

ORDINANCE NO. 150569

An Ordinance amending Title 33, Planning and Zoning, of the Code of the City of Portland, Oregon, by adding a new Chapter 33.69, "N" Noise Impact, amending the index of Chapters, Chapter 33.12 Definitions, and Section 33.16.010 Zones Enumerated.

The City of Portland ordains:

Section 1. The Council finds:

1. The lands surrounding the Portland International Airport are subject to noise impact from the flight of aircraft to, from, and in the vicinity of the Airport which results in a condition warranting concern for the health and welfare of the public.
2. These health concerns are caused by the annual average level of noise generated by the flight of aircraft and the proximity of residences, work places and other places of human habitation to the source or sources of that noise.
3. The City of Portland can mitigate the impact of noise by providing a zoning mechanism which restricts noise-sensitive land use near the Airport.
4. The need to address noise impact, in the area of the Airport, was recognized by Ordinance No. 135555 requiring soundproofing of residential, hotel and motel uses west of the Airport.
5. In order to provide protection from noise impact, identify specifically the area of impact and to address federal and state guidelines for the control of noise-sensitive uses in noise impact areas, it is appropriate and in the public interest to protect the health, safety and welfare of the City that the following amendments to Title 33 be enacted.

NOW, THEREFORE, the Council directs:

- a. That Title 33, Planning and Zoning, of the Code of the City of Portland, Oregon, is amended by the addition of a new Chapter 33.69, "N" Noise Impact, to be numbered, titled and to read as follows:

Chapter 33.69

"N" NOISE IMPACT

Sections:

- 33.69.010 Purpose
- 33.69.020 Procedure
- 33.69.030 Regulations

33.69.040 Newly Annexed Areas

33.69.050 Zone Boundaries

33.69.055 Appeal Procedure

33.69.060 Review and Modification

33.69.070 Disclosure

33.69.010 Purpose. The purpose of this zone is to restrict the development of noise sensitive uses in areas with unique noise impacts. The zone is generally defined as the area within the significant noise impact area around Portland International Airport. The Noise Impact Zone Map establishes and defines the boundary of the zone and is made part of this Code, and is established to promote sound land use planning in noise impact areas through the consideration of federal guidelines, Comprehensive Plan objectives, and past City actions affecting land use near the airport.

33.69.020 Procedure. "N" Zones shall be established in combination with all other zones which lie within the boundaries of the Noise Impact Zone, as established by the Map referenced in 33.69.010. The boundaries of the Noise Impact Zone are, in part, determined by the location of noise contours. Where a specific noise contour is referenced as a determinant of the Noise Impact Zone and/or the regulations pertaining thereto, said noise contour will be identified by the year in which the measurements and computations deriving said noise contour were made. If no date is associated with a noise contour, the reference is to the most recently derived noise contour of the given value.

33.69.030 Regulations.

- (1) The development of all new residential uses, including single-family houses, mobile homes, rowhouses, duplexes, apartments, condominiums, residential care centers and houseboats, shall be prohibited within the area encompassed by the 1977 Ldn 68 or higher noise contour or the most recently derived Ldn 68 noise contour where a reduction of noise has occurred, except where such uses are located in any currently zoned area of R10, R20, FF or County Residential. When the current zoning is superseded by Comprehensive Plan designations, the exception will apply to Plan designations of R10, R20, FF or County Residential. The intent of this exception statement is to recognize those properties within the 1977 Ldn 68 noise contour which were zoned for residential use prior to the adoption of the Noise Impact Zone.

- (2) All new residential uses, as identified in 33.69.030 (1), within the Noise Impact Zone boundaries, shall be constructed with sound insulation to achieve a day/night average interior noise level of 45 dBA as a maximum. Additionally, prior to construction, all new residential uses, lying within the area of the 1977 Ldn 65 noise contour and within the most recent Ldn 65 noise contour with no greater extent than the 1977 Ldn 65 noise contour, shall dedicate a noise easement to the Port of Portland, authorizing aircraft noise impact over the grantor's property at levels established by the latest review of this Ordinance, but not to exceed those levels identified in the Noise Impact Zone Map, as adopted by Council.
- (3) The development of new schools, libraries, churches, day care centers, museums, hospitals, auditoriums, concert halls, music shells and resort and group camps, as defined by the underlying zone, shall be permitted within the Ldn 65 noise contour, provided that they be constructed with sound insulation to achieve a day/night average interior noise level of 45 dBA as a maximum.
- (4) All new and reconstructed buildings for the following uses: Hotels, motels, office buildings, movie theaters, restaurants, sports arenas, and manufacturing uses which are noise-sensitive within the Ldn 65 or higher noise contour, are required to be constructed with sound insulation to achieve a day/night average interior noise level of 45 dBA as a maximum. For the purpose of this Section, "reconstructed" is defined as construction having a cost exceeding 75 per cent of the pre-reconstruction value of the building.

33.69.040 Newly Annexed Areas. The Noise Impact Zone shall be applied to areas within the Noise Impact Zone boundary as defined on the Noise Impact Zone Map which is made a part of this Code, when and if such properties become annexed to the City.

33.69.050 Zone Boundaries.

- (1) The Noise Impact Zone Map establishes the boundaries of the "N" Noise Impact Zone. The boundaries may be amended from time to time as determined by the City Council consistent with Section 33.69.060.

- (2) The Bureau of Buildings will be responsible for determining whether property is within the zone boundary and is either:
 - (a) Outside the Ldn 65 or Ldn 68 noise contour, or
 - (b) Within the Ldn 65 or Ldn 68 noise contour, or
 - (c) Partially within the Ldn 65 or Ldn 68 noise contour.

Large-scale maps of the most recent noise contours for the area will be maintained in the Bureau of Buildings and will be the reference map for such determinations.

- (3) For those lots or parcels partially within the Ldn 68 noise contour, the building site shall be determined by scale from the large-scale Noise Impact Maps. If a residential building site remains outside the Ldn 68 noise contour, including required side and rear yards, a residential building permit may be issued on the property outside the Ldn 68 noise contour.

33.69.055 Appeal Procedure

- (1) Any property owner or owners, affected by the Ldn 65 or Ldn 68 noise contour line, may appeal the validity of the location of the noise contour line as it applies to their property, to the City Planning Commission. The burden is on the appellant to prove that the Ldn 65 or Ldn 68 noise contour line displayed on the Noise Impact Zone Map has changed, using established measurement standards and procedures, or their equivalent. If such proof is made, the Planning Commission shall so inform the Bureau of Buildings, and a residential building permit may be issued.
- (2) A determination by the Planning Commission may be appealed to the City Council. Such appeal will be heard in accordance with Chapter 33.114 Administration and Enforcement.

33.69.060 Review and Modification

- (1) There shall be a review and hearing by the City Planning Commission of the location of the "N" Noise Impact Zone based on examination of the Ldn 65 and Ldn 68 noise contours provided by the Port of Portland at least every five (5) years. The Ldn 65 and Ldn 68 noise contours shall be modified to reflect the findings of these reviews. Failure to initiate the review process by September 30 of the review year shall void this chapter. The first such review shall be initiated not later than September 30, 1983.

- (2) There shall be notification to all affected property owners in the event of establishment, alteration or abolishment of a "N" Noise Impact Zone, or any portion of said zone.

33.69.070 Disclosure. The owner of any residential structure located inside the Ldn 65 or higher noise contour shall provide a disclosure statement to all prospective purchasers or tenants of such residential structure, providing notice that the premises may be impacted by noise from aircraft operations from Portland International Airport.

- b. That Title 33, Planning and Zoning, of the Code of the City of Portland, Oregon, is amended by amending Title 33, Planning and Zoning, Chapters, to be numbered, titled and to read as follows:

Chapters:

(33.04 through 33.66 - no change)

33.69 "N" Noise Impact Zone

(33.70 through 33.240 - no change)

- c. That Title 33, Planning and Zoning, of the Code of the City of Portland, Oregon, is amended by amending Chapter 33.12 Definitions, by adding new Sections 33.12.436 Ldn, Day/Night Sound Level, 33.12.567 Noise Contour, 33.12.568 Noise Impact and 33.12.569 Noise-Sensitive Uses, amending Chapter 33.12, to be numbered, titled and to read as follows:

DEFINITIONS

(33.12.010 through 33.12.430 - no change)

33.12.436 Ldn, Day/Night Sound Level. The "Ldn, Day/Night Sound Level", in decibels, is the 24-hour average sound level, from midnight to midnight, obtained after adding 10 decibels to sound levels in the night from midnight to 7:00 a.m. and from 10:00 p.m. to midnight (0000 to 0700 and 2200 to 2400 hours).

(33.12.440 through 33.12.565 - no change)

33.12.567 Noise Contour. A "Noise Contour" is the graphic depiction of the extent to which an average noise level affects the area surrounding a source of noise.

33.12.568 Noise Impact. "Noise Impact" is the extent to which a level of noise interferes with the full utilization of land. The Oregon Department of Transportation, Aeronautics Division, identifies two (2) levels of noise impact:

- (a) Moderate noise impact occurs in areas subject to noise levels of from Ldn 55 to Ldn 65.
- (b) Substantial noise impact occurs in areas subject to noise levels of from Ldn 65 and upwards.

33.12.569 Noise-Sensitive Uses. "Noise-Sensitive Uses" are those uses and activities whose enjoyment or value are most likely to be affected by noise, including: residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, picnic areas, recreation areas, playgrounds, active sports areas and parks.

(33.12.570 through 33.12.840 - no change)

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- d. That Title 33, Planning and Zoning, of the Code of the City of Portland, Oregon, is amended by adding a new superimposed zone, amending Section 33.16.010, Zones Enumerated, to be numbered, titled and to read as follows:

33.16.010 Zones Enumerated. (Amended by Ordinance No. 138018, passed and effective March 27, 1974.) In order to carry out the purpose and provisions of these zoning regulations, the City of Portland is hereby divided into eighteen regular and twelve superimposed zones, known as:

REGULAR ZONES (no change)

SUPERIMPOSED ZONES

Z	Downtown Development Zone	Z Zone
B	Buffer Zone	B Zone
D	Design Zone	D Zone
L	Aircraft Landing Zone	L Zone
N	Noise Impact Zone	N Zone
P	Parking Zone	P Zone
S	Signboard Control Zone	S Zone
V	Variable Density Zone	V Zone
WI	Willamette Greenway Industrial	WI Zone
WSD	Willamette Greenway Scenic Development	WSD Zone
WSR	Willamette Greenway Scenic Recreational	WSR Zone
WN	Willamette Greenway Natural	WN Zone

Passed by the Council, **OCT 8 1980**

Connie McCready, Major
Steve Gerber/ad/lb
October 1, 1980

Attest:

George F. Johnson
Auditor of the City of Portland

3702

Calendar No. ~~8585~~

ORDINANCE No. 150569

Title

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OCT 1 1980

PASSED TO SECOND READING OCT 8 1980

SEP 26 1980

Filed

GEORGE YERKOVICH

Auditor of the CITY OF PORTLAND

Deputy

THE COMMISSIONERS VOTED
AS FOLLOWS:

	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	4	1
McCready	1	

4-1

FOUR-FIFTHS CALENDAR

Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
Connie McCready, Mayor

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration <i>CM</i>
Safety
Utilities
Works

BUREAU APPROVAL
Bureau: Bureau of Planning
Prepared By: S. Gerber/ad/lb
Date: 9/23/80
Budget Impact Review:
<input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required
Bureau Head: <i>Frank Frost, Acting Director</i>

CALENDAR
Consent
Regular <input checked="" type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer