
PART 1 ZONING REGULATIONS
SECTION 3400 OVERLAY DISTRICT
AIRPORT INFLUENCE AREA

1-3401 INTENT

- The Airport Influence Area District is hereby established as an overlay district which includes within its boundaries each airport influence area recognized by the Board of County Commissioners. Each airport influence area is further divided up into restricted areas. Property within an airport influence area is subject to the regulations of the underlying district and this Code as well as the additional regulations of this district. Development within a restricted area may require a 1041 permit in addition to compliance with other applicable County regulations.
- These regulations are intended to provide for specific areas within Arapahoe County which recognize benefits and potentially adverse impacts which may occur within certain distances from a public, military or private airport facility, and to provide regulations that minimize these impacts as well as protect aircraft operations.
- These regulations recognize the efforts of other agencies (Arapahoe County Public Airport Authority, U.S. Department of Defense, Adams County Front Range Airport Authority, Denver International Airport, and Federal Aviation Administration), and evidence Arapahoe County's willingness to cooperate with these agencies in the administration of these regulations.
- These regulations are intended to minimize exposure of residential and other noise sensitive land uses from uncontrollable aircraft noise and high numbers of aircraft overflights; to minimize risks to public safety from potential aircraft accidents; to discourage traffic congestion within these areas by regulating land use densities; and to restrict incompatible land uses within an approved airport influence area.

1-3402 GENERAL PROVISIONS

- The boundary of any officially recognized "airport influence area" and any noise contour or restricted zone shall be as the same appears on the Zoning Map and/or

other updated documents recognized by resolution of the Board of County Commissioners. For purposes of these regulations, the airport influence area of Denver International Airport shall be the outside boundary of the 55 Ldn contour for that airport.

1-3402.01 RESTRICTED AREAS

- These regulations shall recognize the restricted areas of each of the following airports as depicted and described in the following documents as may be further updated by resolution of the Board of County Commissioners from time to time hereafter, and to implement selected recommendations as minimum requirements for development within the respective airport influence areas, in order to promote compatible land uses and densities within areas affected by airport operations:

Centennial Airport: The March 1998 “Centennial Airport Land Use Guidelines” prepared by the Arapahoe County Public Airport Authority, and the preliminary results of the October 1999 “Centennial Airport F.A.R. Part 150 Noise Exposure and Land Use Compatibility” study prepared by Bernard Dunkelberg and Company.

Buckley Air Force Base: The June 1998 “Air Installation Compatible Use Zone Study at Buckley Air National Guard Base” study.

Front Range Airport: The February 2004 “Airport Master Plan update” prepared by Washington Group International, which included forecast general aviation activity for 2021 as well as potential air cargo. Contours were generated by the FAA-accepted Integrated Noise Model (Version 6.1) and reflected areas of Day-Night Level (DNL) noise exposure.

Denver International Airport The Denver International Airport approved 14 CFR Part 150 Study – Noise Exposure Maps on April 2002. It was prepared by HNTB Corporation.

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- The Arapahoe County Mapping Division shall create and maintain maps of the vicinity of each airport depicting each restricted area within and around such airport that is subject to regulation within the Airport Influence Area District.

1-3402.02 BOUNDARIES

- The boundaries of the Airport Influence Area District and each restricted area are based in part upon predictions of day to day noise levels perceptible at ground level. These predictions are based upon acoustical modeling techniques that are accepted as accurate and reliable by the Federal Aviation Administration and by hundreds of airport operators and municipalities nationwide, but are difficult for property owners to test or confirm. The Board of County Commissioners has determined that the noise contours relied upon in part as the basis for the Airport Influence Area District regulations are accurate and reliable for the purposes of land use planning. The Board of County Commissioners has also determined that, based upon the usage patterns of each airport, that the contours and the restrictions associated therewith reflect sound land planning principles and are justified based upon the current airport traffic regardless of whether the noise predictions are accurate. The boundaries of the Airport Influence Area District and each restricted area shall be reviewed and amended when appropriate, either in conjunction with adoption of updated information by the respective airports or based upon other credible information and studies.

1-3402.03 INTERFERENCE

- No land use may be made of land within the Airport Influence Area District in such a manner as to create electrical interference with radio communication between an Air Traffic Control (ATC) facility and an aircraft; or to make it difficult for pilots to distinguish between airport lights and other lights; or to cause glare in the eyes of pilots using the airport; or to impair visibility in the vicinity of the airport; or to otherwise endanger the landing, taking off, or maneuvering of aircraft at an airport or in the vicinity of an airport.

1-3402.04 NONCONFORMING STRUCTURES

- The owner of any nonconforming structure or object of natural growth within the Airport Influence Area District is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Board of County Commissioners, after consultation with the appropriate airport operator, to indicate to the operators of aircraft in the vicinity of the airport the presence of such nonconforming structures.

1-3402.05 PROTECTION

- The degree of protection provided by these Regulations is considered reasonable for regulatory purposes and is based on planning, engineering and scientific methods of study and in coordination with aviation and defense agencies. This Section does not imply that areas outside of the airport influence area will be totally free from aircraft hazards, and, therefore, shall not create a liability on the part of Arapahoe County, or any of its officers or employees, for any damages resulting from reliance on this Section.

1-3402.06 LOTS WITHIN MORE THAN ONE RESTRICTED AREA

- In the event a legal lot is located within more than one restricted area, the entire lot shall be subject to the restrictions of the restricted area which most restricts development of the lot. This provision shall not be applied to prevent or discourage subdivision of a parcel or lot to minimize encroachment into restricted areas or to prevent straddling the boundary between restricted areas.

1-3403 SPECIFIC REGULATIONS

- The following specific regulations for property located within any of the following restricted areas:

1-3403.01 AIRPORT INFLUENCE AREA (All airports)

1-3403.01.01

- As a condition of approval of any new land use plan, subdivision plat or building permit, the County shall require an "avigation easement", in a form approved by the Board of County Commissioners, signed by the landowner which permits flight operations above the property and releases the aircraft operator, the airport owner and operators, and the County from liability or responsibility for the effects of such operations. The avigation easement shall include language stating that, where applicable, noise mitigation construction techniques have been required to mitigate the noise to which the property is exposed. Avigation easements shall not be required as a condition of approval of building permits for structures on unplatted A-E or A-I zoned property or property greater than 35 acres. The easement shall be recorded in the office of the County Clerk and Recorder. A specific note indicating the reception number of the recorded avigation easement shall be required on all Preliminary and Final Development Plans, Master Development Plans, Subdivision Development Plans, Location and Extent Plans, Use By Special Review Plans, and Preliminary and Final Plats which are processed by the PWD Planning Division.

1-3403.01.02

- All features of property with an airport influence area shall comply with the requirements of 14 C.F.R. Part 77 [hereafter referred to as "F.A.R. Part 77"]. The County shall require a study establishing compliance at time of rezoning request, and may also require a similar study at the time of application for a FDP or ASP, plat or building permit. The County's standard note requiring compliance with F.A.R. Part 77 criteria shall be required on all Preliminary, Final, Subdivision and Master Development Plans, Preliminary and Final Plats, Location and Extent Plans and Use by Special Review Plans. Where structures are permitted, the maximum height must comply with the minimum requirements of F.A.R. Part 77 in effect at the time of permit issuance. The

Board of County Commissioners may require additional height restrictions be placed on any proposal within the Airport Influence Area District consistent with sound planning principles.

1-3403.01.03

- Development applications (land use and subdivision plats) within the Airport Influence Area District shall depict the boundaries of the District and all restricted areas on or in the vicinity of the property proposed for development. The County may also require the inclusion on plans and/or plats of excerpts of the District regulations, the inclusion of the noise disclosure text, or other notes for the purpose of ensuring full and adequate disclosure of the hazards and the development conditions applicable to the property.

1-3403.01.04

- Development proposals shall be referred to the airport operator for review and comment at the time the proposal is referred to other agencies.

1-3403.01.05

- For all residential dwelling units to be constructed within the Airport Influence Areas, the applicant shall disclose in writing to all prospective purchasers, on a form prepared by the Board of County Commissioners for the applicable airport, that they are located within an area that will be impacted by low-lying aircraft and aircraft noise. The notices shall include language stating that, where applicable, noise mitigation construction techniques have been required to mitigate the noise to which the property is exposed. Such notification will be accomplished by inclusion of the information in all sales contracts and brochures, conspicuous display in the sales offices, inclusion in the homeowners association documents, and by inclusion on all subdivision and land use plans.

**1-3403.02 ACCIDENT POTENTIAL ZONE (APZ) I (Buckley
Air Force Base only)**

1-3403.02.01

- Property shall not be zoned, approved or platted to accommodate residential or other noise sensitive land uses, and building permits shall not be issued for residential or other noise sensitive development.

1-3403.02.02

- Prohibit "high people density" structures and uses (shopping malls, office and residential concentrations, etc.) and uses which concentrate people unable to respond to emergency situations, such as the elderly or disabled. Prohibit utilities and services required for the area-wide population, where disruption would have an adverse impact.

1-3403.02.03

- Encourage industrial/manufacturing, transportation, communication, wholesale trade, open space, recreational and agricultural uses. Limit permitted structures and uses to a maximum of 20% of the lot or parcel.

1-3403.02.04

- Require permitted structures to be located toward the edges of this zone.

1-3403.02.05

- Require 250 foot-wide clear path (no structures allowed) on either side of runway centerline extended through and within entire zone.

**1-3403.03 ACCIDENT POTENTIAL ZONE (APZ) II (Buckley
Air Force Base only)**

1-3403.03.01

- Discourage new residential development. Where permitted, limit residential densities to one dwelling unit per 2.5 acres.

1-3403.03.02

- Prohibit "high people density" uses (theaters, churches, schools, restaurants, office parks, etc.), and uses which concentrate people unable to respond to emergency situations, such as the elderly or disabled. Require permitted non-residential uses to be located toward the edges of this zone.

1-3403.03.03

- Limit permitted structures and uses to a maximum of 25% of the lot or parcel.

1-3403.04 APPROACH ZONE (Centennial Airport only):

- Property shall not be zoned, approved or platted to allow residential or other noise sensitive uses, and building permits shall not be issued for residential or other noise sensitive uses. No structures shall be permitted in the area 200 feet wide by 2,500 feet long along the runway centerline extended (measured from the clear zone/approach zone boundary).

1-3403.04A RESTRICTION AREA ONE (Front Range Airport)

- Limited commercial and industrial structures are permitted within Restriction Area No. 1, which do not conflict with the operational and safety needs of the Airport:
 - Structures must meet Part 77 Requirements.
 - Structures must meet Noise Level Reduction where the public is received, shall provide and include noise level reduction measures in the design and construction to achieve an interior noise level reduction of 25 decibels in A-weighted levels.
 - Limited commercial means structures will not be used as gathering places for a large number of people i.e. movie theater, strip mall, bowling alley, etc.
 - Operational and safety needs means dust, smoke, emissions, lights or other obstructions to navigation.
 - Arapahoe County Planning will consider input from the Front Range Airport as to the compatibility of all proposed structures within Restriction Area No. 1 prior to approving a proposed development.

1-3403.05 BUFFER ZONE (Centennial Airport only)

- Property shall not be zoned, approved or platted to allow residential or other noise sensitive uses, and building permits shall not be issued for residential or other noise sensitive development, except that educational and day care uses may be permitted when constructed in compliance with County noise mitigation construction requirements to achieve an expected interior noise level of no greater than 45 Ldn in this exposure area.

1-3403.06 RESTRICTED AREA TWO (Front Range Airport only)

- Prohibits the construction of residences except that existing residences may be occupied and new homes may be built on lots platted prior to the adoption of this overlay district.

1-3403.07 RESTRICTED DEVELOPMENT AREA (Centennial Airport only):

- Property shall not be zoned, approved or platted to allow residential or other noise sensitive uses, and building permits shall not be issued for residential or other noise sensitive uses, except that day care uses within office buildings may be permitted when constructed in accordance with the County's noise mitigation construction requirements and when sited within the building in a manner that mitigates the risk of injury from potential airplane crashes.

1-3403.08 RUNWAY PROTECTION ZONE (Centennial Airport only):

- Contained within Airport property boundaries. No non-aeronautical structures permitted.

1-3403.09 TRAFFIC PATTERN AREA (Buckley Air Force Base, only)

- Property shall not be zoned, approved or platted to accommodate residential or other noise sensitive land uses, and building permits shall not be issued for residential or other noise sensitive development. Limit building coverage to 25% of the lot or parcel.

1-3403.10 65 Ldn NOISE ZONE (All airports)

- Property shall not be zoned, platted or approved to allow residential or other noise sensitive uses, and building permits shall not be issued for residential or other noise sensitive development.

1-3403.11 60 Ldn NOISE ZONE (All airports)

- Property shall not be zoned, platted or approved to allow residential uses, and building permits shall not be issued for residential development. All other noise sensitive uses may be permitted when constructed in compliance with County noise mitigation construction requirements to achieve an expected interior noise level of no greater than 45 Ldn in this exposure area.

1-3403.12 55 Ldn NOISE ZONE (All airports)

- Rezoning property to permit residential uses, educational or child care uses, or to change development standards to accommodate such uses, is discouraged. Structures accommodating residential, educational or child care uses shall comply with County noise mitigation construction requirements, including air conditioning, to achieve an expected interior noise level of 45 Ldn in this exposure area.

1-3404 NOISE MITIGATION CONSTRUCTION

REQUIREMENTS

- In all cases where noise mitigation construction is required by the Airport Influence Area District regulations, the following requirements shall be in effect:

1-3404.01 PLAN/PLAT NOTE

- A note in a form approved by the County Attorney shall be included on each land use plan and each plat which discloses the existence of the noise mitigation construction technique requirement and states the applicant's and the applicant's successors' consent to the requirements and to the County's enforcement of the requirements. The note shall read as follows:

(For residences which are also within the 55 DNL contour, the following disclosure shall also be included)

All property within 55 DNL is expected to be exposed to daily aircraft noise levels that equal or exceed an average of 55 decibels (DNL), a level of aircraft noise that the Arapahoe County Board of County Commissioners has determined is the maximum acceptable level for residential use. Because of this, Arapahoe County has required that all residences in this area and within (project name) be constructed in ways that lessen the effects of the aircraft noise to the residents of (project name). These construction techniques require, but are not limited to, air conditioning, additional insulation, insulated fenestrations, and similar techniques intended to achieve an expected interior noise level of 45 decibels (DNL) in the exposure area.

1-3404.02 ENFORCEMENT

- The Zoning Administrator shall be responsible for informing the Building Division that noise mitigation construction techniques are required for building permit applications processed by the Building Division. In the case of building permits issued by the state board of education or other agencies, the applicant shall provide evidence satisfactory to the Zoning Administrator establishing that the

building will comply with minimum County noise mitigation construction requirements.

1-3404.03 CONSTRUCTION REQUIREMENTS

- Buildings required to be constructed in accordance with County noise mitigation construction techniques shall comply with applicable building code requirements for noise mitigation construction and shall include central air conditioning and ventilation system, sufficient to enable occupancy of the building without the need for ventilation from open windows or doors.

1-3404.04 SAMPLE NOISE DISCLOSURE FORM:

(Centennial, DIA and Buckley Airports)

The Disclosure Forms are required at the time of sale of lease of property within the Airport Influence Areas of each airport.

IMPORTANT INFORMATION FOR YOU TO CONSIDER:

_____ Airport is located *(distance and direction from development)* of *(name of development)*. _____ Airport is a busy airport used by piston and jet aircraft and by helicopters, and is open 24 hours a day, seven days a week. All property within *(name of development)* will be exposed to the noise, vibrations and other effects and hazards of this airport. All property within *(name of development)* is subject to the terms of an aircraft overflight easement, which permits all aircraft using the airport to fly anywhere over *(name of development)*. The easement consents to overflying aircraft, and prevents present and future owners and occupants of property within *(name of development)* from objecting to, or seeking damages due to, aircraft operations. The easement also prevents owners and occupants from installing structures, trees or other objects that could interfere with flight operations at the airport.

1-3404.04A SAMPLE DISCLOSURE TO BUYERS FORM:
(Front Range Airport)

ADDENDUM TO THE AGREEMENT

FOR PURCHASE AND SALE

DISCLOSURES TO BUYERS

OF LOT/PUD IN _____

This is an addendum to the agreement for purchase and sale dated _____, between _____ (seller) and _____ (buyers) to purchase lot _____ in _____ LOT/PUD in Arapahoe County, Colorado.

Seller and Buyer agree to modify said agreement as follows:

AIRPORT

1. Proximity to the Airport

_____ LOT/PUD is located within proximity to the Front Range Airport. The LOT/PUD is also located within the "Airport Influence (AIZ) Zone" as defined by the Arapahoe County Zoning Regulations. The purchaser should be aware that property within the AIZ may be subject to overflights by commercial, general aviation, and military aircraft, and subject to noise, vibration, exhaust, air and vehicular traffic and other conditions associated with the operation of this airport. The airport is operational 24 hours per day. Flights may occur at all hours of the night.

2. Disclosure of Noise Impacts

Noise contours have been mapped for the Airport. The 55 Ldn noise contour lies within the boundaries of the AIZ. Therefore, homeowners should expect a varying degree of noise from these aircraft which some residents may find intrusive.

3. Future Operations

The airport plans to expand its operations in the future to meet an increase in the number of flights. Larger airplanes may use the airport. Night operations may increase, which could increase the noise levels within the AIZ. An additional north/south runway could be constructed in the future, which could change current flight operations at Front Range Airport. Also, future airfield operations support facilities could be constructed on airport property with access provided by 56th, Imboden, or Manillia Roads resulting in increasing vehicular traffic and noise within the AIZ.

1-3404.04C NOISE DISCLOSURE FOR RESIDENCES WITH AIRPORT INFLUENCE ZONE (Front Range Airport):

Residences within the Airport Influence Zone (AIZ) should be aware that property within the AIZ may be subject to overflights by commercial, general aviation, and military aircraft, and subject to noise, vibration, exhaust, air and vehicular traffic and other conditions associated with the operation of this airport. The airport is operational 24 hours per day and flights may occur at all hours of the night.

1-3405 WAIVER FROM STRICT ENFORCEMENT OF DISTRICT REGULATIONS

- The Board of County Commissioners may grant waivers from the strict requirements of the Airport Influence Area District regulations, including in the case of reconstruction of a nonconforming use in an area where relocation of the use or rezoning to a conforming use is not feasible. The terms of a waiver shall observe the spirit of these regulations, secure public welfare and safety, and do substantial justice, and shall be limited to the extent necessary to prevent depriving the property owner of all reasonable use of the property. Waivers may be granted after conducting a public hearing following a recommendation the Planning Commission. Public notice of the Planning Commission and Board of County Commissioners hearing shall be given in accordance with the requirements of the Land Development Code. The waiver process may be initiated by application of the property owner or upon the request of the Planning Division Manager, any county commissioner, or may be included within an application for approval of an FDP, SDP or ASP. The Board may elect not to accept more than one waiver applications from the property owner in any 12-month period. The basis of the waiver may be one or more of the following:

1-3405.01

- Evidence of unique, unnecessary or unreasonable hardships that would occur if the strict letter of the District regulations were enforced and that cannot be

satisfactorily mitigated through other means, including appropriate rezoning (decision on variance may be postponed to allow for opportunity to process a rezoning request or to pursue other mitigation efforts).

1-3405.02

- Evidence of irreversible reliance by the applicant on pre-existing terms and conditions of development applicable to the property.
- Evidence from affected public entities that the failure to obtain a variance is likely to result in a default in the repayment of bonded indebtedness.

1-3405.03

- Evidence of marginal benefit to the public health safety and welfare that would result by the strict enforcement of the regulations that is out of proportion to the magnitude of the burdens imposed on the property owner.