

CITY OF DOVER PROPOSED ORDINANCE #2016-24

1 **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN**
2 **COUNCIL MET:**

3 That Appendix B - Zoning, Article 3 - District Regulations, Section 22 - Airport Environs Overlay
4 Zone (AEOZ), Subsection 22.4 - Exemptions, Paragraph (c) - Temporary Uses be amended by
5 inserting the text indicated in bold, blue, italics and deleting the text indicated in red strikeout as
6 follows:

7 **Section 22. - Airport environs overlay zone (AEOZ).**

8 22.1 *Purpose and intent.* The airport environs overlay zone (AEOZ) is expressly intended to
9 protect the public health, safety, and welfare by identifying areas impacted by high levels of
10 aircraft noise, and the potential for aircraft accidents associated with airport operations, by
11 regulating land use and the construction of buildings within such areas. The AEOZ is further
12 intended to preserve and promote the integrity of the mission of Dover Air Force Base
13 (DAFB) as a matter of local, regional and national importance, by regulating development
14 and land use within the specific areas surrounding DAFB, and to protect DAFB from
15 encroachment of incompatible land uses. The AEOZ shall serve as an overlay zone that
16 applies additional standards and requirements to properties located therein.

17 (a) The AEOZ is based on information provided by the Dover Air Force Base's Air
18 Installation Compatible Use Zone Study Update. The city shall work with the Dover Air
19 Force Base to update the provisions of this section as needed.

20 (b) In case of conflicting standards and requirements, the more stringent standards and
21 requirements shall apply. Uses prohibited by the underlying zoning designations of the
22 properties within the AEOZ shall not be permitted by this section.

23 22.2 *Definitions.*

24 (a) *Air installations compatible use zones (AICUZ):* is a department of defense program to
25 achieve compatibility between air installations and neighboring communities.

26 (b) *Airport environs:* is the geographic area that is affected by airport air traffic operations
27 and defined on the basis of those areas immediately impacted by aircraft noise of the 65
28 decibels (dBs) and greater noise exposure areas as delineated by the current and approved
29 DAFB air compatibility use zone study. This area is represented as the airport environs
30 overlay zone (AEOZ).

31 (c) *Day-night average A-weighted sound level (DNL):* is a cumulative aircraft noise index
32 which estimates the exposure to aircraft noise and relates the estimated exposure to an
33 expected community response; a 24-hour energy average sound level expressed in
34 decibels (dBs), with a ten-decibel penalty applied to noise occurring between 10:00 p.m.
35 and 7:00 a.m.

36 (d) *DNL contour*: is an isoline linking together a series of points of equal cumulative noise
37 exposure based on Ldn metric. Such contours are developed based on aircraft flight
38 patterns, number of daily aircraft operations by type of aircraft and time of day, noise
39 characteristics of each aircraft, and typical runway usage patterns.

40 (e) *Decibel (dB)*: is a unit of measure of sound pressure or intensity.

41 (f) *Ldn metric*: is the average equivalent A-weighted sound level during a 24-hour day,
42 obtained by adding ten decibels to the hourly noise levels measured during the night
43 (10:00 p.m. to 7:00 a.m.).

44 (g) *SLUCM*: Standard Land Use Coding Manual, U.S. Department of Transportation.

45 22.3 *Accident potential zones and noise zones*. The AEOZ is comprised of two basic regulatory
46 components: accident potential zones and noise zones. This section establishes three accident
47 potential zones and four noise zones. The boundaries of each of these zones are delineated
48 on the City of Dover Zoning Map and are further described as follows:

49 (a) *Accident potential zones*:

50 (1) *Clear zone (CZ)* is that area immediately adjoining the end of a runway and which
51 extends outward from the edge of the runway a distance of 3,000 feet and which is
52 3,000 feet in width (1,500 feet to either side of the centerline of the airport runway);

53 (2) *Accident potential zone I (APZ I)* is that area immediately adjoining the outer edge
54 of the CZ and which extends outward from the boundary of the CZ a distance of
55 5,000 feet, and which is 3,000 feet in width; and

56 (3) *Accident potential zone II (APZ II)* is that area immediately adjoining the outer edge
57 of the APZ I and which extends outward from the boundary of the APZ I a distance
58 of 7,000 feet, and which is 3,000 feet in width.

59 (b) *Noise zones*:

60 (1) *Noise zone A (DNL A)* is that area within and bounded by DNL contour lines of
61 between 65 decibels and 69 decibels of noise pressure.

62 (2) *Noise zone B (DNL B)* is that area within and bounded by DNL contour lines of
63 between 70 decibels and 74 decibels of noise pressure.

64 (3) *Noise zone C (DNL C)* is that area within and bounded by DNL contour lines of
65 between 75 decibels and 79 decibels of noise pressure.

66 (4) *Noise zone D (DNL D)* is that area within and bounded by DNL contour lines of 80
67 decibels and subject to noise pressure of 80 decibels and greater.

68 22.4 *Exemptions.* The following uses and structures are exempt from compliance with the
69 provisions of this section:

70 (a) *Additions to existing one-family dwellings.* Additions to existing one-family dwellings
71 may be permitted when all other applicable zoning district bulk requirements are met.

72 (b) *Additions to existing non-residential buildings.*

73 (1) Additions to existing non-residential buildings designed for human occupation shall
74 be limited to a maximum increase of 50% of the floor area.

75 (2) Additions to existing non-residential buildings designed for storage, warehousing and
76 other uses not designed or intended for human occupancy as a primary use are
77 unlimited in floor area.

78 (c) *Temporary uses.* Temporary uses which include but are not limited to public gatherings,
79 celebrations and outdoor entertainment events are permitted, so long as the period of
80 operation does not exceed ~~five days~~ **80 hours in a calendar year**.

81 (d) *Temporary structures.* Temporary buildings and structures such as tents, pavilions,
82 bleachers, etc., that are not used for residential purposes, and which meet said applicable
83 requirements as contained within this zoning ordinance appendix are permitted, so long
84 as such uses and associated structures are constructed incidental to a permitted use.

85 (e) *Accessory uses and structures.* Accessory uses and structures incidental to a permitted
86 principal structure or use.

87 22.5 *Land use and development standards.* Any building or portion thereof constructed or placed
88 within the AEOZ shall comply with the following standards:

89 (a) Unless specifically exempted under subsection 22.4 above, land uses shall be permitted
90 or prohibited in accordance with subsection 22.6, land use compatibility table.

91 (b) Proposed structures situated within noise zones A through D shall be constructed with
92 noise attenuation features to achieve the minimum interior noise level reductions
93 specified by building type in subsection 22.6, land use compatibility table.

94 (c) In APZ I and APZ II, no structure may be erected over 60 feet in height, regardless of
95 zoning district bulk regulations of the individual zoning district.

96 (d) All building permit applications for construction of new buildings or building additions
97 not exempted under section 22.4, within AEOZ shall be accompanied by a written
98 statement from a licensed architect or engineer, which lists all construction materials to
99 be used and the resultant interior noise level reductions to be achieved. The written
100 analysis provided by the engineer or architect shall demonstrate that the proposed
101 construction will achieve compliance with the minimum required interior noise level
102 reductions specified in subsection 22.6, land use compatibility table.

103 22.6 Land use compatibility table.

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LAND USE COMPATIBILITY TABLE								
SLUCM No.	Name	Accident Potential Zones			Noise Zones in DNL dBA			
		Clear Zone	APZ I	APZ II	A 65— 69	B 70— 74	C 75— 79	D 80+
10	<i>Residential</i>							
11	Household units							
11.11	Single units; detached	N	N	Y ^{5, 12}	Y ^{1, 12}	Y ²	N	N
11.12	Single units; semidetached and attached	N	N	N	Y ¹	Y ²	N	N
11.31	Apartments	N	N	N	Y ¹	Y ²	N	N
12	Group quarters	N	N	N	Y ¹	Y ²	N	N
13	Residential hotels	N	N	N	Y ¹	Y ²	N	N
14	Mobile home parks or courts	N	N	N	N	N	N	N
15	Transient lodgings	N	N	N	Y ¹	Y ²	Y ⁵	N
16	Other residential	N	N	N	Y ¹	Y ²	N	N
20	<i>Manufacturing</i>							
21	Food & kindred products; manufacturing	N	N	Y	Y ¹	Y ²	Y ³	Y ⁴
22	Textile mill products; manufacturing	N	N	Y	Y ¹	Y ²	Y ³	Y ⁴
23	Apparel and other finished products made from fabrics, leather, and similar materials; manufacturing	N	N	N	Y ¹	Y ²	Y ³	Y ⁴
24	Lumber and wood products (except furniture); manufacturing	N	Y ^{5, 9}	Y	Y ¹	Y ²	Y ³	Y ⁴
25	Furniture and fixtures; manufacturing	N	Y ^{5, 9}	Y	Y ¹	Y ²	Y ³	Y ⁴
26	Paper & allied products; manufacturing	N	Y ^{5, 9}	Y	Y ¹	Y ²	Y ³	Y ⁴
27	Printing, publishing, and allied industries	N	Y ^{5, 9}	Y	Y ¹	Y ²	Y ³	Y ⁴
28	Chemicals and allied products; manufacturing	N	N	N	Y ¹	Y ²	Y ³	Y ⁴
29	Petroleum refining and related industries	N	N	Y	Y ¹	Y ²	Y ³	Y ⁴
30	<i>Manufacturing</i>							
31	Rubber and misc. plastic products, manufacturing	N	N	N	Y ¹	Y ²	Y ³	Y ⁴
32	Stone, clay and glass products manufacturing	N	N	Y	Y ¹	Y ²	Y ³	Y ⁴
33	Primary metal industries	N	N	Y	Y ¹	Y ²	Y ³	Y ⁴
34	Fabricated metal products; manufacturing	N	N	Y	Y ¹	Y ²	Y ³	Y ⁴
35	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks manufacturing	N	N	N	Y ¹	Y ²	Y ³	N
39	Miscellaneous manufacturing	N	Y ^{5, 9}	Y ^{5, 9}	Y ¹	Y ²	Y ³	Y ⁴
40	<i>Transportation, Communications and Utilities</i>							

135	41	Railroad, rapid rail transit and street railroad transportation	N	N	Y	Y ¹	Y ²	Y ³	Y ⁴
136	42	Motor vehicle transportation	N	Y	Y	Y ¹	Y ²	Y ³	Y ⁴
137	43	Aircraft transportation	N	Y ¹⁰	Y	Y ¹	Y ²	Y ³	Y ⁴
138	44	Marine craft transportation	N	Y ¹⁰	Y	Y ¹	Y ²	Y ³	Y ⁴
139	45	Highway & street right-of-way	N	Y	Y	Y ¹	Y ²	Y ³	Y ⁴
140	46	Automobile parking	N	Y ¹⁰	Y	Y ¹	Y ²	Y ³	Y ⁴
141	47	Communications	N	Y ¹⁰	Y	Y ¹	Y ²	Y ³	N
142	48	Utilities	N	Y ¹⁰	Y	Y ¹	Y ²	Y ³	Y ⁴
143	49	Other transportation communications and utilities	N	Y ¹⁰	Y	Y ¹	Y ²	Y ³	N
144	50	Trade							
145	51	Wholesale trade	N	Y ⁵	Y	Y ¹	Y ²	Y ³	Y ⁴
146	52	Retail trade-building materials, hardware and farm equipment	N	Y ⁵	Y	Y ¹	Y ²	Y ³	Y ⁴
147	53	Retail trade-general merchandise	N	N	Y ⁵	Y ¹	Y ²	Y ³	N
148	54	Retail trade-food	N	N	Y ⁵	Y ¹	Y ²	Y ³	N
149	55	Retail trade-automotive, marine craft, aircraft and accessories	N	Y ⁵	Y ⁵	Y ¹	Y ²	Y ³	N
150	56	Retail trade-apparel and accessories	N	N	Y ⁵	Y ¹	Y ²	Y ³	N
151	57	Retail trade-furniture, home furnishings and equipment	N	N	Y ⁵	Y ¹	Y ²	Y ³	N
152	58	Retail trade-eating and drinking establishments	N	N	N	Y ¹	Y ²	Y ³	N
153	59	Other retail trade	N	N	Y ^{5,9}	Y ¹	Y ²	Y ³	N
154	60	Services							
155	61	Finance, insurance and real estate services	N	N	Y ^{5,9}	Y ¹	Y ²	Y ³	N
156	62	Personal services	N	N	Y ^{5,9}	Y ¹	Y ²	Y ³	N
157	62.4	Cemeteries	N	N	Y ¹¹	Y ¹	Y ²	Y ³	N
158	63	Business services	N	Y ^{5,9}	Y ^{5,9}	Y ¹	Y ²	Y ³	N
159	64	Repair services	N	Y ^{5,9}	Y	Y ¹	Y ²	Y ³	Y ⁴
160	65	Professional services	N	N	Y ^{5,9}	Y ¹	Y ²	Y ³	N
161	65.1	Hospitals, nursing homes	N	N	N	Y ¹	Y ²	N	N
162	65.1	Other medical facilities	N	N	N	Y ¹	Y ²	Y ³	N
163	66	Contract construction services	N	Y ^{5,9}	Y	Y ¹	Y ²	Y ³	N
164	67	Governmental services	N	N	Y ^{5,9}	Y ¹	Y ²	Y ³	N
165	68	Educational services	N	N	N	Y ¹	Y ²	N	N
166	69	Miscellaneous services	N	N	Y ⁵	Y ¹	Y ²	Y ³	N
167	70	Cultural, Entertainment and Recreational							
168	71	Cultural activities (including churches)	N	N	N	Y ¹	Y ²	N	N
169	71.2	Nature exhibits	N	N	Y	Y ¹	N	N	N
170	72	Public assembly	N	N	N	Y ¹	N	N	N

171	72.1	Auditoriums, concert halls	N	N	N	Y ¹	Y ²	N	N
172	72.11	Outdoor music shell, amphitheaters	N	N	N	N	N	N	N
173	72.2	Outdoor sports arenas, spectator sports	N	N	N	Y ⁶	Y ⁶	N	N
174	73	Amusements	N	N	Y ⁹	Y ¹	Y ²	N	N
175	74	Recreational activities (including golf courses, riding stables, water recreation)	N	N	Y	Y	Y	N	N
176	75	Resorts and group camps	N	N	N	Y ¹	Y ²	N	N
177	76	Parks	N	Y ⁹	Y ⁹	Y	Y	N	N
178	79	Other cultural, entertainment and recreation	N	N	N	Y ²	Y ³	N	N
179	80	Resources Production and Extraction							
180	81	Agriculture (except livestock)	Y ⁸	Y	Y	Y ⁷	Y ⁷	Y ⁸	Y ⁸
181	81.5 to	Livestock farming and animal breeding	N	Y	Y	Y ⁷	Y ⁷	N	N
182	81.7								
183	82	Agricultural related activities	N	Y	Y	Y ⁷	Y ⁷	N	N
184	83	Forestry activities and related services	N	Y	Y	Y ⁷	Y ⁷	N	N
185	84	Fishing activities and related services	N	N	N	N	N	N	N
186	N	Mining activities and related services	N	N	N	N	N	N	N
187	89	Other resources production and extraction	N	N	N	N	N	N	N

188 Y (Yes)-Land use and related structures are compatible without restriction.

189 N (No)-Land use and related structures are not compatible and are prohibited.

190 Yx (yes with restrictions)-Land use and related structures generally compatible; see Notes 1-12.

191 NLR (Noise Level Reduction)-NLR (outdoor to indoor) to be achieved through incorporation of
192 noise attenuation measures into the design and construction of the structures.

193 NOTES:

194 1 Require NLR of 25dB for DNL A.

195 2 Require NLR of 30dB for DNL B.

196 3 Require NLR of 35dB for DNL C.

197 4 Require NLR of 40dB for DNL D.

198 5 Require NLR of noise zone and building location and site planning, and design and use of
199 berms and barriers can help mitigate outdoor exposure, particularly from near ground level
200 sources. Measures that reduce outdoor noise should be used whenever practical in preference to
201 measures which only protect interior spaces.

202 6 Require NLR of noise zone and special sound reinforcement systems are installed.

203 7 Associated residential uses require NLR of noise zone.

204 8 Structures are not permitted and personnel should wear hearing protection devices.

205 9 Facilities shall be low intensity.

206 10 No passenger terminals and no major aboveground transmission lines in APZ I.

207 11 Excludes chapels.

208 12 Maximum density of one dwelling unit per acre.

209 22.7 *Design standards.*

- 210 (a) All buildings and structures to be constructed or placed within the AEOZ shall be
- 211 situated on the portion of the lot that affords the least noise impact to the proposed
- 212 building or structure, wherever and whenever practicable. Buildings and structures
- 213 shall be designed and oriented to minimize exposure to the noise source and
- 214 should take maximum advantage of existing physical features to minimize noise
- 215 impact. Windows, doors and other building openings shall be located the greatest
- 216 possible distance away from the noise source.
- 217 (b) Landscape buffer plantings and related screening material shall be used whenever
- 218 practicable to deflect noise away from areas intended for human habitation.

219 22.8 *Prohibited uses.* In addition to uses prohibited by subsection 22.6, land use compatibility
220 table, the following activities are prohibited within the CZ, APZ I and APZ II zones of the
221 AEOZ, including, but not limited to:

- 222 (a) Storage of explosives;
- 223 (b) Hazardous or toxic materials/waste;
- 224 (c) Aboveground transmission lines;
- 225 (d) Uses that release into the air any substance which would impair visibility or
- 226 otherwise interfere with the operation of aircraft (dust, smoke, etc.);
- 227 (e) Uses that produce light emission, direct or indirect, which would interfere with
- 228 pilot vision;
- 229 (f) And uses that attract birds or water fowl, such as, but not limited to, landfills,
- 230 wastewater treatment facilities, and associated settling ponds, artificial marshes,
- 231 dredge spoil materials, sand and gravel dredging operations and open fish
- 232 farming.

233 (Ord. of 2-12-2001; Ord. No. 2013-01, 3-11-2013)

234 ADOPTED: *

235 **SYNOPSIS**

236 The Proposed Amendment would increase permitted temporary uses from a
237 maximum of five (5) days to a maximum of 80 hours in a calendar year.

238 (SPONSOR: COUNCIL COMMITTEE OF THE WHOLE/LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE)

239 Actions History

- 240 11/28/2016 - Scheduled for First Reading - City Council
- 241 10/24/2016 - First Reading Deferred - City Council