

Amending Subchapter 4 by adding Section 4.5.4 AUSTIN EXECUTIVE AIRPORT HAZARD OVERLAY DISTRICT

A. Purpose

The purpose of this overlay district is to minimize hazard and public nuisance associated with the airport by regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Austin Executive Airport by creating appropriate zones and boundaries. It is necessary in the interest of the public health, public safety, and general welfare.

B. Definitions

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

Administrative Agency - An agency so designated by each Political Subdivision under Section 241.031 of the Texas Local Government Code, as amended, to administer and enforce these regulations in each Political Subdivision's respective jurisdiction.

Airport - Austin Executive Airport located in Travis County, Texas, including the ultimate development of that facility.

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 Austin Executive Airport is 620 feet above mean sea level (MSL).

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.

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 E of these regulations. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Conical, Horizontal, and Transitional Zones - These zones are set forth in Section D of these regulations and are depicted in Figure 1, below:

Austin Executive Airport Board of Adjustment - The joint board of adjustment created by Section I of these regulations to administer and enforce these regulations in the areas where the Political Subdivisions' Board of Adjustments do not have jurisdiction.

Board of Adjustment - A board of adjustment so designated by each Political Subdivision under Section 241.032 of the Local Government Code, as amended, to administer and enforce these regulations in each respective Political Subdivision's jurisdiction.

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.

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.

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.

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.

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.

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 13/34 is considered a nonprecision instrument runway.

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

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 13/31 at Austin Executive Airport is considered an other than utility runway.

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

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 13/31 at Austin Executive Airport is considered a precision instrument runway.

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.

Runway - A defined area on the airport prepared for the landing and taking off of aircraft along its length. The current length of Runway 13/31 at Austin Executive Airport is 6,025 feet. The length of the ultimate runway configuration of Runway 13/31 at Austin Executive Airport is 7,500 feet. The length of the ultimate parallel 16/34 is 1,550 feet.

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.

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.

Tree - Any type of flora and an object of natural growth.

C. Administrative Agency

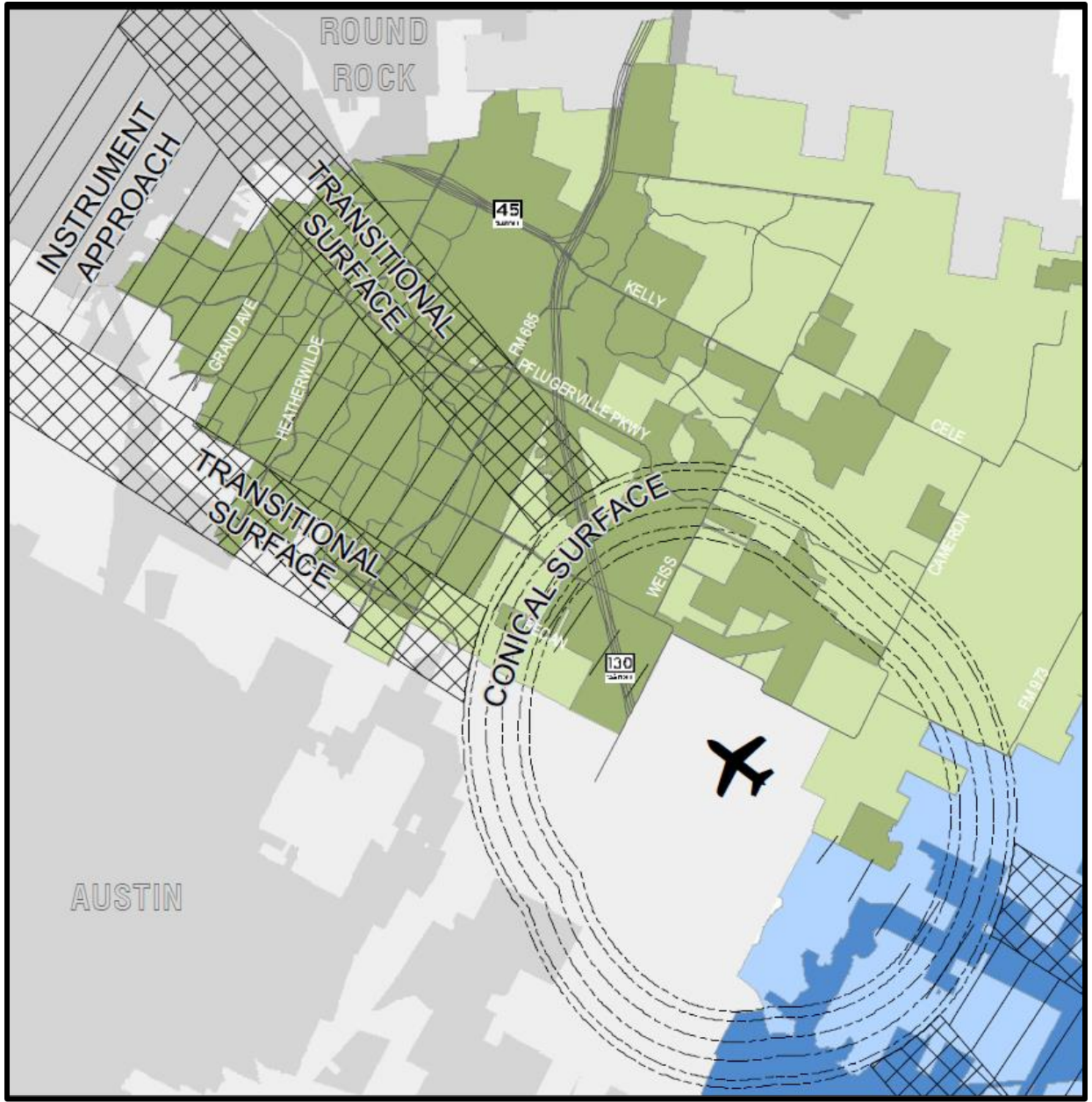
The Administrative Agency of each Political Subdivision shall be responsible for the administration and enforcement of the regulations prescribed herein.

D. 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 Austin Executive Airport Hazard Zoning Map prepared by KSA Engineers, dated April 2015, 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:

1. Approach Zones - Approach zones are hereby established beneath the approach surfaces at each end of Runway 13/31 at the airport for 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.

2. 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.
3. 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.
4. 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 Austin Executive Airport Height and Hazard Zoning Map prepared by KSA Engineers, dated April 2015, 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.
5. Austin Executive Airport Height and Hazard Zoning Map prepared by KSA Engineers, dated April 2015.



E. Height Limitations

Except as otherwise provided in Section H 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 5 of this Section. The Airport Hazard Zones described in this section are depicted on an airport height and hazard zoning sheet on file with the Austin Executive Airport. Official notification to each political subdivision if changes are made to the official Height and Hazard map. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. 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.
2. 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 970 feet above mean sea level.
3. Horizontal Zone - Established at one-hundred fifty (150) feet above the airport elevation, or at a height of 770 feet above mean sea level.
4. 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.
5. Excepted Height Limitation – None

F. Land Use Regulations

Except as provided in Section G 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 such as, but not limited to, waste, construction, and demolition landfills, and new large bodies of water (localized wetland, ponds, and storm water retention ponds greater than or equal to 1 acre), or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport. Localized wetlands, ponds, and retention ponds greater than or equal to 1 acre will be subject to evaluation by Austin Executive Airport to review and if appropriate, issue a letter of no objection.

G. Nonconforming Uses, Structures, and Trees

1. 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. Existing nonconforming uses are Lake Pflugerville and 1894 Park water storage and irrigation.
2. 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.
3. 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 E herein above.

H. Permits and Variances

1. Permits - Any person who desires to replace, rebuild, substantially change, or repair a nonconforming structure or replace or replant a nonconforming tree is required to apply for a permit. 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 a permit shall be submitted to the Administrative Agency which has jurisdiction over the permit application.

2. 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 E of these regulations or change the use of property in such a way as to create a hazardous condition as described in Section F of these regulations is required to apply for a variance with the Joint Board of Adjustment or Board of Adjustment, as the case may be. 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. 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.
3. Requirements and Reasonable Conditions
 - a. Any permit granted may, at the discretion of the Administrative Agency, impose a requirement to allow the installation and maintenance of any markers or lights to indicate to flyers the presence of an airport hazard.
 - b. Any variance granted may, at the discretion of the Joint Board of Adjustment or Board of Adjustment, impose any reasonable conditions as may be necessary to accomplish the purpose of these regulations.

I. Austin Executive Airport Board of Adjustment

1. The Austin Executive Airport Board of Adjustment is hereby created to administer and enforce these regulations in the areas not within the jurisdiction of the Political Subdivisions' Board of Adjustments.
2. The Austin Executive Board of Adjustment shall:
 - a. hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Agency in the administration or enforcement of these regulations;
 - b. hear and decide special exceptions to the terms of these regulations when the board is required to do so; and
 - c. hear and decide specific variances.
3. The Austin Executive Board of Adjustment shall be comprised of five (5) members and one alternate member appointed by the Political Subdivisions. The terms for the members shall be two years. The members shall elect a chairman from one of the members. The Austin Executive Board of Adjustment shall adopt rules for its

governance and procedure in harmony with the provisions of these regulations. Meetings of the Austin Executive Board of Adjustment shall be held at the call of the chairman and at such times as the Austin Executive 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 Austin Executive Board of Adjustment shall be public. The Austin Executive 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 Austin Executive Board of Adjustment or in the office of appropriate Administrative Agency. All such records shall be public records.

4. The Austin Executive 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 determining special exceptions and variances.
5. The concurring vote of four (4) members of the Austin Executive Board of Adjustment shall be necessary 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.
6. The Political Subdivision appointing a member to the Austin Executive Board of Adjustment may remove that member for cause on a written charge after a public hearing. A Political Subdivision shall fill any vacancy on the board for the unexpired term for a member assigned to that Political Subdivision.
7. Austin Executive Airport is the official record keeper of all the Austin Executive Airport Board of Adjustment files and minutes.

J. Appeals

1. A person aggrieved or a taxpayer affected by a decision of an Administrative Agency or a Political Subdivision or the Joint Airport Zoning Board that believes the decision of an Administrative Agency is an improper application of these regulations may appeal the decision to a Board of Adjustment or the Austin Executive Board of Adjustment, as the case may be. For the purpose of Sections J and K of these regulations, the Board of Adjustment and the Austin Executive Board of Adjustment are collectively referred to as Board of Adjustment.
2. 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 appropriate 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.
3. 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.

4. 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.
5. 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. 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.
6. The Board of Adjustment shall make written finding 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.

K. Judicial Review

A person aggrieved or a taxpayer affected by a decision of a Board of Adjustment or a Political Subdivision or the Joint Airport Zoning Board that believes the decision of a Board of Adjustment is illegal 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 Section 241.041 of the Texas Local Government Code, as amended. This same right of appeal is extended to each Administrative Agency.

L. Enforcement and Remedies

Each Political Subdivision and the Joint Airport Zoning Board may institute in a court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of Chapter 241 of the Local Government Code, these regulations, or any order or ruling made in connection with their administration or enforcement of these regulations.

M. 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.

N. 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.

O. 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 Chapter 241 of the Texas Local Government Code, as amended, and other applicable State laws.

P. Immunity Clause

No elected or non-elected, person, employee, officer, member or agent of political subdivision, Austin Executive Joint Zoning Board and Austin Executive Airport Board of Adjustment shall have (a) any personal liability with respect to any of the provisions of this Ordinance, Regulation, or (b) any liability for any consequential damages resulting from the exercise by political subdivision or Austin Executive Joint Board of any its duties herein.