

## Chapter 27.59

### AIRPORT ZONING REGULATIONS

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#### **27.59.010 Definitions.**

As used in this chapter unless the context otherwise requires:

**Airport** shall mean the Lincoln municipal airport, located as provided in Section 27.59.020, below.

**Airport hazard** shall mean any structure or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.

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

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

**Structure** shall mean any object constructed or installed by man.

**Runway** shall mean a portion of the airport, having a surface especially developed and maintained for the landing and take-off of aircraft.

**City** shall mean the City of Lincoln, Nebraska.

**Lessee** shall mean any person, other than the owner, in possession of land. (Ord. 12571 §280; May 8, 1979).

#### **27.59.015 Scope of Regulations.**

The regulations set forth in this chapter or set forth elsewhere in this title when referred to in this chapter are known as the Airport Zoning Regulations. The regulations are adopted pursuant to *Neb. Rev. Stat.* §3-303 (1943 as amended) for the purpose of preventing the creation and establishment of airport hazards. The regulations are applicable in all zoning districts, including the

P Public District, and are applicable to both public and private entities, and qualify or supplement as the case may be the underlying district regulations appearing elsewhere in this title. In the event of any conflict between the Airport Zoning Regulations and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such regulations were adopted by some other political subdivision, the more stringent limitation or requirement shall govern and prevail. (Ord. 19714 §2; May 21, 2012).

#### **27.59.020 Location and Boundaries.**

The vicinity of the 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, specifically being the area lying within the outer limits of a series of points forming a line which is a horizontal distance of three miles from the airport boundary or the corporate limits of the city, whichever is the lesser distance from the airport boundary line, is hereby declared an airport hazard area and is hereby zoned as follows:

The hazard area consists of approach zones, turning zones, and transition zones as defined in Section 27.59.030.

(a) The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the approach and turning zones.

(b) The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents, 500 feet from and parallel to the centerlines of the runways and connecting the inner boundaries of adjacent approach zones at the ends of the runways. The boundaries of the airport hazard area, approach zones, turning zones and transition zones are delineated and shown on the Lincoln Airport Zoning Map. (Ord. 17967 §2; February 25, 2002; prior Ord. 12571 §281; May 8, 1979).

#### **27.59.030 Zone Descriptions.**

(a) An approach zone is located at each end of each existing or proposed runway for the landing or taking off of airplanes. Such approach zones begin 200 feet beyond the ends of the respective runways, and at such beginning are 1,000 feet in width, 500 feet on each side of the respective centerline, and extend and expand uniformly centered along the extended centerline of the respective runways to the outer boundary of the approach and turning zones at a rate of 30 feet of width for each 100 feet of horizontal length for each runway.

The inner area of each approach zone is that portion of the approach zone beginning 200 feet beyond the end of the respective or proposed runway and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevations of the ends of the respective runways, at a rate of one foot vertically for each 50 feet horizontally.

The outer area of each approach zone is the area between the inner area of the approach zone and the outer limit of the approach and turning zones.

(b) The transition zones are the areas bounded by the inner boundary of the hazard area, the sides of 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 ends or edges of the closest runway, or proposed runway, of a series of contiguous planes originating from bases established by the inner boundary of the hazard area and the edges of adjacent inner areas of approach zones; the planes rising from their respective bases at

the rate of one foot vertically to seven feet horizontally to the lines of intersection previously referred to.

(c) The turning zones comprise all portions of the zoned area not contained in the approach zones and transition zones. The outer limits of the turning zones are a series of points forming a line which is a horizontal distance of three statute miles from the airport boundary line or the corporate limits of the city, whichever is the lesser distance from the airport. (Ord. 17967 §3; February 25, 2002; prior Ord. 12571 §282; May 8, 1979).

#### **27.59.040 Height Restrictions.**

No building or structure, smokestack, chimney, tower, or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired, or established except as otherwise provided in Section 27.59.090:

(a) In the inner approach zones to a height above the planes forming the inner area of the approach zones;

(b) In the outer approach zones and in turning zones to a height in excess of 150 feet above the elevation at the closest runway end, as shown on the Lincoln Airport Zoning Map, or to a height in excess of seventy-five feet above the elevation of the natural ground at the location of the structure; except a maximum height of 275 feet shall be permitted in the 275 Foot Maximum Height Zone as shown on the Lincoln Airport Zoning Map.

(c) In the transition zones to a height above the planes forming the transition slopes;

(d) Within the inner boundary of the hazard area and in the existing or proposed runways to a height above the existing or proposed finished grade of said runways. All grades of said runways are hereby established by and referenced to the plans of said airport on file in the office of the City Clerk, which plans are made a part of this chapter by reference. (Ord. 19714 §3; May 21, 2012; prior Ord. 17967 §3; February 25, 2002; Ord. 12571 §283; May 8, 1979).

#### **27.59.060 Permit Required; Procedure.**

(a) It is hereafter unlawful to erect, construct, reconstruct, repair, or establish any building, tower, smokestack, chimney, or other structure or appurtenances thereto of any kind or character within the boundary of the hazard area of said airport without first obtaining a height permit from the building official.

(b) In the outer approach zones and within the turning zones, no height permit shall be required generally for construction which is no higher than seventy-five feet above the elevation of the natural ground at the point of construction, except in specifically "shaded" areas indicated on the airport zoning map. Structures or buildings proposed to be constructed within or in close proximity to such "shaded" areas on said map shall require certification as to elevation if in the opinion of the building official such structure or building may exceed the allowable height of that particular "shaded" portion of the map, provided that 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..

(c) Application for a height permit as required under the provisions of this chapter shall be made upon a form which is available in the office of the building official. The application shall indicate the location, ground elevation with reference to the elevation at the closest point on a runway, and the height of the proposed structure. Said elevation shall be certified to by a land surveyor, registered by the State of Nebraska, which certificate must accompany said application.

(d) The building official shall require a registered professional surveyor to verify the actual height and location of any structure or building requiring a height permit. The certification shall be submitted to the building official at the point of final construction of the structure or building, but prior to operation or occupying the structure or building. Such information shall be recorded and maintained by the building official. (Ord. 17967 §6; February 25, 2002: prior Ord. 12571 §285; May 8, 1979).

**27.59.070 Airport Hazards.**

(a) The Building Official shall examine or cause to be examined any transmission line, pole, tree, wires, or other structures or natural growth, not included in Section 27.59.060, reported to him as an airport hazard within the hazard area, and if such is found to be an airport hazard as defined in Section 27.59.010, it shall be the duty of the Building Official to give the owner of the property where such hazard exists written notice thereof, and to take such measures as are necessary and authorized by law to eliminate or alleviate said hazard. For the purpose of aiding the Building Official to determine whether the existence of any such reported transmission line, pole, tree, wires, or other structures or natural growth 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 (Reissue 1973) to advise whether or not an airport hazard, as defined in this chapter, exists.

(b) Notwithstanding any other provisions of this title, no use may be made of land within any zone established by this ordinance 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. (Ord. 12571 §286; May 8, 1979).

**27.59.080 Nonconforming Height.**

Within the hazard area as hereinbefore defined, the lawful height of a building, structure, or premises existing at the time of the effective date of this chapter may be continued although such height does not conform to the provisions hereof. Within the hazard area no nonconforming building, structure, smokestack, chimney, or appurtenance thereof of any kind or character shall hereafter be replaced, substantially reconstructed, repaired, or altered to a height which constitutes a greater hazard to air navigation than existed before the effective date of this chapter, nor above the heights permitted by this chapter if such structures are torn down, destroyed, burned, deteriorated, or decayed to an extent of sixty percent or more, or abandoned for a period of twelve months or more. (Ord. 17967 §7; February 25, 2002: prior Ord. 12571 §287; May 8, 1979).

**27.59.090 Administration.**

It is the duty of the Building Official who is the Director of Building and Safety of the City of Lincoln, to administer and enforce this chapter, and said officer is hereby appointed the "administrative agency" provided for in *Neb. Rev. Stat.* § 3-319 (Reissue 1943, as amended), and shall have all the powers and perform all the duties of the administrative agency as provided by the airport zoning act, until or unless otherwise ordered by the Mayor. Applications for permits and variances shall be made to the building official upon a form furnished by said official. Applications

which are by this chapter to be decided by the building official shall be promptly considered and granted or denied. Applications for action by the Board of Zoning Appeals shall be forthwith transmitted by the Building Official to the Board for hearing and decision. (Ord. 12571 §288; May 8, 1979).

**27.59.100 Board of Zoning Appeals.**

(a) The Board of Zoning Appeals is the "Board of Adjustment" with respect to this chapter, to have and exercise the powers conferred by Section 27.59.120 and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decision or action of the Building Official made in the administration of this chapter may appeal such decision or action to the Board of Zoning Appeals.

(b) Any appeal taken pursuant to this section shall be by the procedure established by Section 27.75.030. (Ord. 12571 §289; May 8, 1979).

**27.59.110 Powers of the Board of Zoning Appeals.**

The Board of Zoning Appeals has the following powers:

(a) To hear and decide appeals from any order, requirement, or decision made by the Building Official in the enforcement of this chapter;

(b) To hear and decide any special exceptions to the terms of this chapter which such board may be required to pass upon under this chapter; and

(c) To hear and decide specific variances to the extent necessary, where there are peculiar, exceptional, and unusual circumstances in connection with a specific situation where the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of this chapter. Provided, that any variance may be allowed subject to any reasonable conditions that the Board of Zoning Appeals may deem necessary to effectuate the purpose of this chapter. (Ord. 12571 §290; May 8, 1979).

**27.59.120 Airport Zoning Commission.**

The Lincoln City-Lancaster County Planning Commission is hereby appointed the "Airport Zoning Commission," referred to in *Neb. Rev. Stat. § 3-308*, (Reissue 1943), to have and exercise the powers conferred by *Neb. Rev. Stat. § 3-308*, (Reissue 1943), and such other powers and duties as are conferred and imposed by law. (Ord. 12571 §291; May 8, 1979).

**27.59.130 Use of Land.**

No use of land which is prohibited by Title 27 of this code is permitted within the airport hazard area. (Ord. 12571 §292; May 8, 1979).

**27.59.140 Appeal from Board of Zoning Appeals.**

Any person aggrieved or taxpayer affected by any decision of the board of zoning appeals or governing body of a political subdivision which is of the opinion that a decision of the board of zoning appeals is illegal, may appeal to the District Court of Lancaster County in the manner provided in *Neb. Rev. Stat. §§ 3-324 et seq.* (Reissue 1973). (Ord. 12571 §293; May 8, 1979).

**27.59.150 Penalty for Violations.**

(a) Each violation of any provision of this chapter shall constitute a misdemeanor and shall be punishable by a fine of not less than \$50.00 nor more than \$300.00, or imprisonment for not less

than five nor more than thirty days, or both such fine and imprisonment. Each day a violation continues to exist shall constitute a separate offense.

(b) In any case where use of land is made in violation of this chapter or where any building or structure is erected, constructed, reconstructed, altered, repaired, or converted in violation of this chapter, the city attorney, in addition to other remedies, is hereby authorized to institute on behalf of the city, injunction, mandamus, or any other appropriate action or proceeding to prevent such unlawful use, erection, construction, reconstruction, alteration, or conversion, or to correct or abate such violation. (Ord. 12571 §294; May 8, 1979).