

MJC:km
AvEasementExtOrd
07/25/08



ORDINANCE NO. _____

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES
ORDAIN AS FOLLOWS:**

Section 1. Findings.

Pursuant to Government Code section 65858, the Board of Supervisors finds as follows:

- A. In 1986, the Airport Land Use Commission adopted the Cameron Airpark Airport Comprehensive Land Use Plan. Similar plans were developed and approved for the Placerville Airport, South Lake Tahoe Airport and the Georgetown Airport.
- B. The Airport Comprehensive Land Use Plans were created to establish a specific planning boundary map and comprehensive land use plan that defines the compatible types and patterns for any further development that might occur in the area surrounding the airports.
- C. In 1987, the El Dorado County Board of Supervisors adopted Ordinance Number 3721 which was codified as section 17.38.062 of the Ordinance Code, entitled Avigation and Noise Easement Required.
- D. Section 17.38.062 provides that no permit of any type shall be issued for any development or activity subject to the airport safety (AA) regulations until the county is provided with an avigation and noise easement granting the right of flight and the right to cause noise, light and other effects associated with the operation of aircraft in the airspace over and above the subject property. The easement is to be supplied in a form approved by the County and is to be recorded on the title of the subject property.
- E. El Dorado County developed a form of easement which grants the right of overflight and to cause all associated effects therefrom including noise, light, exhaust, smoke, fumes, dust, air currents, communication signals, including radio, television and other electromagnetic interferences, height restrictions, lighting and electrical interference limitations, a waiver of all claims against the County and an agreement to defend and indemnify the County.

- F. Chapter 17.38 of the Ordinance Code contains other sections which require any development to be consistent with the applicable airport comprehensive land use plan; set forth prohibited uses of the land within different safety areas of the Airport Safety District, set forth height restrictions and set forth noise attenuation requirements for land within an Airport Safety District.
- G. There have recently developed two instances in which a member of the public has challenged the breadth of the avigation and noise easement as a valid exercise of the police power of the County when a particular project, development or activity proposed for a property with an Airport Safety District is not deemed to specifically interfere with airport operations or the safety of persons on the ground.
- H. The Board of Supervisors finds that it is necessary to study the possible adoption of revisions to Ordinance Code section 17.38.062, including the possible repeal of said section in order to ensure that the requirement for an avigation and noise easement complies with state and federal law which has developed since the original adoption of Ordinance Code section 17.38.062.
- I. Based upon the foregoing, the Board of Supervisors finds that the continued enforcement of Ordinance Code section 17.38.062 may result in an undue intrusion of the property rights of individuals seeking to engage in otherwise lawful development or activity within an Airport Safety District and that such enforcement poses a current and immediate threat to the public health, safety, and welfare requiring a temporary suspension of Ordinance Code section 17.38.062.
- J. On June 17, 2008 the Board of Supervisors adopted Ordinance Number 4779 establishing a forty-five (45) day stay on the enforcement of Ordinance Code section 17.38.062, entitled Avigation and Noise Easement Required.
- K. Subsequently meetings were held on July 7, 2008 and July 24, 2008 including the agencies with an interest in the operation of airports in the county including, the El Dorado County Development Services Department, the El Dorado County Department of Transportation, Cameron Park Airport District, El Dorado County Counsel's office and the State of California, Division of Aeronautics at which the issues surrounding noise and avigation easements and revisions to the Ordinance Code section requiring avigation and noise easements were discussed by the parties.

- L. Based upon the discussions had at the first two meetings, additional meetings are being scheduled to continue to work through the issues surrounding aviation and noise easements prior to completing the revision to the Ordinance Code section and therefore the temporary stay/suspension of Ordinance Code section 17.38.062 must be extended in order to provide sufficient time to complete preparation of the revision.

Section 2. Suspension of Ordinance Code section 17.38.062

Section 17.38.062 of Chapter 17.38 of Title 17 of the El Dorado County Ordinance Code is hereby suspended.

Section 3. Declaration of Urgency

The immediate temporary suspension of Ordinance code section 17.38.062 is necessary to protect the public health, safety and welfare in that the continued enforcement of Ordinance Code section 17.38.062 may result in an undue intrusion of the property rights of individuals seeking to engage in otherwise lawful development or activity within an Airport Safety District which has been deemed to present no intrusion to the safety of those users of the airport or persons on the ground.

Section 4. Compliance with California Environmental Quality Act

The Board of Supervisors finds that this ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 150602(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5. Effective Date

This ordinance shall become effective immediately following adoption hereof by a 4/5 vote of the Board of Supervisors and shall expire ten (10) months and fifteen (15) days following its enactment, unless extended pursuant to the provisions of Government Code section 65858.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the ____ day of _____, 2008, by the following vote of said Board:

Ayes:

ATTEST
CINDY KECK
Clerk of the Board of Supervisors

Noes:
Absent:

By _____
Deputy Clerk

Chairman, Board of Supervisors

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date _____
ATTEST: CINDY KECK, Clerk of the Board of Supervisors
of the County of El Dorado, State of California.

By _____
Deputy Clerk