

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

CHAPTER 241A. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND
MILITARY AVIATION FACILITY

Sec. 241A.001. DEFINITIONS. In this chapter:

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

(2) "Agriculture" means:

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

(B) practicing floriculture, viticulture, silviculture, or horticulture;

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

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a governmental program or normal crop or livestock rotation procedure; or

1 (E) engaging in wildlife management, including
2 the management and control of hunting, fishing, bird-watching,
3 sightseeing, and other outdoor recreational activities.

4 (3) "Centerline" has the meaning assigned by Section
5 241.003.

6 (4) "Military aviation facility" means a base or
7 station of:

8 (A) the United States Air Force under the command
9 of the Air Education and Training Command; or

10 (B) the United States Army or Navy or the Texas
11 National Guard at which aviation operations or training is
12 conducted.

13 Sec. 241A.002. LEGISLATIVE FINDINGS; PURPOSE. (a) The
14 legislature finds that:

15 (1) the area that surrounds a military aviation
16 facility will be frequented for military and national security
17 purposes by residents from many parts of the state and nation;

18 (2) a military aviation facility is essential to the
19 economic viability of the surrounding local community, the state,
20 and the nation;

21 (3) orderly development and use of the area is of
22 concern to the entire state;

23 (4) without adequate development regulations, the
24 area will tend to become congested and to be used in ways that
25 interfere with the proper use of the area as a safe and secure
26 location for the continuation of a military establishment;

27 (5) a structure or electronic emission that is an

1 interference negatively impacts the visual, radar, radio,
2 navigation, or other systems for tracking, acquiring data relating
3 to, monitoring, or controlling aircraft, tending to diminish safety
4 of flight operations and destroy or impair the utility of a military
5 aviation facility and the public investment in the facility; and

6 (6) it is imperative for the local community to
7 protect the viability of current and future missions at a military
8 aviation facility by ensuring compatible land uses are developed
9 and no interference with flight operations is created within the
10 regulated area.

11 (b) The powers granted under this chapter are for the
12 purposes of:

13 (1) promoting the public health, safety, peace,
14 morals, and general welfare;

15 (2) protecting and preserving places and areas of
16 military and national security importance and significance; and

17 (3) encouraging state and national security.

18 Sec. 241A.003. AREAS SUBJECT TO REGULATION. This chapter
19 applies only to an area that is located outside a military aviation
20 facility's boundaries and:

21 (1) that extends not more than five nautical miles
22 from the centerline and not more than five nautical miles from each
23 end of the paved surface of the primary landing strip at a military
24 aviation facility; and

25 (2) that extends not more than 25 nautical miles from a
26 federally owned and operated radar system on a military aviation
27 facility.

1 Sec. 241A.004. DEVELOPMENT REGULATIONS GENERALLY. (a) The
2 governing bodies of each municipality and county in an area
3 described by Section 241A.003 through a joint airport zoning board
4 established under Section 241A.005 may regulate:

5 (1) in an area described by Section 241A.003(1):

6 (A) the height, number of stories, and size of
7 buildings and other structures;

8 (B) the percentage of a lot that may be occupied;

9 (C) the size of yards, courts, and other open
10 spaces;

11 (D) population density;

12 (E) the location and use of buildings, other
13 structures, and land for business, industrial, residential, or
14 other purposes; and

15 (F) the placement of water and sewage facilities,
16 landfills, parks, retention ponds, and other required public
17 facilities that may be bird attractants; and

18 (2) in an area described by Section 241A.003(2):

19 (A) the frequency range of electronic equipment;
20 and

21 (B) the placement of wind turbines.

22 (b) A regulation adopted under this chapter may not apply to
23 a structure that existed on September 1, 2015. A regulation adopted
24 under Subsection (a)(1)(C) may not apply to a tract of land devoted
25 to agricultural use.

26 (c) The governing bodies of each municipality and county in
27 the regulated area shall prepare a written takings impact

1 assessment in the manner provided by Section 2007.043, Government
2 Code, of a proposed regulation under this chapter.

3 Sec. 241A.005. JOINT AIRPORT ZONING BOARD. (a) To exercise
4 the authority granted under this chapter, the governing bodies of
5 each municipality and county in the regulated area shall appoint a
6 joint airport zoning board to assist in the implementation and
7 enforcement of development regulations adopted under this chapter.

8 (b) The board is composed of:

9 (1) two members appointed by the county judge of each
10 county in the regulated area;

11 (2) two members appointed by the presiding officer of
12 the governing body of each municipality in the regulated area;

13 (3) one member who owns less than 500 acres of land in
14 the regulated area appointed jointly by the county judge of each
15 county in the regulated area and the presiding officer of the
16 governing body of each municipality in the regulated area;

17 (4) one member who owns at least 500 acres in the
18 regulated area appointed jointly by the county judge of each county
19 in the regulated area and the presiding officer of the governing
20 body of each municipality in the regulated area; and

21 (5) one member appointed jointly by the members
22 appointed under Subdivisions (1) through (4), who serves as the
23 presiding officer of the board.

24 (c) The board shall perform the duties assigned under this
25 chapter and other duties as requested by the governing bodies to
26 implement this chapter.

27 Sec. 241A.006. PROCEDURE GOVERNING ADOPTION OF REGULATIONS

1 AND DISTRICT BOUNDARIES. (a) A development regulation adopted
2 under this chapter is not effective until it is adopted by the
3 governing bodies of each municipality and county in the regulated
4 area after a joint public hearing. Before the 15th day before the
5 date of the hearing, the governing bodies of each municipality and
6 county must publish notice in English and in Spanish of the hearing
7 in a newspaper of general circulation in the county.

8 (b) The governing bodies of each municipality and county in
9 the regulated area may prohibit or restrict development in the area
10 based on recommendations issued in a resolution adopted by the
11 joint airport zoning board. The board's recommendations must be
12 based on the most recent Air Installation Compatible Use Zone
13 Study, the most recent Joint Land Use Study, and other available and
14 relevant military planning data and studies. The governing bodies
15 of each municipality and county may amend regulations adopted under
16 this chapter:

17 (1) based on amended recommendations issued in a
18 resolution adopted by the joint airport zoning board as the studies
19 are periodically updated; and

20 (2) if each governing body makes findings that the
21 conclusions of the studies on which each governing body is basing
22 its findings accurately reflect development circumstances in the
23 subject area.

24 (c) The governing bodies of each municipality and county in
25 the regulated area may adopt or amend a development regulation only
26 by an order passed by a majority vote of the full membership of each
27 governing body.

1 Sec. 241A.007. COMPLIANCE WITH STUDIES AND PLANS.

2 Development regulations must be:

3 (1) adopted in accordance with the most recent Air
4 Installation Compatible Use Zone Study, the most recent Joint Land
5 Use Study, and other available and relevant military planning data
6 and studies for growth and development surrounding a military
7 aviation facility;

8 (2) adopted in accordance with the county plan for
9 growth and development of the county; and

10 (3) coordinated with the comprehensive plan of the
11 municipality.

12 Sec. 241A.008. DISTRICTS. (a) The joint airport zoning
13 board may divide the area regulated under this chapter into
14 districts of a number, shape, and size the board considers best for
15 carrying out this chapter.

16 (b) Development regulations may vary from district to
17 district.

18 Sec. 241A.009. SPECIAL EXCEPTION. (a) A person aggrieved
19 by a development regulation adopted under this chapter may petition
20 the governing bodies of each municipality and county in the
21 regulated area for a special exception to the development
22 regulation. The grant of a special exception requires a majority
23 vote of the full membership of each governing body.

24 (b) The governing bodies of each municipality and county in
25 the regulated area shall adopt procedures governing applications,
26 notice, hearings, and other matters relating to the grant of a
27 special exception.

1 (c) On receipt of a petition for a special exception to a
2 development regulation under Subsection (a), the governing bodies
3 shall notify the affected military aviation facility of the
4 petition.

5 Sec. 241A.010. ENFORCEMENT; PENALTY. (a) The governing
6 bodies of each municipality and county in the regulated area shall
7 adopt ordinances, orders, or development regulations, as
8 applicable, to enforce this chapter.

9 (b) A person commits an offense if the person violates this
10 chapter or an ordinance, order, or development regulation adopted
11 under this chapter. An offense under this subsection is a
12 misdemeanor punishable by a fine of not less than \$500 or more than
13 \$1,000. Each day that a violation occurs constitutes a separate
14 offense.

15 Sec. 241A.011. COOPERATION AMONG LOCAL ENTITIES. The
16 governing bodies of each municipality and county in the regulated
17 area and the joint airport zoning board may enter into an agreement
18 to cooperate in the drafting, implementation, and enforcement of
19 development regulations adopted under this chapter.

20 SECTION 2. This Act takes effect September 1, 2015.