

### **Joint Airport Safety Board Hazard Zoning Regulations**

Regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of Houston Executive Airport, Fort Bend County, Waller County, Cities of Katy, Brookshire and Fulshear Texas, by creating the appropriate zones and establishing the boundaries thereof; providing for restrictions of such zones and the enforcement of such restrictions; defining certain terms used herein; referring to Houston Executive Airport Hazard Zoning Map prepared by Garver Engineers, dated May 2008, which is incorporated in and made a part of these regulations; providing for a board of adjustment; and imposing penalties.

Whereas, these regulations are adopted pursuant to the authority conferred by the Airport Zoning Act, Texas Local Government Code, §§241.001 et seq.

Whereas, the Legislature of the State of Texas finds that:

1. an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;
2. an airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;
3. the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;
4. it is necessary in the interest of the public health, public safety, and general welfare to prevent the creation of an airport hazard;
5. the creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation; and
6. the prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, or the marking and lighting of an airport hazard are public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land.

Accordingly, it is declared that area benefits from the use of Houston Executive Airport, which by deed restriction filed pursuant to Texas Tax Code 23.91, et. seq., permits Houston Executive Airport to be used by the public to an extent that the airport fulfills an essential community purpose; therefore, Houston Executive Airport is used in the interest of the public.

Therefore, be it ordered by the Joint Airport Safety Board, established by the Commissioners Court of Fort Bend and Waller County, cities of Katy, Brookshire and Fulshear, Texas:

**Section 1. Short Title**

These regulations shall be known and may be cited as the "Joint Airport Hazard Zoning Regulations."

**Section 2. Definitions**

As used in these regulations, unless the context otherwise requires:

A. Administrative Agency — The appropriate person or office of a political subdivision which is responsible for the administration and enforcement of the regulations prescribed herein. The administrative agency is set forth in Section 3 of these regulations.

B. Airport — Houston Executive Airport, located in Waller County, Texas; including the ultimate development of that facility.

C. Airport Elevation — The established elevation of the highest point on the runway, either existing or planned, at the airport measured in feet above mean sea level (MSL). The airport elevation of Houston Executive Airport is 168 feet above mean sea level (MSL).

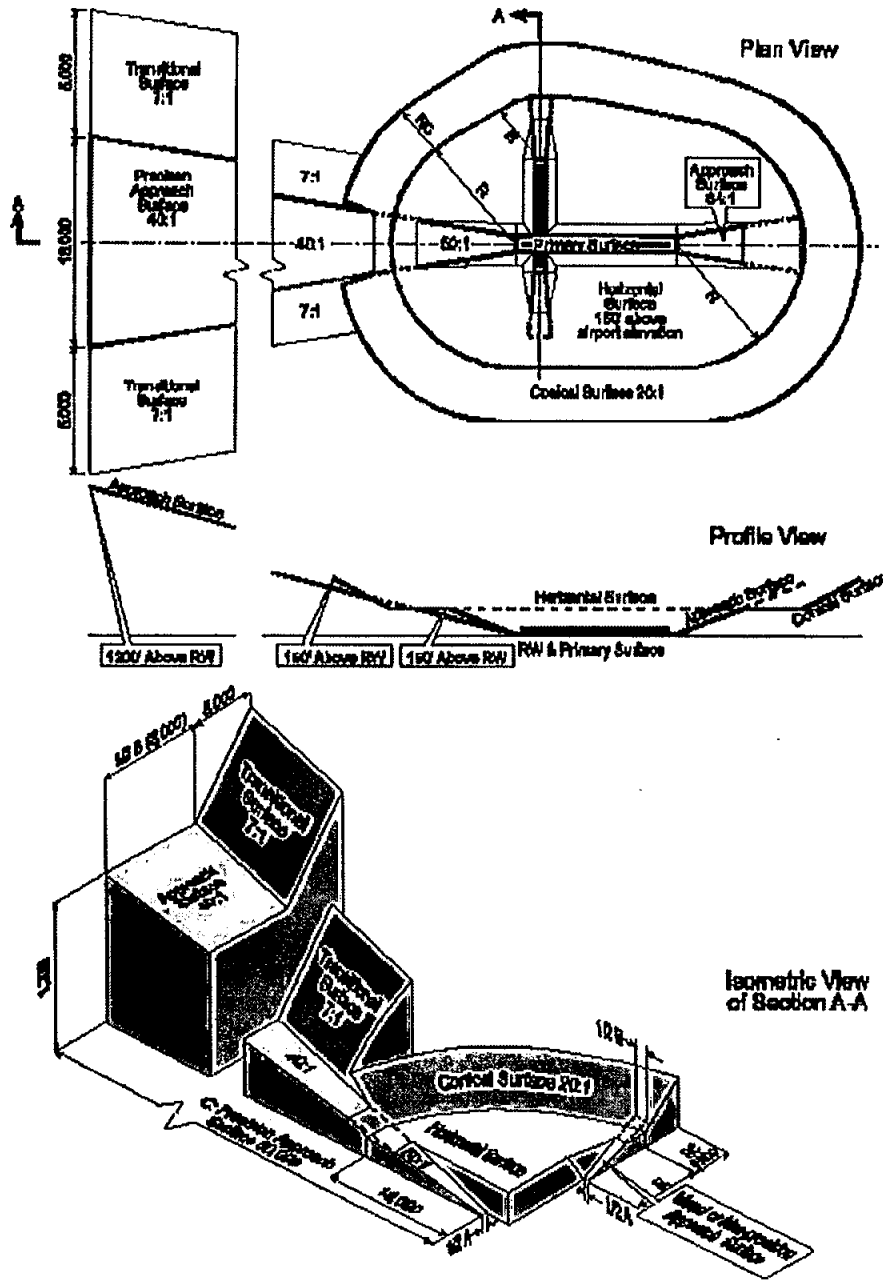
D. Airport Hazard — Any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft or obstructs or interferes with the control, tracking, and/or data acquisition in the landing, takeoff, or flight at an airport or any installation or facility relating to flight, tracking, and/or data acquisition of the flight craft; is hazardous to, interferes with, or obstructs such landing, takeoff, or flight of aircraft; or is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

E. Approach Surface — A surface longitudinally centered on the extended runway centerline, extending outward and upward from each end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 5 of these regulations. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

F. Approach, Conical, Horizontal, and Transitional Zones — These zones are set forth in Section 4 of these regulations and are depicted in Figure 1, below:

Figure 1

Figure 2-2: Typical Imaginary Surface Height Limitations, FAA Part 77



Depiction shows an other-than-utility airport with instrument approach procedures to each runway end, and each procedure having one-mile minimum visibility minimums.

G. Board of Adjustment — A board so designated by these regulations as provided in Texas Local Government Code, §241.032. Provisions for the board of adjustment are set forth in Section 9 of these regulations.

H. Conical Surface — A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally for each one (1) foot vertically for a horizontal distance of four-thousand (4,000) feet.

I. Hazard to Air Navigation — An obstruction or use of land determined to have a substantial adverse effect on the safe and efficient utilization of navigable airspace.

J. Height — For the purpose of determining the height limits in all zones set forth in these regulations and shown on the hazard zoning map, the datum shall be height above mean sea level (MSL) elevation as measured in feet.

K. Horizontal Surface — A horizontal plane one-hundred fifty (150) feet above the established airport elevation which in plan coincides with the perimeter of the horizontal zone.

L. Nonconforming Use, Structure, or Tree — Any structure, tree, or use of land which is inconsistent with the provisions of these regulations and which is existing as of the effective date of these regulations.

M. Nonprecision Instrument Runway — A runway having an existing instrument approach procedure utilizing air navigation facilities or other equipment that provides only horizontal guidance or area type navigation equipment. This also includes a runway for which a nonprecision instrument approach procedure has been approved or planned. Planned Runway 18R/36L is considered a nonprecision instrument runway.

N. Obstruction — Any structure, tree, or other object, including a mobile object, which exceeds a limiting height set forth in Section 5 of these regulations or is an airport hazard.

O. Other than Utility Runway — A runway designed for and intended to be used by propeller driven aircraft of more than twelve-thousand five-hundred (12,500) pounds maximum gross weight and jet powered aircraft. Runway 18/36 at Houston Executive Airport is considered an other than utility runway.

P. Person — 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.

Q. Precision Instrument Runway — A runway having an existing instrument approach procedure utilizing air navigation facilities or other equipment which provide both horizontal and vertical guidance. This also includes a runway for which a precision instrument approach procedure has been approved or planned. Runway 18/36 at Houston Executive Airport is considered a precision instrument runway.

R. Primary Surface — A 7,400 foot wide surface longitudinally centered on the runway extending the full length of the ultimate runway configuration plus two hundred (200) feet beyond each ultimate end of the runway. The elevation of any point on the primary surface is the same as the nearest point on the existing or ultimate runway centerline.

S. Runway — A defined area on the airport prepared for the landing and taking off of aircraft along its length. The current length of Runway 18/36 at Houston Executive Airport is 6,610 feet. The length of the ultimate runway configuration of Runway 18/36 at Houston Executive Airport is 7,780 feet. The length of the ultimate parallel 18R/36L is 7,000 feet.

T. Structure — An object, including a mobile object, constructed or installed by man including, but not limited to, buildings, towers, cranes, smokestacks, poles, earth formations, overhead power lines, and traverse ways. Traverse ways are considered to be the heights set forth in 14 C.F.R. Part 77.23.

U. Transitional Surfaces — Surfaces extending perpendicular to the runway centerline and the extended runway centerline outward from the edges of the primary surface and the approach surfaces at a slope of seven (7) feet horizontally for each one (1) foot vertically to where they intersect the horizontal surface. Transitional surfaces for those portions of the precision approach surface which extend through and beyond the limits of the conical surface extend at a slope of seven (7) feet horizontally for each one (1) foot vertically for a distance of five-thousand (5,000) feet measured horizontally from either edge of the approach surface and perpendicular to the extended runway centerline.

V. Tree — Any type of flora and an object of natural growth.

### **Section 3. Administrative Agency**

It shall be the duty of the appropriate person or office of each of the joined political subdivision which is responsible for the administration and enforcement of the regulations prescribed herein.

### **Section 4. Zones**

In order to carry out the provisions of these regulations, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, conical surface, horizontal surface, and transitional surfaces as they apply to the airport. Such surfaces are shown on the Houston Executive Airport Hazard Zoning Map prepared by Garver Engineers, dated May 2008, which is incorporated in and made a part of these regulations. An area located in more than one 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:

A. Approach Zones — Approach zones are hereby established beneath the approach surfaces at each end of Runway 18/36 at the airport for an other than utility runway. The approach surface shall have an inner edge width of 550 feet, which coincides with the width of the primary surface, at a distance of two-hundred (200) feet beyond each runway end, widening thereafter uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet beyond the end of the primary surface. The centerline of the approach surface is the continuation of the centerline of the runway.

B. Conical Zone — A conical zone is hereby established beneath the conical surface at the airport which extends outward from the periphery of the horizontal surface for a horizontal distance of four-thousand (4,000) feet.

C. Horizontal Zone — A horizontal zone is hereby established beneath the horizontal surface at the airport which is a 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 and connecting the adjacent arcs by lines tangent to those arcs.

D. Transitional Zones — Transitional zones are hereby established beneath the transitional surfaces at the airport. Transitional surfaces, symmetrically located on either side of the runway, have variable widths as shown on the Houston Executive Airport Hazard Zoning Map prepared by Garver Engineers, dated May 2008, which is incorporated in and made a part of these regulations. Transitional surfaces extend outward perpendicular to the runway centerline and the extended runway centerline from the periphery of the primary surface and the approach surfaces to where they intersect the horizontal surface. Where the precision instrument runway approach surface projects through and beyond the conical surface, there are hereby established transitional zones beginning at the sides of and at the same elevation as the approach surface and extending for a horizontal distance of five-thousand (5,000) feet as measured perpendicular to the extended runway centerline.

### **Section 5. Height Limitations**

Except as otherwise provided in Section 8 of these regulations, no structure shall be erected, altered, or replaced and no tree shall be allowed to grow in any zone created by these regulations to a height in excess of the applicable height limitations herein established for such zone except as provided in Paragraph E of this Section. Such applicable height limitations are hereby established for each of the zones in question as follows:

A. Approach Zones — Slope one (1) foot in height for each 40 feet in horizontal distance beginning at the end of and at the same elevation as the primary surface and extending to a point 50,000 feet beyond the end of the primary surface.

B. Conical Zone — Slopes one (1) foot in height for each twenty (20) feet in horizontal distance 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, or to a height of 518 feet above mean sea level.

C. Horizontal Zone — Established at one-hundred fifty (150) feet above the airport elevation, or at a height of 318 feet above mean sea level.

D. Transitional Zones — Slope one (1) foot in height for each seven (7) feet in horizontal distance beginning at the sides of and at the same elevations as the primary surface and the approach surfaces.

E. Excepted Height Limitation — Nothing contained in these regulations shall be construed as prohibiting the growth, construction, or maintenance of any structure or tree to a height of up to fifty (50) feet above the surface of the land at its location.

**Section 6. Land Use Restrictions**

Except as provided in Section 7 of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communications 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 potential 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. Nothing in this ordinance shall be construed to dictate the types of structures that may be built within the zone. Except as provided in Section 5 and 6 nothing in this ordinance shall be construed to specify the land uses permitted within the zone.

**Section 7. Nonconforming Uses, Structures, and Trees**

A. Nonconforming Uses — Nothing contained in these regulations shall be construed as requiring changes in or interference with the continuance of any nonconforming use of land.

B. Nonconforming Structures — Nothing contained in these regulations shall be construed as to require the removal, lowering, or other change to any existing nonconforming structure including all phases or elements of a multiphase structure the construction of which was begun prior to the effective date of these regulations and is diligently prosecuted.

C. Nonconforming Trees — Nothing in these regulations shall be construed as to require the removal, lowering, or other change to any nonconforming tree. However, any nonconforming tree which grows to a greater height than it was as of the effective date of

these regulations is subject to the provisions of these regulations as described in Section 5 herein above.

**Section 8. Permits and Variances**

A. Permits — Any person who desires to replace, rebuild, substantially change, or repair a nonconforming structure or replace or replant a nonconforming tree must apply for and receive a permit, and the permit shall be granted. However, no permit shall be granted which would allow the establishment of an airport hazard or allow a nonconforming structure or tree to exceed its original height or become a greater hazard to air navigation than it was at the time of the adoption of these regulations. Applications for permit shall be applied to and issued by the administrative agency.

B. Variances — Any person who desires to erect, substantially change, or increase the height of any structure or establish or allow the growth of any tree which would exceed the height limitations set forth in Section 5 of these regulations or change the use of property in such a way as to create a hazardous condition as described in Section 6 of these regulations must apply to the board of adjustment and receive a variance. The application for variance must be accompanied by a determination from the Federal Aviation Administration under 14 C.F.R. Part 77 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 practical difficulty or unnecessary hardship and the granting of relief would result in substantial justice, not be contrary to the public interest, and be in accordance with the spirit of these regulations.

**C. Requirements and Reasonable Conditions**

(1) Any permit granted may, at the discretion of the administrative agency, may impose a requirement to allow the installation and maintenance of any markers or lights as may be necessary to indicate to flyers the presence of an airport hazard.

(2) Any variance granted may, at the discretion of the board of adjustment, impose any reasonable conditions as may be necessary to accomplish the purpose of these regulations.

**Section 9. Board of Adjustment**

A. The Joint Airport Board of Adjustments is hereby designated as the board of adjustment for the purposes of these regulations and shall have and exercise the following powers:

(1) to hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Agency in the administration or enforcement of these regulations;

(2) to hear and decide special exceptions to the terms of these regulations when the board is required to do so; and

(3) to hear and decide specific variances.

B. The board of adjustment shall be comprised of five (5) members and shall adopt rules for its governance and procedure in harmony with the provisions of these regulations. 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/her 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 any member is absent or fails 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 board of adjustment or in the office of administrative agency. All such records shall be public records.

C. 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 these regulations.

D. 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 administrative agency, to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variance to these regulations.

#### **Section 10. Appeals**

A. Any person aggrieved or any taxpayer affected by a decision of the administrative agency made in the administration of these regulations may appeal to the board of adjustment if that person or taxpayer is of the opinion that a decision of the administrative agency is an improper application of these regulations. This same right of appeal is extended to each administrative agency.

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment by filing a notice of appeal with the board of adjustment and the administrative agency specifying the grounds for the appeal. The administrative agency shall forthwith transmit to the board of adjustment all papers constituting the record upon which the action appealed was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed unless the administrative agency certifies in writing to the board of adjustment that by reason of the facts stated in the certificate, a stay would, in the opinion of the administrative agency, 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 administrative agency 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, by agent, and/or by attorney.

E. The board of adjustment may reverse or affirm, in whole or in part, or modify the administrative agency's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for this purpose the board of adjustment has the same authority as the administrative agency.

#### **Section 11. Judicial Review**

Any person aggrieved or any taxpayer affected by a decision of the board of adjustment may present to a court of record a petition stating that the decision of the board of adjustment is illegal and specifying the grounds of the illegality as provided by and in accordance with the provisions of Texas Local Government Code, §241.041. This same right of appeal is extended to each administrative agency.

#### **Section 12. Enforcement and Remedies**

The Joint Airport Safety Board and each jurisdictional entity may institute in a court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of these regulations or of any order or ruling made in connection with their administration or enforcement including, but not limited to, an action for injunctive relief.

#### **Section 13. Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed herein and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall control.

#### **Section 14. Severability**

If any of the provisions of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application and to this end, the provisions of these regulations are declared to be severable.

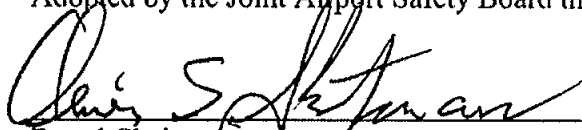
**Section 15. Adherence with State Laws**

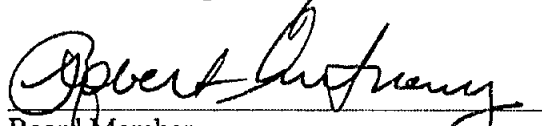
Any actions brought forth by any person or taxpayer as a result of the administration, enforcement, or the contesting these regulations will be in accordance with the provisions of Texas Local Government Code, §§241.001 et seq and other applicable State laws.

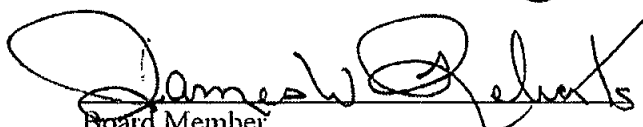
**Section 16. Effective Date**

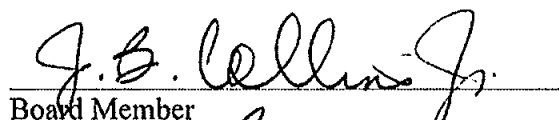
Whereas, the immediate operation of the provisions of these regulations is necessary for the preservation of the public health, safety, and general welfare, an emergency is hereby declared to exist and these regulations shall be in full force and effect from and after their adoption by the Joint Airport Safety Board.


Adopted by the Joint Airport Safety Board this 29 day of September 2009.

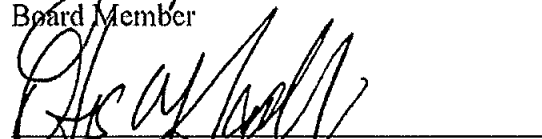
  
Board Chairman

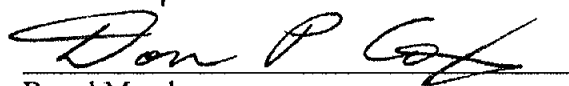
  
Board Member

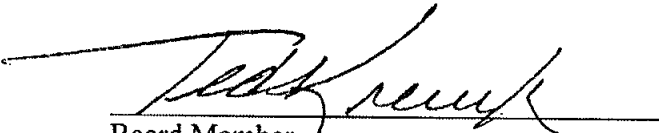
  
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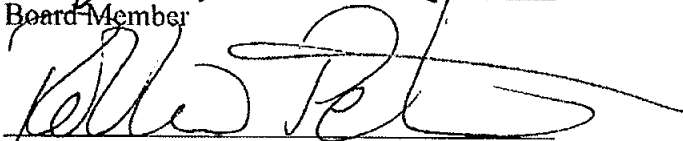
  
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