

ARTICLE 18
SPECIAL HEIGHT AND USE REGULATIONS NEAR AIRPORTS

18.001. Lincoln Airport Areas. Control of the height of structures in the vicinity of the Lincoln Airport shall be controlled by this Article 18 to the extent that the Airport Hazard Area extends into the County of Lancaster zoning jurisdiction.

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 non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision 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".

Shaded Area shall mean those hatched mark areas on the Lincoln Airport Zoning Map representing areas within 4 miles from the end of a runway having elevations that are 75 feet or more above the elevation on the nearest runway end. (Resolution No. R-17-044, June 6, 2017)

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:

- 1) 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
- 2) 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:

- 1) The operation zone:
 - i. Extends two hundred feet beyond the ends of each runway; and
 - ii. Is one thousand feet wide, with five hundred feet on either side of the runway centerline; and
- 2) 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. 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 and no tree shall be suffered or allowed within the Airport Hazard Area that exceeds the following height restrictions:

- a) 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 closest runway end, as shown on the Lincoln Airport Zoning Map;
- c) In the transition zones, the height of the planes forming the transition slopes;
- d) In the operation zone and in the existing or proposed runways, the height of the existing or proposed finished grade of said runways. All grades of said runways 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.

18.006. Permit Required; Procedure.

a) Except as provided in Section 18.006a, it shall be unlawful to erect, construct, reconstruct, repair, or establish any structure or appurtenances thereto of any kind or character within the boundary of the 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) Application for a height permit as required under the provisions of this Article 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 by a land surveyor, registered by the State of Nebraska, which certificate must accompany said application.

c) An application for a height permit may include all of the area and proposed structures within a plat or additional that is residentially zoned, and, if the requirements of this Article as to height restrictions are met, a blanket height permit may be issued for all of such area and structures. A notation shall be included upon the plat, community unit plan or other appropriate document of approval, reflecting the fact that the area is the subject of a blanket height permit. (Resolution No. R-17-044, June 6, 2017)

d) Upon completion of, and prior to operating or occupying, any structure requiring a height permit, including each structure covered by a blanket height permit, the applicant, owner of the structure, or agent there, shall submit to the Building Official a survey, certified by a registered professional surveyor verifying the actual height and location of the structure. Such information shall be recorded and maintained by the Building Official. (Resolution No. R-17-044, June 6, 2017)

e) A permit 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 general fund. No fee shall be charged for a permit for any construction or repair whose estimated cost is less than \$100.00.

f) No post-construction certification shall be required for single family or two family dwelling meeting all of the following criteria:

- i) It is located within the Shaded Area;
- ii) It is located within a zoning district, community unit plan or planned unit development where the maximum permitted height is 35 feet or less; and
- iii) The area in which the structure is located has an elevation, as shown on the height permit of not more than 100 feet above the elevation on the nearest existing or proposed runway end.

As required by Article 20 of this Resolution, the Building Official will confirm that each such single family or two family dwelling complies with applicable height restrictions of the underlying zoning district before issuing a Certificate of Occupancy or a Certificate of Completion. (Resolution No. R-17-044, June 6, 2017)

18.006.A. Permit Required; Exceptions; Removal of Portions of Shaded Area; Accessory Structure.

a) No height permit shall be required for construction of any proposed structure that will be no higher than seventy-five feet above the elevation of the ground at the location of the proposed construction:

- i) Within the turning zoning, or that part of the approach zones located more than seven thousand seven hundred feet from the end of the runway, except for construction in the Shaded Area; or
- ii) Within any portion of the Shaded Area for which:
 1. A grading plan has been filed with the Building Official or Planning Department, and a copy sent to the Airport Engineer, certified as to elevation by a registered professional surveyor, establishing that all of such area presently has or will have, upon completion of the grading, an elevation that is lower than 75 feet above the nearest existing or proposed runway end; and
 2. A certification from a registered professional surveyor has been received, certifying that the grading has been completed and that the area has an elevation that is lower than 75 feet above the nearest existing or proposed runway end. Upon receipt of said certification, following completing of the grading, a notation shall be included by the Planning Director upon the plat, community unit plan, or other appropriate document of approval, reflecting the fact that the subject area meets the requirements of this subsection.

b) The Planning Director shall amend the Lincoln Airport Zoning Map to remove from the Shaded Area any portion thereof that has met all the requirements of subsection (a)(ii) above. Notice of the Planning Director's administrative amendment to the Lincoln Airport Zoning Map shall be posted on the Planning Department's webpage and included in a written report to the County Clerk.

c) No height permit shall be required for any proposed accessory structure when the proposed accessory structure or any attachment thereto does not exceed the elevation of the main structure.

(Resolution No. R-17-044, June 6, 2017)

18.007. Airport Hazards.

a) The Building Official shall examine or cause to be examined any structures or trees, reported to the Building Official 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 Division of Aeronautics of the State of Nebraska Department of Transportation 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 Resolution, 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.

(Resolution No. R-18-0002, January 9, 2018)

18.008. Non-conforming Structures.

a) Within the 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 shall hereafter be replaced, substantially reconstructed, altered, replanted or allowed to grow, as the case may be, 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 zone regulated.

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 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 lighting or other signals designated by the said agency and based on the recommendations of lighting officials or the Division of Aeronautics of the State of Nebraska Department of Transportation. (Resolution No. R-18-0002, January 9, 2018)

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 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.

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 Neb. Rev. Stat. § 3-320 (2014 Cum. Supp.), and such other powers and duties as are conferred and imposed by law. 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)

18.013. 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 takeoff 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. (Resolution No. R-16-0015, March 8, 2016)