

By: Gutierrez

H.B. No. 362

A BILL TO BE ENTITLED

AN ACT

relating to granting certain local governments general zoning authority around federal military installations; creating a criminal offense.

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 247 to read as follows:

CHAPTER 247. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND FEDERAL
MILITARY INSTALLATIONS

Sec. 247.001. 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

1 or livestock rotation procedure; or

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

5 (3) "Federal military installation" means a federally
6 owned or operated military installation or facility.

7 Sec. 247.002. LEGISLATIVE FINDINGS; PURPOSE. (a) The
8 legislature finds that:

9 (1) the area that surrounds a federal military
10 installation will be frequented for military and national security
11 purposes by residents from many parts of the state and nation;

12 (2) a federal military installation is essential to
13 the economic viability of the surrounding local community, the
14 state, and the nation;

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

17 (4) without adequate regulations, the area will tend
18 to become congested and to be used in ways that interfere with the
19 proper use of the area as a secure location for the continuation of
20 a military establishment; and

21 (5) it is imperative for the local community to
22 protect the viability of current and future missions at a federal
23 military installation located in the community by ensuring
24 compatible land uses are developed within the area that surrounds
25 an installation.

26 (b) The powers granted under this chapter are for the
27 purposes of:

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

3 (2) protecting and preserving places and areas of
4 military and national security importance and significance; and

5 (3) encouraging state and national security.

6 Sec. 247.003. AREAS SUBJECT TO REGULATION. This chapter
7 applies only to the area that extends not more than five miles from
8 the boundaries of a federal military installation.

9 Sec. 247.004. ZONING REGULATIONS GENERALLY. (a) The
10 governing bodies of a municipality and the county in a regulated
11 area through a joint military installation zoning board established
12 under Section 247.005 may regulate:

13 (1) the height, number of stories, and size of
14 buildings and other structures;

15 (2) the percentage of a lot that may be occupied;

16 (3) the size of yards, courts, and other open spaces;

17 (4) population density;

18 (5) the location and use of buildings, other
19 structures, and land for business, industrial, residential, or
20 other purposes; and

21 (6) the placement of water and sewage facilities,
22 landfills, parks, and other required public facilities.

23 (b) A regulation adopted under this chapter does not apply
24 to:

25 (1) a tract of land devoted to agricultural use; or

26 (2) a structure on a developed tract of land that
27 existed on December 1, 2017.

1 (c) The governing bodies of a municipality and the county in
2 the regulated area shall prepare a written takings impact
3 assessment in the manner provided by Section 2007.043, Government
4 Code, of a proposed regulation under this chapter.

5 Sec. 247.005. JOINT MILITARY INSTALLATION ZONING BOARD.

6 (a) To exercise the authority granted under this chapter, the
7 governing bodies of a municipality and the county in the regulated
8 area shall appoint a joint military installation zoning board to
9 assist in the implementation and enforcement of regulations adopted
10 under this chapter.

11 (b) The membership of the board is composed of:

12 (1) two members appointed by the county judge of the
13 county;

14 (2) two members appointed by the presiding officer of
15 the governing body of the municipality;

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

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

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

27 (c) The board shall perform the duties assigned under this

chapter and other duties as requested by the governing bodies to implement this chapter.

Sec. 247.006. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A regulation adopted under this chapter is not effective until it is adopted by the governing bodies of a municipality and the county in the regulated area after a joint public hearing. Not later than the 15th day before the date of the hearing, the governing bodies of the municipality and the county must publish notice in English and in Spanish of the hearing in a newspaper of general circulation in the county.

(b) The governing bodies of a municipality and the county in the regulated area may prohibit or restrict development in the area based on recommendations issued in a resolution adopted by the joint military installation zoning board. The board's recommendations must be based on the most recent Joint Land Use Study and, if applicable, the most recent Air Installation Compatible Use Zone Study. The board's recommendations may not be inconsistent with the provisions of any memorandum of agreement executed by the municipality or county and the federal military installation under Section [397.005](#) or [397.006](#).

(c) The governing bodies of a municipality and the county in the regulated area may amend regulations adopted under this chapter:

(1) based on amended recommendations issued in a resolution adopted by the joint military installation zoning board as the study or studies, as applicable, are periodically updated; and

1 (2) if each governing body makes findings that the
2 conclusions of the study or studies, as applicable, on which each
3 governing body is basing its findings accurately reflect
4 development circumstances in the subject area.

5 (d) The governing bodies of a municipality and the county in
6 the regulated area may adopt or amend a regulation only by an order
7 passed by a majority vote of the full membership of each governing
8 body.

9 Sec. 247.007. COMPLIANCE WITH STUDIES AND PLANS. A
10 proposed regulation under this chapter must be:

11 (1) adopted in accordance with the most recent Joint
12 Land Use Study and, if applicable, the most recent Air Installation
13 Compatible Use Zone Study for growth and development surrounding
14 the federal military installation;

15 (2) consistent with the provisions of any memorandum
16 of agreement executed by the municipality or county and the federal
17 military installation under Section [397.005](#) or [397.006](#);

18 (3) adopted in accordance with the county plan for
19 growth and development of the county; and

20 (4) coordinated with the comprehensive plan of the
21 municipality.

22 Sec. 247.008. DISTRICTS. (a) The joint military
23 installation zoning board may divide the area regulated under this
24 chapter into districts of a number, shape, and size the board
25 considers best for carrying out this chapter.

26 (b) Regulations adopted under this chapter may vary from
27 district to district.

1 Sec. 247.009. SPECIAL EXCEPTION. (a) A person aggrieved by
2 a regulation adopted under this chapter may petition the governing
3 bodies of a municipality and the county in the regulated area for a
4 special exception to the regulation. The grant of a special
5 exception requires a majority vote of the full membership of each
6 governing body.

7 (b) The governing bodies of a municipality and the county in
8 the regulated area shall adopt procedures governing applications,
9 notice, hearings, and other matters relating to the grant of a
10 special exception.

11 Sec. 247.010. ENFORCEMENT; PENALTY. (a) The governing
12 bodies of a municipality and the county in the regulated area shall
13 adopt ordinances, orders, or regulations, as applicable, to enforce
14 this chapter.

15 (b) A person commits an offense if the person violates this
16 chapter or an ordinance, order, or regulation adopted under this
17 chapter. An offense under this subsection is a misdemeanor
18 punishable by a fine of not less than \$500 or more than \$1,000. Each
19 day that a violation occurs constitutes a separate offense. Trial
20 shall be in the district court.

21 Sec. 247.011. COOPERATION AMONG LOCAL ENTITIES. The
22 governing bodies of a municipality and the county in the regulated
23 area and the joint military installation zoning board may enter
24 into an agreement to cooperate in the drafting, implementation, and
25 enforcement of regulations adopted under this chapter.

26 SECTION 2. This Act takes effect December 1, 2017.