

Chapter 7

AVIATION

Art. I. In General, §§ 7-1--7-25

Art. II. Killeen Municipal Airport, §§ 7-26--7-50

Art. III. Killeen Municipal Airport Zoning Ordinance, §§ 7- 51--7-64

ARTICLE I. IN GENERAL

Secs. 7-1--7-25. Reserved.

ARTICLE II. KILLEEN MUNICIPAL AIRPORT*

Sec. 7-26. Rules adopted.

There is hereby adopted by the city, for the purpose of prescribing rules and regulations for the safe and prudent operation of the Killeen Municipal Airport, the Killeen Municipal Airport Rules and Regulations, and any and all subsequent amendments or revisions hereafter adopted. Such rules and regulations are hereby incorporated by reference for all purposes and made a part of this article. (Ord. No. 88-124, § I(1½-1-1), 12-27-88)

Sec. 7-27. Penalty for violation.

Any person, firm, corporation, association or partnership who violates any of the provisions of the Killeen Municipal Airport Rules and Regulations, adopted and incorporated herein, shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00). Each violation shall be considered a separate offense and each day a violation continues shall constitute a separate and distinct offense and shall be punishable as such. Such penalty or penalties shall be cumulative rather than exclusive of any other remedy which the city may seek to use to enforce the provisions of this article. (Ord. No. 88-124, § I(1½-1-2), 12-27-88)

Secs. 7-28--7-50. Reserved.

ARTICLE III. KILLEEN MUNICIPAL AIRPORT ZONING ORDINANCE**

Sec. 7-51. Short title.

This article shall be known and may be cited as “Killeen Municipal Airport Hazard Zoning Ordinance.” (Ord. No. 88-27, § II(9-5-1), 4-26-88)

***State law reference**—Authority to acquire, operate, etc., airports, Vernon’s Ann. Civ. St. art. 46d-2.

****Cross references**—Building and construction regulations, Ch. 8; planning and development, Ch. 21; basic zoning ordinance, Ch. 31.

State law reference—Airport Zoning Act, V.T.C.A., Local Government Code ch. 241.

Sec. 7-52. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport shall mean the Killeen Municipal Airport.

Airport elevation shall mean the established elevation of the highest point on the usable landing area measured in feet from mean sea level.

Airport hazard shall mean any structure or object of natural growth or use of land which obstructs the air space required for the flights of aircraft or which obstructs or interferes with the control or tracking and/or data acquisition in the landing, taking off or flight at an airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of the flight craft; hazardous, interfering with or obstructing such landing, taking off or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

Airport hazard area shall mean any area of land or water upon which an airport hazard might be established if not prevented as provided in this article.

Airport reference point shall mean the point established as the approximate geographic center of the airport landing area and so designated.

Approach surface shall mean a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 7-54. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal, and conical zones shall mean those zones set forth in section 7-53.

Board of adjustment shall mean a board consisting of five (5) members; three (3) members appointed by the city council, one (1) member appointed by the city council of the City of Harker Heights, Texas and one (1) member appointed by the county commissioners' court.

Conical surface shall mean a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet outward to one (1) foot upward for a horizontal distance of four thousand (4,000) feet.

Hazard to air navigation shall mean an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height shall mean for the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map and the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface shall mean a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the

horizontal zone.

Joint airport zoning board shall mean a board consisting of seven (7) members; two (2) members appointed by the city council, two (2) members appointed by the city council of the City of Harker Heights, Texas, and two (2) members appointed by the county commissioners' court. The six (6) appointed members shall elect a seventh member who shall serve as chairman of the board.

Landing area shall mean the surface area of the airport used for the landing, takeoff or taxiing of aircraft.

Nonconforming use shall mean any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this article or an amendment thereto.

Nonprecision instrument runway shall mean a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction shall mean any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in section 7-54.

Person shall mean an individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.

Precision instrument runway shall mean a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary surface shall mean a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface for other than utility runways is one thousand (1,000) feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.

Runway shall mean a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure shall mean an object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

Transitional surfaces shall mean those surfaces which extend outward at ninety-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for these portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at ninety-degree angles to the extended runway centerline.

(Ord. No. 88-27, § II(9-5-2), 4-20-88)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

State law reference(s)--General definitions applicable to airport zoning, V.T.C.A., Local Government Code § 241.003.

Sec. 7-53. Zones.

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transition surface, horizontal surface and conical surface as they apply to the airport. Such zones are shown on zoning map consisting of one (1) sheet, prepared by the Texas Aeronautics Commission, Austin, Texas, and dated May 22, 1984, which is attached to this article and made a part hereof. The map is on file in the offices of the city secretary and the building official. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(1) *Approach zones:*

- a. Runway 01 approach zone is established beneath the approach surface at the end of Runway 01 on Killeen Municipal Airport for precision instrument landings, and takeoffs on Runway 19: The inner edge of the approach zone shall have a width of one thousand (1,000) feet which coincides with the width of the primary surface at a distance of two hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.
- b. Runway 19 approach zone is established beneath the approach surface at the end of Runway 19 on the Killeen Municipal Airport for nonprecision instrument landings and takeoffs on Runway 01. The inner edge of the approach zone shall have a width of one thousand (1,000) feet which coincides with the width of the primary surface at a distance of two hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of four thousand (4,000) feet at a horizontal distance of ten thousand (10,000) feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.

- (2) *Transition zones.* Transition zones are hereby established beneath the transition surface adjacent to each runway and approach surface as indicated on the zoning map. Transition surfaces, symmetrically located on either side of runways, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet outward to one (1) foot upward from the sides of the primary surface and from the sides of approach surfaces. Transitional surfaces for those portions of the precision approach

surface which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

(3) *Horizontal zone.* The area beneath a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of ten thousand (10,000) feet radii from the center of each end of the primary surface of runway 01/19 and connecting the adjacent arcs by lines tangent to those arcs.

(4) *Conical zone.* The area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet outward to one (1) foot upward for a horizontal distance of four thousand (4,000) feet.

(Ord. No. 88-27, § II(9-5-3), 4-26-88)

Sec. 7-54. Height limitations.

Except as otherwise provided in this article, no structure shall be erected, altered, or maintained, and no object of natural growth shall be allowed to grow in any zone created by this article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(1) *Approach zones:*

- a. Runway 01. One (1) foot in height for each fifty (50) feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point ten thousand (10,000) feet from the end of the primary surface, then rising one (1) foot in height for each forty (40) feet in horizontal distance for an additional forty thousand (40,000) feet from the end of the primary surface.
- b. Runway 19. One (1) foot in height for each thirty-four (34) feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point ten thousand (10,000) feet from the end of the primary surface.

(2) *Transition zones.* Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation which is eight hundred forty-six (846) feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety-degree angles to the extended runway centerline.

(3) *Horizontal zone.* Established at one hundred fifty (150) feet above the airport elevation, or a height of nine hundred ninety-six (996) feet above mean sea level.

(4) *Conical zone.* Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport

elevation.

(5) *Excepted height limitations.* The growth, construction or maintenance of any object of natural growth or structure to a height up to fifty (50) feet above the surface of the land shall not be prohibited by this article except as follows:

- a. In the approach zone for Runway 01 beginning at the end of the primary surface and extending to a point two thousand five hundred (2,500) feet from the end of the primary surface;
- b. In the approach zone for Runway 19 beginning at the end of the primary surface and extending to a point one thousand seven hundred (1,700) feet from the end of the primary surface; and
- c. In the transition zone adjacent to the primary surface and approach zones beginning at the side of the primary surface for a distance of three hundred fifty (350) feet on either side of the primary surface and extending to a point two thousand five hundred (2,500) feet from the end of the primary surface on the south and one thousand seven hundred (1,700) feet from the end of the primary surface on the north.

Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

(Ord. No. 88-27, § II(9-5-4), 4-26-88)

Sec. 7-55. Use restrictions.

Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport. (Ord. No. 88-27, § II(9-5-5), 4-26-88)

Sec. 7-56. Nonconforming uses.

(a) *Regulations not retroactive.* The regulations prescribed by this article shall not be construed to require the removal, lowering, or other change or alteration of any structure or object of natural growth not conforming to the regulations as of the effective date of the ordinance from which this article is derived, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to such effective date, and is diligently prosecuted.

(b) *Marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or object of natural growth is hereby required to allow the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the building official to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and light shall be installed, operated, and maintained at the expense of the city.

(Ord. No. 88-27, § II(9-5-6), 4-26-88)

State law reference(s)--Nonconforming uses and structures, V.T.C.A., Local Government

Sec. 7-57. Permits.

(a) *Future uses.* Except as specifically provided in (1), (2) and (3) below, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no object of natural growth shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to include, but not be limited to, certification as to elevation by a registered professional engineer, architect or registered surveyor, so that the building official can determine whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with (4) below:

- (1) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any object of natural growth or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such object of natural growth or structure would extend above the height limits prescribed for such zones. (Advisory note: Permits should not be required for improvements to property with an elevation of nine hundred twenty (920) feet mean sea level or less.)
- (2) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any object of natural growth or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
- (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any object of natural growth or structure less than seventy-five (75) feet of vertical height above the ground, except when such object of natural growth or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this article except as set forth in section 7-54(5).

(b) *Existing uses.* No permit shall be granted that would allow the establishment or creation of any airport hazard or permit a nonconforming use, structure, or object of natural growth to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of the ordinance from which this article is derived or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) *Nonconforming uses destroyed.* Whenever the city building official determines that a nonconforming structure or object of natural growth becomes more than eighty (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning

regulations.

(d) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any object of natural growth, or use his property, in violation of the regulations prescribed in this article, may apply to the board of adjustment for a variance from such regulations in question. The application for variance shall be accompanied by a determination from the federal aviation administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted would not be contrary to the public interest, but do substantial justice, and be in accordance with the spirit of this article. Additionally, no application for variance to the requirements of this article may be considered by the board of adjustment unless a copy of the application has been furnished to the Killeen, Harker Heights, Bell County Joint Airport Zoning Board for advice as to the aeronautical effects of the variance. If the Killeen, Harker Heights, Bell County Joint Airport Zoning Board does not respond to the application within fifteen (15) days after receipt, the board of adjustment may act on its own to grant or deny such application.

(e) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable by the building official or the board of adjustment to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to allow the building official to install, operate, and maintain, at the expense of the city, such markings and lights as may be necessary. (Ord. No. 88-27, § II(9-5-7), 4-26-88)

State law reference(s)--Permits, V.T.C.A., Local Government Code § 241.020.

Sec. 7-58. Enforcement.

It shall be the duty of the building official to administer and enforce the regulations prescribed in this article. Applications for permits shall be made to the building official upon a form published for that purpose. Applications required by this article to be submitted to the building official shall be promptly considered and granted or denied. Applications for variances shall be made to the board of adjustment by first filing such application for variance with the building official who shall forthwith transmit such application to the board of adjustment for determination. Fees, if any, shall be established by ordinance of the city council. (Ord. No. 88-27, § II(9-5-8), 4-26-88)

State law reference(s)--Administrative agency required, V.T.C.A., Local Government Code § 241.031.

Sec. 7-59. Board of adjustment.

- (a) There is hereby created a board of adjustment to have and exercise the following powers:
- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the building official in the enforcement of this article.
 - (2) To hear and decide special exceptions to the terms of this article upon which such board of adjustment under such regulations may be required to pass.
 - (3) To hear and decide specific variances.

(b) The board of adjustment shall consist of five (5) members who shall be appointed as follows:

- (1) Three (3) members by the city council of this city.
- (2) One (1) member by the City Council of the City of Harker Heights, Texas.
- (3) One (1) member by the county commissioners' court.

Each member shall serve for a term of two (2) years and is removable for cause by the appointment authority upon written charges, after a public hearing.

(c) The board of adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this article. Meetings of the board of adjustment shall be held at the call of the chairman and at such times as the board of adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the city secretary and shall be a public record.

(d) The board of adjustment shall make written findings of fact and conclusions of law stating the facts upon which it relied when making its legal conclusions in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this article.

(e) The concurring vote of four (4) members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the building official or to decide in favor of the applicant on any matter upon which it is required to pass under this article, or to effect any variation in this article.

(Ord. No. 88-27, § II(9-5-9), 4-26-88)

Cross reference(s)--Boards, commissions, etc., generally, § 2-116 et seq.

State law reference(s)--Board of adjustment, V.T.C.A., Local Government Code § 241.032 et seq.

Sec. 7-60. Appeals.

(a) A decision of the building official made in its administration of this article may be appealed to the board of adjustment by:

- (1) A person who is aggrieved by the decision;
- (2) A taxpayer who is affected by the decision; or
- (3) The governing body of a political subdivision or a joint airport zoning board that believes the decision is an improper application of the airport zoning regulation.

(b) All appeals under this section must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the building official a notice of appeal specifying the grounds thereof. The building official shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the building official certifies to the board of adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate, a stay would, in the opinion of the building official, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment on notice to the building official and on due cause shown.

(d) The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(e) The board of adjustment may in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances.

(Ord. No. 88-27, § II(9-5-10), 4-26-88)

State law reference(s)--Similar provisions, V.T.C.A., Local Government Code § 241.036.

Sec. 7-61. Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment under the provisions of this article, may appeal to a court of competent jurisdiction, as provided by the Airport Zoning Act, as amended [V.T.C.A., Local Government Code ch. 241]. (Ord. No. 88-27, § II(9-5-11), 4-26-88)

State law reference(s)--Judicial review of decisions, V.T.C.A., Local Government Code § 241.041 et seq.

Sec. 7-62. Enforcement and remedies.

The city council may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this article or of any order or ruling made in connection with its administration or enforcement including, but not limited to, an action for injunctive relief as provided by V.T.C.A., Local Government Code § 241.044. (Ord. No. 88-27, § II(9-5-12), 4-26-88)

Sec. 7-63. Conflicting regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or objects of natural growth, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. (Ord. No. 88-27, § II(9-5-14), 4-26-88)

State law reference(s)--Conflicts between airport zoning regulations and other regulations, V.T.C.A., Local Government Code 241.901.

Sec. 7-64. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8.