



Province of Alberta

## MUNICIPAL GOVERNMENT ACT

# **CALGARY INTERNATIONAL AIRPORT VICINITY PROTECTION AREA REGULATION**

### **Alberta Regulation 177/2009**

With amendments up to and including Alberta Regulation 177/2018

Current as of October 4, 2018

### Office Consolidation

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(Consolidated up to 177/2018)

**ALBERTA REGULATION 177/2009**

**Municipal Government Act**

**CALGARY INTERNATIONAL AIRPORT VICINITY  
PROTECTION AREA REGULATION**

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Schedules

**Definitions**

**1** In this Regulation,

- (a) “airport lands” means lands owned by the Crown in right of Canada and managed and operated as an airport by the Airport Operator pursuant to the *Regional Airports Authorities Act*;
- (b) “Airport Operator” means The Calgary Airport Authority established as a corporation under the *Regional Airports Authorities Act*, or a successor to that corporation;
- (c) “development permit” means an authorization to develop land under one of the following:
  - (i) where the land is in The City of Calgary, The City of Calgary Land Use Bylaw No. 1P2007, as amended from time to time;
  - (ii) where land is in Rocky View County, Rocky View County Land Use Bylaw No. C-4841-97, as amended from time to time;

- (iii) where the land is in the City of Airdrie, the City of Airdrie Land Use Bylaw No. B-09/2005, as amended from time to time;
  - (iv) where a building permit authorizes the construction or placing of a building on land in any of the municipalities referred to in subclauses (i) to (iii), or an addition to or replacement or repair of that improvement, a building permit;
- (d) “municipality” means any of the following:
- (i) The City of Calgary;
  - (ii) Rocky View County;
  - (iii) the City of Airdrie;
- (e) “NEF Area” or “noise exposure forecast area” means the area of land that
- (i) is enclosed by NEF contour 40, excluding the airport lands,
  - (ii) lies between NEF contours 35 and 40, excluding the airport lands,
  - (iii) lies between NEF contours 30 and 35, excluding the airport lands,
  - (iv) lies between NEF contours 25 and 30, or
  - (v) lies between NEF contour 25 and the boundary of the Protection Area as shown on the map in Schedule 2;
- (f) “NEF contour” or “noise exposure forecast contour” means a numbered line shown on the map in Schedule 2 that indicates a boundary of a NEF Area;
- (g) “noise exposure forecast” means a system comprised of a standardized format for forecasted aircraft movement inputs, a computer model and associated land use compatibility tables, which together have been approved by Transport Canada to provide an airport operator means to generate NEF contours that can be used by land use planning authorities to develop compatible land use decisions around an airport;
- (h) “prohibited use” means a use of land that is prohibited under Schedule 3;

- (i) “Protection Area” means the Calgary International Airport Vicinity Protection Area established under section 2.
- (j) “secondary suite” means a self-contained dwelling basement suite that is part of an existing building, meets the building code requirements of a secondary suite and has separate living, cooking, sleeping and bathroom facilities.

AR 177/2009 s1;71/2014;186/2017

### **Protection Area established**

**2(1)** The lands described in Schedule 1 and shown on the map in Schedule 2 are hereby established as the Calgary International Airport Vicinity Protection Area.

**(2)** If any discrepancy exists between the description of the lands in Schedule 1 and the location of the lands on the map in Schedule 2, the description in Schedule 1 prevails.

**(3)** The Protection Area does not include the airport lands.

### **Subdivision approval and development permits relating to land in Protection Area**

**3(1)** No subdivision or development of any kind may be undertaken on land in the Protection Area unless subdivision approval is given or a development permit is issued, as the case may be, by the municipality in which the land is located.

**(2)** A municipality that receives

- (a) an application for the subdivision of land in the Protection Area, or
- (b) an application for a development permit relating to land in the Protection Area

must, in addition to complying with Part 17 of the *Municipal Government Act*, comply with this Regulation.

**(3)** Subject to section 4, no subdivision approval may be given and no development permit may be issued by a municipality relating to land in the Protection Area if the proposed use of that land is a prohibited use, with the exception of a development permit for a secondary suite in an existing single family development.

**(4)** This section does not apply to a minor development of land in the Protection Area

- (a) that will not result in a change in the use of the land, or

- (b) that is exempt under any one of the authorities listed in section 1(c) from the requirement to obtain a development permit.

AR 177/2009 s3;186/2017

#### **Continuation of validity of pre-existing approvals**

**4(1)** If, before the coming into force of this Regulation, a municipality approved a subdivision or issued a development permit relating to land in the Protection Area and the use approved for the land or an improvement to the land immediately before the coming into force of this Regulation was a permitted or prohibited use, the approval of the subdivision or the development permit, as the case may be, continues to be valid after the coming into force of this Regulation.

**(2)** No extension, addition or enlargement may be made to an improvement that is prohibited under this Regulation except in accordance with subsection (3).

**(3)** An improvement used for a residence or school may be extended, added to or enlarged if the portion of the improvement so extended, added to or enlarged

- (a) is located in a NEF Area described in section 1(e)(i), (ii) or (iii),
- (b) complies with the acoustical requirements set out in the Alberta Building Code, and
- (c) is entirely located on a parcel of land that existed immediately before the coming into force of this Regulation.

**(4)** Where the use of an improvement continues to be valid after the coming into force of this Regulation under subsection (1) and the improvement is destroyed or demolished, the improvement may be replaced and may continue to be used for the prohibited use if the portion so replaced complies with the acoustical requirements set out in the Alberta Building Code.

**(5)** The replacement of a residential improvement under subsection (4)

- (a) is limited to the number of residential units destroyed or demolished, and
- (b) must be built on a lot in a subdivision plan registered under the *Land Titles Act* before the coming into force of this Regulation.

**Acoustical requirements**

**5(1)** All buildings constructed on land in the Protection Area after this Regulation comes into force must comply with the acoustical requirements set out in the Alberta Building Code that are in force at the time the development permit relating to the building is issued.

**(2)** For the purpose of establishing the acoustic insulation factor under the Alberta Building Code, the NEF contour for a building is

- (a) the highest numbered NEF contour for the NEF Area in which the building is located, or
- (b) if the building is located in 2 NEF Areas, the highest numbered NEF contour for the higher numbered NEF Area.

**Duty of municipality**

**6(1)** A municipality must refer to the Airport Operator any statutory plan or land use bylaw relating to land in the Protection Area, and any amendment of that plan or bylaw, before adopting the statutory plan or land use bylaw, or an amendment of either.

**(2)** A municipality must refer to the Airport Operator a copy of any application it receives for

- (a) a subdivision of land in a NEF Area described in section 1(e)(i), (ii) or (iii), or
- (b) a development permit relating to land in a NEF Area described in section 1(e)(i), (ii) or (iii)

where the use of the land will change as a result of the application being approved.

**Amendment to Regulation**

**7(1)** Where a municipality applies to the Minister for an amendment to this Regulation, the application must include a resolution of the council that the council supports the proposed amendment.

**(2)** An application under subsection (1) must not be considered by the Minister unless the Minister is satisfied that reasonable consultation in respect of the proposed amendment has taken place with any affected municipality and landowners, the Airport Operator and the general public.

AR 177/2009 s7;186/2017

**Repeal**

**8** The *Calgary International Airport Vicinity Protection Area Regulation* (AR 318/79) is repealed.

**9** Repealed AR 186/2017 s5.

**Schedule 1****Calgary International Airport Vicinity Protection Area**

The Calgary International Airport Vicinity Protection Area consists of the lands described in this Schedule, but does not include the airport lands.

In township 24, range 29, west of the 4th meridian:

Sections 9, 16 and 21;  
Northwest quarter of section 22;  
West half of section 27;  
Sections 28 and 33;  
Southwest quarter and north half of section 34;  
Southeast quarter and north half of section 35;  
Northwest quarter and south half of section 36.

In township 25, range 29, west of the 4th meridian:

Northwest quarter and south half of section 2;  
Sections 3, 4, 9 and 10;  
Sections 15, 16, 21 and 22;  
Northwest quarter of section 23;  
West half of section 26;  
Sections 27, 28, 33 and 34;  
West half of section 35.

In township 26, range 29, west of the 4th meridian:

West half of section 2;  
Sections 3 and 4;  
Sections 9, 10, 15 and 16;  
Sections 21, 22, 27 and 28;  
Section 33;  
West half of section 34.

In township 27, range 29, west of the 4th meridian:

Section 3;  
South half of section 10.

In township 23, range 1, west of the 5th meridian:

Northeast quarter of section 23;  
West half of section 24;  
West half of section 25;  
East half of section 26;  
East half of section 35;  
Southwest quarter and north half of section 36.

In township 24, range 1, west of the 5th meridian:

Section 1;  
East half of section 2;  
East half of section 11;  
Sections 12 and 13;  
East half of section 14;  
Southeast quarter and north half of section 23;  
Sections 24, 25 and 26;  
East half of section 34;  
Sections 35 and 36.

In township 25, range 1, west of the 5th meridian:

Sections 1 and 2;  
East half of section 3;  
Southeast quarter and north half of section 10;  
Sections 11, 12, 13, 14 and 15;  
Southeast quarter and north half of section 16;  
Southeast quarter and north half of section 20;  
Sections 21, 22, 23, 24, 25 and 26;  
East half of section 27;  
Southwest quarter of section 28;  
South half of section 29;  
East half of section 34;  
Sections 35 and 36.

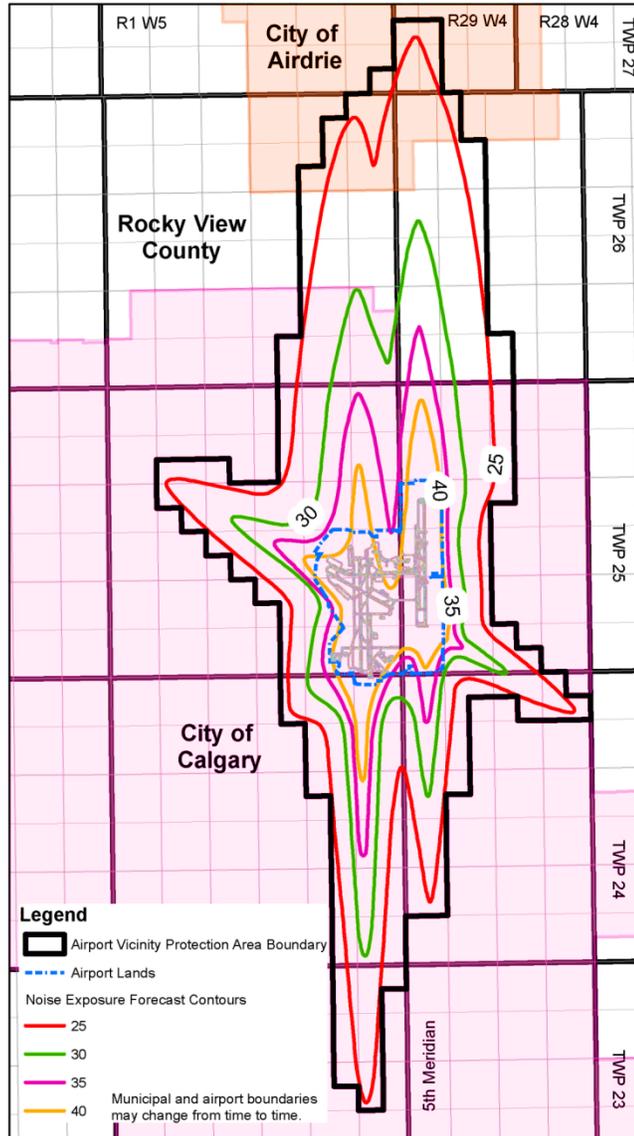
In township 26, range 1, west of the 5th meridian:

Sections 1 and 2;  
East half of section 3;  
Sections 11, 12, 13 and 14;  
Sections 23, 24 and 25;  
Northeast quarter and south half of section 26;  
Southeast quarter of section 35;  
Section 36.

In township 27, range 1, west of the 5th meridian:

Southeast quarter of section 1.

Schedule 2



AR 177/2009 Sched. 2;71/2014;186/2017

**Schedule 3****Land Use in Relation to Noise  
Exposure Forecast Areas****Definitions**

**1** In this Schedule,

- (a) “campground” means a facility where spaces are provided for temporary accommodation for recreational vehicles or tents;
- (b) “clinic” means a facility for the provision of physical services or mental health services, or both, to individuals on an outpatient basis;
- (c) “day care” means a facility for the provision of care and supervision of 7 or more children, under the age of 13 years, for periods not exceeding 24 consecutive hours, but does not include an on-site child care program that is provided by an employer or organization and is ancillary to the primary use of the site;
- (c.1) “dBA” means a measure of sound level in decibels using a reference sound pressure of 20 micropascals when measured on the A-weighting network of a sound level meter;
- (d) “hall and auditorium” means a facility that is primarily used for social or cultural activities, but does not include a museum or conference centre;
- (e) “land” means land located in the Protection Area;
- (f) “medical care facility” means a facility that is used or intended to provide health services, medical treatment or nursing, rehabilitative or preventive care to individuals and that includes overnight stays;
- (g) “outdoor eating establishment” means a facility where food or beverages are served or offered for sale or consumption where all, or a majority, of the seating is not located within a fully enclosed building;
- (h) “outdoor exhibition and fairground” means a facility that provides for the display of commodities, where all or a majority of the activities are not located in a fully enclosed building, and includes, but is not limited to, such uses as agricultural fairs, amusement rides and outdoor rodeos;

- (i) “outdoor spectator entertainment/sports facility” means a place or structure that is primarily used or intended for outdoor spectator uses or events, but does not include a race facility for motorized vehicles;
- (j) “place of worship” means a place or building that is primarily used or intended as a place where people regularly assemble for religious worship and associated activities;
- (k) “PR”, where it appears in the table opposite a particular land use, means that the land use is prohibited in that NEF Area;
- (l) “residence” means a building that includes kitchen, sleeping and sanitary facilities and is used primarily as a home;
- (m) “school” means a place or building that is used or primarily intended for the education of students at a preschool, elementary, junior high or high school age.

#### **Residential development a permitted use**

**2** Despite any other provision of this Regulation, subdivision and development for residential use is permitted with respect to the following land, subject to compliance with the acoustical requirements set out in the Alberta Building Code:

<u>Plan</u>	<u>Block</u>	<u>Lot</u>	<u>Municipal Address</u>
8211450	1	2	2040 - 7 Avenue SE
4939 O	OO		1805 - 14 Avenue SE
4939 O	PP	except portion within railway	1809 - 14 Avenue SE
4939 O	RR	except portion in Transfer 7829 AO	1815 - 14 Avenue SE
PLAN R.W.568		railway within Plan 4939 O	1806 - 15 Avenue SE
4939 O	SS	north 50 feet except portion in Transfer 7829 AO	1810 - 15 Avenue SE
8311674	1	2	2244 - 15A Street SE
8311674	1	3	2230 - 16 Street SE
8311698		1 MR	1428 - 17 Street SE
9211174		1	1605 - 17 Street SE
8211712	1	2	1726 - 17 Street SE

4939 O	WW	portion of lots 1 to 4 inclusive except portion of lots 1 to 3 inclusive shown on Plan 7910523	1639 - 17A Street SE
493 GA	1	portion north of roadway on Plan 5094 GV	1640 - 17A Street SE
4939 O	VV	14 and 15 except railway on Plan R.W.568	1645 - 17A Street SE

**Public building and open air museum a permitted use**

**3** Despite any other provision of this Regulation, development for a public building and open air museum use is permitted within the NEF 35-40 Area on the following lands (subject to compliance with the exterior acoustic insulation requirements of the Alberta Building Code):

(a)

<u>Plan</u>	<u>Block</u>	<u>Lot</u>	<u>Municipal Address</u>
7911183	3	4	419 - 15A Street NE
7911183	3	5	331 - 15A Street NE
7911183	3	6	315 - 15A Street NE
7911183	3	7	239 - 15A Street NE
7911183	3	8	221 - 15A Street NE
7911183	3	9	111 - 15A Street NE

(b)

<u>Plan</u>	<u>Block</u>	<u>Lot</u>	<u>Municipal Address</u>
7911183	4	1	240 - 15A Street NE
7911183	4	2	224 - 15A Street NE
7911183	4	3	112 - 15A Street NE

(c) the portion of road Right of Way Plan 0812860 (15A Street NE) commencing at the south boundary, northerly to the northern boundary of Lot 4, Block 3, Plan 7911183.

**Cultural hall a permitted use**

**3.1** Despite any other provision of this Regulation, development for a cultural hall is permitted within the NEF 35-40 and NEF 40+ Areas on Lot 6, Block 2, Plan 7911468 (subject to compliance with the exterior acoustic insulation requirements of the Alberta Building Code).

**School and place of worship a permitted use**

**3.2(1)** Despite any other provision of this Regulation, development for a school and place of worship is permitted within the NEF 35-40 and NEF 40+ Areas on Lot 2, Block 7, Plan 0511592, subject to compliance with the following requirements in respect of the building in which the school and place of worship are located:

- (a) the design criteria for the building must be approved by a professional engineer specializing in acoustics to ensure that exterior noise in any occupied room in the building during the operating hours of the school and place of worship does not exceed
    - (i) a maximum sound level of 50 dBA, and
    - (ii) a maximum hourly equivalent continuous sound level of 35 dBA;
  - (b) after construction of the building is complete but before the building is occupied, a professional engineer specializing in acoustics must confirm that the building meets the sound level requirements referred to in clause (a);
  - (c) after the building is occupied, the owner of the building must ensure the building is monitored at least once in each quarter of a calendar year by a professional engineer specializing in acoustics to confirm that the building continues to meet the sound level requirements referred to in clause (a);
  - (d) the owner of the building must submit to the City of Calgary in each quarter of a calendar year a report containing the monitoring data for that quarter obtained under clause (c);
  - (e) if the building fails to meet the sound level requirements referred to in clause (a), the City of Calgary must by written order require the owner of the building to remedy the failure.
- (2)** An order under subsection (1)(e) may
- (a) direct the owner of the building to stop doing something, or to change the way in which the owner is doing it,
  - (b) direct the owner of the building to take any action or measure necessary to remedy the failure to meet the sound level requirements in subsection (1)(a), and if necessary, prevent a reoccurrence of that failure,

- (c) state a time within which the owner of the building must comply with the directions, and
- (d) state that if the owner of the building does not comply with the directions within a specified time, the City of Calgary will take the action or measure at the expense of the owner.

(3) An order under subsection (1)(e) is considered to be an order under section 545 of the Act.

### Prohibited uses

**4(1)** A land use shown in Column 1 of the following table is prohibited on land that is located in a NEF Area shown in Column 2, 3, 4 or 5 of the table if the expression “PR” appears in that column opposite that land use.

**TABLE**

<b>Column 1</b>	<b>Col. 2</b>	<b>Col. 3</b>	<b>Col. 4</b>	<b>Col. 5</b>
	<b>NEF</b>	<b>NEF</b>	<b>NEF</b>	<b>NEF</b>
	<b>40+</b>	<b>35-40</b>	<b>30-35</b>	<b>25-30</b>
<b>Land Uses</b>	<b>Area</b>	<b>Area</b>	<b>Area</b>	<b>Area</b>
Residences	PR	PR	PR	-
Schools	PR	PR	PR	-
Day cares	PR	PR	-	-
Clinics	PR	-	-	-
Medical care facilities	PR	PR	PR	-
Halls and auditoriums	PR	PR	-	-
Places of worship	PR	PR	-	-
Outdoor eating establishments	PR	-	-	-
Outdoor exhibition and fairgrounds	PR	PR	-	-
Outdoor spectator entertainment/ sports facilities	PR	PR	-	-
Campgrounds	PR	PR	PR	PR

(2) A land use that is not shown in Column 1 of the table but is similar to a land use shown in Column 1 of the table, in the opinion of the affected subdivision authority or development authority, is prohibited in accordance with subsection (1).

(3) In the table,

- (a) “NEF 40+ Area” means the NEF Area described in section 1(e)(i) of this Regulation;
- (b) “NEF 35-40 Area” means the NEF Area described in section 1(e)(ii) of this Regulation;

- (c) “NEF 30-35 Area” means the NEF Area described in section 1(e)(iii) of this Regulation;
- (d) “NEF 25-30 Area” means the NEF Area described in section 1(e)(iv) of this Regulation.

**Use of land where parcel located in 2 NEF Areas****5(1)** Where

- (a) a noise exposure forecast contour divides a parcel of land that is greater than 0.2 hectares into 2 areas, and
- (b) in one area a proposed use is a prohibited use and in the other area the proposed use is not a prohibited use,

the proposed use of the parcel may be carried out only in the area in which the proposed use is not a prohibited use.

**(2)** Where a parcel of land that is equal to or less than 0.2 hectares is located in more than one NEF Area, the noise exposure forecast contour that runs through the parcel must be adjusted to follow the next appropriate natural or man-made boundary that is farther away from the airport lands.

AR 177/2009 Sched. 3;192/2010;177/2018









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