

By: Miller

H.B. No. 1105

A BILL TO BE ENTITLED

1 AN ACT
2 relating to granting certain municipalities authority to adopt
3 development regulations around certain military facilities;
4 creating a criminal offense.

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

6 SECTION 1. Subtitle A, Title 7, Local Government Code, is
7 amended by adding Chapter 218 to read as follows:

8 CHAPTER 218. MUNICIPAL DEVELOPMENT REGULATIONS AROUND MILITARY
9 AVIATION FACILITY

10 Sec. 218.001. DEFINITIONS. In this chapter:

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

13 (2) "Agriculture" means:

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

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

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

22 (D) planting cover crops, including cover crops
23 cultivated for transplantation, or leaving land idle for the
24 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) "Centerline" has the meaning assigned by Section
6 241.003.

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

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

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

14 (C) a municipal airport in which military flight
15 training occurs.

16 Sec. 218.002. LEGISLATIVE FINDINGS; PURPOSE. (a) The
17 legislature finds that:

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

21 (2) a military aviation facility is essential to the
22 economic viability of the surrounding local community, the state,
23 and the nation;

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

26 (4) without adequate development regulations, the
27 area will tend to become congested and to be used in ways that

1 interfere with the proper use of the area as a safe and secure
2 location for the continuation of military operations;

3 (5) a structure or electronic emission that is an
4 interference negatively impacts the visual, radar, radio,
5 navigation, or other systems for tracking, acquiring data relating
6 to, monitoring, or controlling aircraft, tending to diminish safety
7 of flight operations and destroy or impair the utility of a military
8 aviation facility and the public investment in the facility; and

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

14 (b) The powers granted under this chapter are for the
15 purposes of:

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

18 (2) protecting and preserving places and areas of
19 military and national security importance and significance; and

20 (3) encouraging state and national security.

21 Sec. 218.003. AREAS SUBJECT TO REGULATION. This chapter
22 applies only to an area that is located outside a military aviation
23 facility's boundaries and:

24 (1) that extends not more than one and one-half
25 nautical miles from the centerline and not more than five nautical
26 miles from each end of the paved surface of the primary landing
27 strip at a military aviation facility; and

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

4 Sec. 218.004. DEVELOPMENT REGULATIONS GENERALLY. (a) The
5 governing bodies of each municipality in an area described by
6 Section 218.003 through an air base area development board
7 established under Section 218.005 may regulate:

8 (1) in an area described by Section 218.003(1):

9 (A) the height, number of stories, and size of
10 buildings and other structures;

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

12 (C) the size of yards, courts, and other open
13 spaces;

14 (D) population density;

15 (E) the location and use of buildings, other
16 structures, and land for business, industrial, residential, or
17 other purposes; and

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

21 (2) in an area described by Section 218.003(2), the
22 placement of wind turbines.

23 (b) A development regulation adopted under this chapter may
24 not apply to a structure that existed on September 1, 2017, or a
25 structure owned by a utility as defined by Section 232.021. A
26 regulation adopted under Subsection (a)(1)(C) may not apply to a
27 tract of land devoted to agricultural use.

1 (c) A development regulation adopted under this chapter
2 must be consistent with and is subject to federal law, including
3 federal statutes, regulations, and orders relating to the placement
4 of a personal wireless service facility.

5 Sec. 218.005. AIR BASE AREA DEVELOPMENT BOARD. (a) To
6 exercise the authority granted under this chapter, the governing
7 bodies of each municipality in the regulated area shall appoint an
8 air base area development board to assist in the implementation and
9 enforcement of development regulations adopted under this chapter.

10 (b) An air base area development board is composed of:

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

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

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

19 (4) one member appointed jointly by the members
20 appointed under Subdivisions (1) through (3), who serves as the
21 presiding officer of the board.

22 (c) An air base area development board shall perform the
23 duties assigned under this chapter and other duties as requested by
24 the governing bodies to implement this chapter.

25 Sec. 218.006. PROCEDURE GOVERNING ADOPTION OF REGULATIONS
26 AND DISTRICT BOUNDARIES. (a) A development regulation adopted
27 under this chapter is not effective until it is adopted by the

1 governing bodies of each municipality in the regulated area after a
2 joint public hearing. Before the 15th day before the date of the
3 hearing, the governing bodies of each municipality must publish
4 notice in English and in Spanish of the hearing in a newspaper of
5 general circulation in the county in which the municipality is
6 located.

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

16 (1) based on amended recommendations issued in a
17 resolution adopted by the air base area development board as the
18 studies are periodically updated; and

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

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

27 Sec. 218.007. COMPLIANCE WITH STUDIES AND PLANS.

1 Development regulations must be:

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

7 (2) coordinated with the comprehensive plans of each
8 municipality in the regulated area.

9 Sec. 218.008. DISTRICTS. (a) An air base area development
10 board may divide the area regulated under this chapter into
11 districts of a number, shape, and size the board considers best for
12 carrying out this chapter.

13 (b) Development regulations may vary from district to
14 district.

15 Sec. 218.009. SPECIAL EXCEPTION. (a) A person aggrieved by
16 a development regulation adopted under this chapter may petition
17 the governing bodies of each municipality in the regulated area for
18 a special exception to the development regulation. The grant of a
19 special exception requires a majority vote of the full membership
20 of each governing body.

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

25 (c) On receipt of a petition for a special exception to a
26 development regulation under Subsection (a), the governing bodies
27 of each municipality in the regulated area shall notify the

1 affected military aviation facility of the petition.

2 Sec. 218.010. ENFORCEMENT; PENALTY. (a) The governing
3 body of each municipality in the regulated area by ordinance shall
4 enforce development regulations adopted by the municipality under
5 this chapter.

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

11 Sec. 218.011. COOPERATION AMONG LOCAL ENTITIES. The
12 governing bodies of the municipalities in the regulated area and an
13 air base area development board may enter into an agreement to
14 cooperate in the drafting, implementation, and enforcement of
15 development regulations adopted under this chapter.

16 SECTION 2. This Act takes effect September 1, 2017.