

1-1 By: Uresti S.B. No. 2439
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Veteran Affairs and
1-4 Military Installations; April 27, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 4,
1-6 Nays 1; April 27, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2439 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to granting certain local governments general zoning
1-11 authority around certain military facilities; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle C, Title 7, Local Government Code, is
1-14 amended by adding Chapter 241A to read as follows:

1-15 CHAPTER 241A. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND
1-16 AIR FORCE FACILITY

1-17 Sec. 241A.001. DEFINITIONS. In this chapter:

1-18 (1) "Agricultural use" means use or activity involving
1-19 agriculture.

1-20 (2) "Agriculture" means:

1-21 (A) cultivating the soil to produce crops for
1-22 human food, animal feed, seed for planting, or the production of
1-23 fibers;

1-24 (B) practicing floriculture, viticulture,
1-25 silviculture, or horticulture;

1-26 (C) raising, feeding, or keeping animals for
1-27 breeding purposes or for the production of food, fiber, leather,
1-28 pelts, or other tangible products having commercial value;

1-29 (D) planting cover crops, including cover crops
1-30 cultivated for transplantation, or leaving land idle for the
1-31 purpose of participating in a government program or normal crop or
1-32 livestock rotation procedure; or

1-33 (E) engaging in wildlife management.

1-34 (3) "Air force facility" means a base or station of the
1-35 United States Air Force.

1-36 (4) "Centerline" and "compatible land use" have the
1-37 meanings assigned by Section 241.003.

1-38 (5) "Controlled compatible land use area" means an
1-39 area of land located outside airport boundaries and within a
1-40 rectangle bounded by lines located not more than five nautical
1-41 miles from the centerline of the landing strip and lines located not
1-42 more than five nautical miles from each end of the paved surface of
1-43 the landing strip.

1-44 Sec. 241A.002. LEGISLATIVE FINDINGS; PURPOSE. (a) The
1-45 legislature finds that:

1-46 (1) the area that surrounds an air force facility will
1-47 be frequented for military and national security purposes by
1-48 residents from many parts of the state and nation;

1-49 (2) an air force facility is essential to the economic
1-50 viability of the surrounding local community, the state, and the
1-51 nation;

1-52 (3) orderly development and use of the area is of
1-53 concern to the entire state;

1-54 (4) without adequate development regulations, the
1-55 area will tend to become congested and to be used in ways that
1-56 interfere with the proper use of the area as a secure location for
1-57 the continuation of a military establishment; and

1-58 (5) it is imperative for the local community to
1-59 protect the viability of current and future missions at an air force
1-60 facility by ensuring compatible land uses are developed within the
1-61 controlled compatible land use area.

1-62 (b) The powers granted under this chapter are for the
1-63 purposes of:

- 2-1 (1) promoting the public health, safety, peace,
- 2-2 morals, and general welfare;
- 2-3 (2) protecting and preserving places and areas of
- 2-4 military and national security importance and significance; and
- 2-5 (3) encouraging state and national security.

2-6 Sec. 241A.003. AREAS SUBJECT TO REGULATION. (a) Except as
 2-7 provided by Subsection (b), this chapter applies only to the area
 2-8 that extends not more than five nautical miles from the centerline
 2-9 and not more than five nautical miles from each end of the paved
 2-10 surface of the landing strip at an air force facility located in a
 2-11 county with a population of 60,000 or less.

2-12 (b) This chapter does not apply to an area described by
 2-13 Subsection (a) that is located in a county:

- 2-14 (1) with a population of less than 5,000; and
- 2-15 (2) that is located on an international border.

2-16 Sec. 241A.004. DEVELOPMENT REGULATIONS GENERALLY.

2-17 (a) The governing bodies of a municipality and the county in the
 2-18 regulated area through a joint airport zoning board established
 2-19 under Section 241A.005 may regulate:

- 2-20 (1) the height, number of stories, and size of
- 2-21 buildings and other structures;
- 2-22 (2) the percentage of a lot that may be occupied;
- 2-23 (3) the size of yards, courts, and other open spaces;
- 2-24 (4) population density;
- 2-25 (5) the location and use of buildings, other
- 2-26 structures, and land for business, industrial, residential, or
- 2-27 other purposes; and
- 2-28 (6) the placement of water and sewage facilities,
- 2-29 landfills, parks, and other required public facilities.

2-30 (b) A regulation adopted under this chapter does not apply
 2-31 to:

- 2-32 (1) a tract of land used for a single-family residence
- 2-33 that is located outside the boundaries of a platted subdivision;
- 2-34 (2) a tract of land in agricultural use; or
- 2-35 (3) an activity or a structure or appurtenance on a
- 2-36 tract of land in agricultural use.

2-37 Sec. 241A.005. JOINT AIRPORT ZONING BOARD. (a) To
 2-38 exercise the authority granted under this chapter, the governing
 2-39 bodies of a municipality and the county in the regulated area shall
 2-40 appoint a joint airport zoning board to assist in the
 2-41 implementation and enforcement of development regulations adopted
 2-42 under this chapter.

2-43 (b) The membership of the board is composed of:

- 2-44 (1) two members appointed by the county judge of the
- 2-45 county;
- 2-46 (2) two members appointed by the presiding officer of
- 2-47 the governing body of the municipality;
- 2-48 (3) one member who owns land in the regulated area
- 2-49 appointed jointly by the county judge of the county and the
- 2-50 presiding officer of the governing body of the municipality;
- 2-51 (4) one member who owns at least 500 acres in the
- 2-52 regulated area appointed jointly by the county judge of the county
- 2-53 and the presiding officer of the governing body of the
- 2-54 municipality; and
- 2-55 (5) one member appointed jointly by the members
- 2-56 appointed under Subdivisions (1)-(4), who serves as the presiding
- 2-57 officer of the board.

2-58 (c) The board shall perform the duties assigned under this
 2-59 chapter and other duties as requested by the governing bodies to
 2-60 implement this chapter.

2-61 Sec. 241A.006. PROCEDURE GOVERNING ADOPTION OF REGULATIONS
 2-62 AND DISTRICT BOUNDARIES. (a) A development regulation adopted
 2-63 under this chapter is not effective until it is adopted by the
 2-64 governing bodies of a municipality and the county in the regulated
 2-65 area after a joint public hearing. Before the 15th day before the
 2-66 date of the hearing, the governing bodies of the municipality and
 2-67 the county must publish notice of the hearing in a newspaper of
 2-68 general circulation in the county.

2-69 (b) The governing bodies of a municipality and the county in

3-1 the regulated area may prohibit or restrict development in the area
3-2 based on recommendations issued in a resolution adopted by the
3-3 joint airport zoning board. The board's recommendations must be
3-4 based on the most recent Air Installation Compatible Use Zone Study
3-5 and the most recent Joint Land Use Study. The governing bodies of a
3-6 municipality and the county may amend regulations adopted under
3-7 this chapter:

3-8 (1) based on amended recommendations issued in a
3-9 resolution adopted by the joint airport zoning board as the studies
3-10 are periodically updated; and

3-11 (2) if each governing body makes findings that the
3-12 conclusions of the studies on which each governing body is basing
3-13 its findings accurately reflect development circumstances in the
3-14 subject area.

3-15 (c) The governing bodies of a municipality and the county in
3-16 the regulated area may adopt or amend a development regulation only
3-17 by an order passed by a majority vote of the full membership of each
3-18 governing body.

3-19 Sec. 241A.007. COMPLIANCE WITH STUDIES AND PLANS.
3-20 Development regulations must be:

3-21 (1) adopted in accordance with the most recent Air
3-22 Installation Compatible Use Zone Study and the most recent Joint
3-23 Land Use Study for growth and development surrounding the air force
3-24 facility;

3-25 (2) adopted in accordance with the county plan for
3-26 growth and development of the county; and

3-27 (3) coordinated with the comprehensive plan of the
3-28 municipality.

3-29 Sec. 241A.008. DISTRICTS. (a) The joint airport zoning
3-30 board may divide the area regulated under this chapter into
3-31 districts of a number, shape, and size the board considers best for
3-32 carrying out this chapter.

3-33 (b) Development regulations may vary from district to
3-34 district.

3-35 Sec. 241A.009. SPECIAL EXCEPTION. (a) A person aggrieved
3-36 by a development regulation adopted under this chapter may petition
3-37 the governing bodies of a municipality and the county in the
3-38 regulated area for a special exception to the development
3-39 regulation. The grant of a special exception requires a majority
3-40 vote of the full membership of each governing body.

3-41 (b) The governing bodies of a municipality and the county in
3-42 the regulated area shall adopt procedures governing applications,
3-43 notice, hearings, and other matters relating to the grant of a
3-44 special exception.

3-45 Sec. 241A.010. ENFORCEMENT; PENALTY. (a) The governing
3-46 bodies of a municipality and the county in the regulated area shall
3-47 adopt ordinances, orders, or development regulations, as
3-48 applicable, to enforce this chapter.

3-49 (b) A person commits an offense if the person violates this
3-50 chapter or an ordinance, order, or development regulation adopted
3-51 under this chapter. An offense under this subsection is a
3-52 misdemeanor punishable by a fine of not less than \$500 or more than
3-53 \$1,000. Each day that a violation occurs constitutes a separate
3-54 offense. Trial shall be in the district court.

3-55 Sec. 241A.011. COOPERATION AMONG LOCAL ENTITIES. The
3-56 governing bodies of a municipality and the county in the regulated
3-57 area and the joint airport zoning board may enter into an agreement
3-58 to cooperate in the drafting, implementation, and enforcement of
3-59 development regulations adopted under this chapter.

3-60 SECTION 2. This Act takes effect September 1, 2009.

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