

TO HAVE AND TO HOLD said Avigation and Noise Easement hereby granted unto the City of Lincoln for the use of the Airport Authority, its successors, and assigns, as appurtenant to the said Lincoln Municipal Airport and every part thereof.

IN WITNESS WHEREOF, the undersigned has caused its signature to be affixed this ____ day of _____, 20__.

By: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On this ____ day of _____, 20__, before me, a duly appointed and qualified notary public, personally appeared _____, to me personally known to be the same and identical person who signed the above and foregoing instrument and he did acknowledge the execution thereof to be his voluntary act and deed and that of _____.

WITNESS my hand and seal on the date last aforementioned.

Notary Public

(Ord. 18408 §6; August 2, 2004).