

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Chapter 27.59 of the Lincoln Municipal Code relating to  
2 Airport Zoning Regulations by amending Section 27.59.010 to add definitions for “Shaded  
3 Areas” and “FAA”; by amending Section 27.59.060 to modify requirements for height permits;  
4 by adding a new section numbered 27.59.065 to provide exceptions to required height permits;  
5 adding a new section numbered 27.59.067 regarding notice to FAA of certain construction;  
6 adopting a revised Lincoln Airport Zoning Map; and repealing Section 27.59.010 and Section  
7 27.59.060 as hitherto existing.

8 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

9 Section 1. That Section 27.59.010 of the Lincoln Municipal Code be amended to read as  
10 follows:

11 **27.59.010 Definitions.**

12 As used in this chapter unless the context otherwise requires:

13 **Airport** shall mean the Lincoln [a](#)Airport, located in Sections 4, 5, 6, 7, 8, 9, 17, and 18,  
14 Township 10 North and Sections 31 and 32, Township 11 North, Range 6 East of the Sixth  
15 Principal Meridian, Lancaster County, Nebraska.

16 **Airport hazard** shall mean any structure or tree or use of land that penetrates any  
17 approach, operation, transition, or turning zone.

18 **Airport hazard area** shall mean any area of land or water upon which an airport hazard  
19 might be established if not prevented as provided in this chapter, but such area shall not extend in  
20 any direction a distance in excess of the limits provided for approach, operation, transition, and  
21 turning zones.

1           **Building Official** shall mean the Director of the Department of Building and Safety of  
2 the City of Lincoln, Nebraska, or his or her authorized representative.

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

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

5           [FAA shall mean the United States Department of Transportation, Federal Aviation](#)  
6 [Administration, or any successor agency.](#)

7           **Instrument runway** shall mean an existing runway with precision or nonprecision  
8 instrument approaches as developed and published by the Federal Aviation Administration or an  
9 existing or proposed runway with future precision or nonprecision instrument approaches  
10 reflected on the airport layout plan.

11          **Lessee** shall mean any person, other than the owner, in possession of land.

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

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

16          **Proposed runway** means a runway that has not been constructed and is not under  
17 construction but that is depicted on the airport layout plan that has been conditionally or  
18 unconditionally approved by, or has been submitted for approval to, the Federal Aviation  
19 Administration.

20          **Runway** shall mean a defined area at the Airport that is prepared for the landing and  
21 takeoff of aircraft along its length. For purposes of Chapter 27.59, only instrument runways as  
22 defined herein shall be included within the term “runway”.

1        Shaded Area shall mean those hatched mark areas on the Lincoln Airport Zoning Map  
2 representing areas within 4 miles from the end of a runway having elevations that are 75 feet or  
3 more above the elevation on the nearest runway end.

4        **Structure** shall mean any object constructed or installed by man, including, but without  
5 limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

6        **Tree** shall mean any object of natural growth.

7        Section 2. That Section 27.59.060 of the Lincoln Municipal Code be amended to read as  
8 follows:

9        **27.59.060 Permit Required; Procedure; Certification; Exception.**

10        (a) Except as provided in ~~subparagraph (b)~~ Section 27.59.065, it shall be unlawful to  
11 erect, construct, reconstruct, repair, or establish any structure or appurtenance thereto of any kind  
12 or character within the boundary of the Airport Hazard Area of the Airport without first  
13 obtaining a height permit from the Building Official. A height permit shall not be issued for any  
14 structure or appurtenance thereto that exceeds the height restrictions set forth in Section  
15 27.59.040.

16        ~~(b) — No height permit shall be required within the turning zones, or that part of the~~  
17 ~~approach zones located more than seven thousand seven hundred feet from the end of the~~  
18 ~~runway, for construction of any proposed structure that will be no higher than seventy five feet~~  
19 ~~above the elevation of the natural ground at the location of the proposed construction, except for~~  
20 ~~construction in those specifically "shaded" areas (elevation 1,248 ft. A.M.S.L. or higher)~~  
21 ~~indicated on the Lincoln Airport Zoning Map that are within four miles from the end of a~~  
22 ~~runway. Structures or buildings proposed to be constructed within such "shaded" areas on said~~  
23 ~~map shall require certification as to elevation. No certification as to elevation or a height permit~~  
24 ~~shall be required for proposed accessory structures or accessory buildings to dwelling units when~~

1 ~~said proposed accessory structures or accessory buildings or any attachment thereto do not~~  
2 ~~exceed the elevation of said dwelling unit.~~

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

9 (c) An application for a height permit may include all of the area and proposed  
10 structures within a plat or addition that is residentially zoned and has an elevation of not more  
11 than 100 feet above the elevation on the nearest existing or proposed runway end, and, if the  
12 requirements of this Chapter as to height restrictions are met, a blanket height permit may be  
13 issued for all of such area and structures. A notation shall be included upon the plat, community  
14 unit plan, or other appropriate document of approval reflecting the fact that the area is the subject  
15 of a blanket height permit;

16 (d) Upon completion and prior to operating or occupying any structure ~~or dwelling~~  
17 requiring a height permit, including each structure covered by a blanket height permit, the  
18 applicant, owner of the structure, or agent thereof shall submit to the Building Official ~~shall~~  
19 ~~require a registered professional a surveyor, certified by a registered professional surveyor,~~  
20 verifying the ~~to verify the~~ actual height and location of ~~such the~~ structure ~~or building~~. ~~The~~  
21 ~~certification shall be submitted to the Building Official at the point of final construction of the~~  
22 ~~structure or building and prior to operation or occupying the structure or building.~~ Such  
23 information shall be recorded and maintained by the Building Official.

1 (e) No post-construction certification shall be required for a single or two family  
2 dwelling meeting all of the following criteria: (i) it is located within the Shaded Area; (ii) it is  
3 located within a zoning district, community unit plan, or planned unit development where the  
4 maximum permitted height is 35 feet or less; and (iii) the area in which the structure is located  
5 has an elevation, as shown on the height permit, of not more than 100 feet above the elevation on  
6 the nearest existing or proposed runway end. The Building Official will confirm, as required by  
7 Chapter 27.77 of this Title, that each such single or two family dwelling complies with the  
8 applicable height restrictions of the underlying zoning district before issuance of a Certificate of  
9 Occupancy or a Certificate of Compliance.

10 Section 3. That Chapter 27.59 of the Lincoln Municipal Code be amended by adding a  
11 new section numbered 27.59.065 to read as follows:

12 **27.59.065 Permit Required; Exceptions; Removal of Portions of Shaded Area; Accessory**  
13 **Structure**

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

17 (i) Within the turning zones, or that part of the approach zones located more than  
18 seven thousand seven hundred feet from the end of the runway, except for construction in  
19 the Shaded Area; or

20 (ii) Within any portion of the Shaded Area for which (1) a grading plan has been filed  
21 with the Building Official or Planning Department, and a copy sent to the Airport  
22 Engineer, certified as to elevation by a registered professional surveyor, establishing that  
23 all of such area presently has or will have, upon completion of the grading, an elevation  
24 that is lower than 75 feet above the nearest existing or proposed runway end and (2) a

1 certification from a registered professional surveyor has been received, certifying that the  
2 grading has been completed and that the area has an elevation that is lower than 75 feet  
3 above the nearest existing or proposed runway end. Upon receipt of said certification,  
4 following completion of the grading, a notation shall be included by the Planning  
5 Director upon the plat, community unit plan, or other appropriate document of approval  
6 reflecting the fact that the subject area meets the requirements of this subsection.

7 (b) The Planning Director shall amend the Lincoln Airport Zoning Map to remove  
8 from the Shaded Area any portion thereof that has met all the requirements of subsection (a)(ii)  
9 above. Notice of the Planning Director's administrative amendment to the Lincoln Airport  
10 Zoning Map shall be posted on the Planning Departments webpage and included in the Planning  
11 Director's weekly report to the City Clerk of Administrative Permits and Administrative  
12 Amendments under Section 27.81.022.

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

16 Section 4. That Chapter 27.59 of the Lincoln Municipal Code be amended by adding a  
17 new section numbered 27.59.067 to read as follows:

18 **27.59.067 Construction or alteration requiring FAA notice.**

19 (a) FAA Regulations. FAA regulations at 14 C.F.R. part 77.9 require that notice of  
20 proposed construction or alteration must be filed with the FAA at least 45 days prior to  
21 construction or alteration of a structure, if the structure or alteration will be:

22 (i) more than 200 feet in height above the ground level at its site; or

1 (ii) of greater height than the imaginary surface extending outward and upward at a  
2 slope of 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the  
3 nearest runway of the Airport.

4 (b) Outer Hazard Boundary. The outer boundary of that portion of the City within a  
5 horizontal distance of 20,000 feet from the nearest point on the nearest runway of the Airport is  
6 designated and shown on the Lincoln Airport Zoning Map as the “Outer Hazard Boundary”.

7 (c) Form of FAA Notice. If notice is required the notice must be filed with the FAA  
8 Administrator on FAA Form 7460-1 “Notice of Proposed Construction or Alteration” as required  
9 by 14 CFR Part 77, or any similar regulation or statute that may later be enacted in replacement  
10 thereof.

11 (d) FAA Notice Criteria Tool Determination.

12 (i) No city building permit to construct or alter a structure that is within the Outer  
13 Hazard Boundary shall be approved until the applicant has provided the City with a FAA  
14 determination, using the FAA Notice Criteria Tool, of “FAA Notice Criteria Not  
15 Exceeded” or, if notice is required, a copy of the Form 7460-1 as submitted to the FAA.  
16 A copy of the FAA Notice Criteria Not Exceeded or if notice is required a copy of Form  
17 7460-1 shall also be provided to the Airport Authority of the City of Lincoln. In addition,  
18 a copy of any FAA determination issued by the FAA stating whether the proposed  
19 construction or alteration would be a hazard to air navigation shall be provided to the  
20 City and Airport Authority within 7 days following receipt thereof.

21 For any application exceeding FAA Notice Criteria, as determined under 14  
22 C.F.R. part 77.9, the City may defer approval of the application for a period of not to  
23 exceed 45 days and direct the applicant to meet and confer with the Airport Authority on  
24 possible revisions to the proposed structure that would minimize or eliminate the

1 obstruction and potential hazard to air navigation and/or potential effect on the Lincoln  
2 Airport Authority aircraft approach or departure procedures or other airport operations.

3 (ii) In order to identify potential aeronautical hazards in advance, any applicant  
4 submitting an application for approval of a preliminary plat, final plat, community unit  
5 plan, planned unit development, special permit, or use permit, to develop land for future  
6 construction of one or more structures that are within the Outer Hazard Boundary Area  
7 shall, as part of the application process, use the FAA Notice Criteria Tool to determine  
8 under the below worst case assumptions whether any proposed structure allowed to be  
9 constructed on the land proposed for development would require the applicant to file  
10 Form 7460-1 with the FAA:

11 Assumption 1: The structure is located on the buildable portion of the land  
12 with the highest elevation; and

13 Assumption 2: The structure is built to its maximum allowed height.

14 A copy of the “FAA Notice Criteria Not Exceeded,” or, if notice is required, a  
15 copy of the Form 7460-1 as submitted to the FAA, shall be provided to the City and the  
16 Airport Authority. For any application exceeding FAA Notice Criteria as determined  
17 under 14 C.F.R. part 77.9, the City may defer further consideration of the application for  
18 not more than 45 days and direct the applicant to meet and confer with the Airport  
19 Authority on possible solutions to minimize or eliminate the obstruction and potential  
20 hazard and avoid costly modifications to Lincoln Airport Authority aircraft approach or  
21 departure procedures or other airport operations.

22 Section 5. That the Lincoln Airport Zoning Map dated August 12, 2015, as most recently  
23 amended by Section 13 of Ordinance No. 20304 be superseded and the Lincoln Airport Zoning  
24 Map dated February 15, 2017, a copy of which is attached hereto, is hereby adopted by reference



1 into Chapter 27 and shall constitute the Lincoln Airport Zoning Map referred to in Chapter 27  
2 and in Section 27.050.020 of the Lincoln Municipal Code.

3 Section 6. That Section 27.59.010 and 27.59.060 of the Lincoln Municipal Code as  
4 hitherto existing be and the same are hereby repealed.

5 Section 7. That this ordinance shall take effect and be in force from and after passage  
6 and publication in one issue of a daily or weekly newspaper of general circulation in the City,  
7 according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this ___ day of _____, 2017:  _____ Mayor
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