

ORDINANCE NO. 641

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE ADDISON AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES FOR SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE ADDISON AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; AND IMPOSING PENALTIES.

This ordinance is adopted pursuant to the authority conferred by the Airport Zoning Act, as amended, Tex. Rev. Civ. Stat. Ann. Article 46e-1 et seq (1969).

It is hereby found that an obstruction has the potential for endangering the lives and property of users of Addison Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Addison Airport, and that an obstruction may reduce the size of areas available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Addison Airport, and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the area served by Addison Airport;
- (2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- (3) that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ADDISON, TEXAS.

SECTION 1. Short Title. This Ordinance shall be known and may be cited as "Addison Airport Zoning Ordinance."

SECTION 2. Definitions. As used in this Ordinance, unless the context otherwise requires:

- (1) AIRPORT - means Addison Airport.
- (2) AIRPORT ELEVATION - means the established elevation of the highest point on the usable landing area measured in feet from mean sea level.
- (3) AIRPORT HAZARD - means any structure or tree 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.
- (4) AIRPORT HAZARD AREA - means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Ordinance.
- (5) AIRPORT REFERENCE POINT - means the point established as the approximate geographic center of the airport landing area and so designated.
- (6) AIRPORT ZONING BOARD - the Planning and Zoning Commission appointed pursuant to the Comprehensive Zoning Ordinance of the City of Addison.
- (7) APPROACH SURFACE - 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 4 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (8) APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are set forth in Section 3 of this Ordinance.
- (9) BOARD OF ADJUSTMENT - the Board of Adjustment, appointed to hear appeals under the Comprehensive Zoning Ordinance of the City of Addison, shall also hear all appeals and be invested with all authority as provided by Article 47e-10, Tex. Rev. Civ. Stat. Ann., 1969.
- (10) BUILDING OFFICIAL - Building Official of the City of Addison or his designee.
- (11) CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

- (12) HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (13) HEIGHT - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (14) HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- (15) LANDING AREA - means the surface area of the Airport used for the landing, take-off or taxiing of aircraft.
- (16) NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- (17) OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 4 of this Ordinance.
- (18) PERSON - means 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.
- (19) PRIMARY SURFACE - The width of the primary surface is 1,000 feet.
- (20) RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.
- (21) STRUCTURE - An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
- (22) TRANSITIONAL SURFACES - These surfaces extend outward at 90 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 those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
- (23) TREE - Any object of natural growth.
- (24) PRECISION INSTRUMENT RUNWAY - 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.

SECTION 3. Zones. In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surfaces, Transition Surfaces, Horizontal Surface and Conical Surface as they apply to Addison Airport. Such zones are shown on Zoning Map consisting of one sheet, prepared by Riewe & Wischmeyer, Inc. and dated April, 1979, which is attached to this Ordinance and made a part hereof. 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 zone is established beneath the approach surface at the end of Runway 15/33 on Addison Airport for 50:1 landings and take-offs. The inner edge of the approach zone shall have a width of 1,000 feet which coincides with the width of the primary surface at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet beyond each 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 7 to 1 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 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 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of the runway 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 20:1 for a horizontal distance of 4,000 feet.

SECTION 4. Height Limitations. Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance 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 - Runway 15/33 - One (1) foot in height for each 50 feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point 10,000 feet from the end of the primary surface, then rising one (1) foot in height for each 40 feet in horizontal distance for an additional 40,000 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 150 feet above the airport elevation which is 643 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 5,000 feet measured at 90 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 793 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 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- (5) EXCEPTED HEIGHT LIMITATIONS - Nothing in this Ordinance shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the surface of the land.

SECTION 5. Use Restrictions. Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance 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.

(c) 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 tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree 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 Ordinance except as set forth in Section 4, Par. (5).

(2) 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 tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Ordinance 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.

(3) Nonconforming Uses Abandoned or Destroyed. Whenever the Building Official determines that a nonconforming structure or tree has been abandoned or 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.

(4) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, in violation of the regulations prescribed in this Ordinance, 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, would, but do substantial justice, and be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Building Official for advice as to the aeronautical effects of the variance. If the Building Official 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 said application.

SECTION 6. Nonconforming Uses.

(1) Regulations Not Retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, 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 the effective date of this Ordinance, and is diligently prosecuted.

(2) Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any nonconforming structure or tree is hereby required to permit 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 lights shall be installed, operated, and maintained at the expense of

SECTION 7. Permits.

(1) Future Uses - Except as specifically provided in a, b, and c, hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined 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 Ordinance shall be granted unless a variance has been approved in accordance with Section 7, Par. (4).

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the grounds, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree 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.

(5) 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 Ordinance 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 owner, such markings and lights as may be necessary.

SECTION 8. Enforcement. It shall be the duty of the Building Official to administer and enforce the regulations prescribed herein. Applications required by this Ordinance to be submitted to the Building Official to administer and enforce the regulations prescribed herein. Applications for permits shall be made 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 said application for variance with the Building Official who shall forthwith transmit said application to the Board of Adjustment for determination.

SECTION 9. Board of Adjustment.

(1) The Board of Adjustment, appointed to hear appeals under the City Comprehensive Ordinance shall have and exercise the following additional powers:

(a) to hear and decide appeals from any order, requirement, decision, or determination made by the Building Official in the enforcement of this Ordinance;

(b) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass;

(c) to hear and decide specific variances.

(2) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. 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 Building Official and shall be a public record.



(3) 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 Ordinance.

(4) 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 Ordinance, or to effect any variation in this Ordinance.

#### SECTION 10. Appeals.

(1) Any person aggrieved, or any taxpayer affected, by any decision of the Building made in his administration of this Ordinance, if of the opinion that a decision of the Building Official is an improper application of these regulations, may appeal to the Board of Adjustment.

(2) All appeals hereunder must be taken within fifteen (15) days time after the decision has been rendered by the Building Official, 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.

(3) 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.

(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 or by agent or by attorney.

(5) The Board of Adjustment may in conformity with the provisions of this Ordinance, 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.

SECTION 11. Judicial Review. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to a court of competent jurisdiction, as provided by the Airport Zoning Act, as amended, Tex. Rev. Civ. Stat. Ann. Art. 46e-11 (1969).

SECTION 12. Enforcement and Remedies. The Building may institute in any Court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Ordinance/Order 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 the Airport Zoning Act, as amended, Tex. Rev. Civ. Stat. Ann., Art. 46e12 (1969).

SECTION 13. Changes and Amendments. The City Council may from time to time amend, supplement or change by ordinance the boundaries of the airport approach zones, transition zones and the airport hazard areas herein established. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. At least fifteen (15) day's notice of the hearing shall be published in the official paper, or a paper of general circulation in the City of Addison, stating the time and place of such hearing.

SECTION 14. Penalty for Violation. Any person or corporation who shall violate any of the provisions of this ordinance or who shall fail to comply with any requirements thereof or who shall build or alter any structure or use in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a Class "C" misdemeanor and shall be liable to a fine of not more than Two Hundred and no/100 (\$200.00) Dollars, and each day such violation shall be permitted to exist shall constitute a separate offense.

SECTION 15. Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations 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 limitations or requirement shall govern and prevail. Ordinance No. 9 of the City of Addison is hereby repealed.

SECTION 16. Severability. If any of the provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions

or application of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 16. Effective Date. The fact that there is not an adequate existing ordinance to presently restrict the height of structures and otherwise regulate the use of property in the vicinity of an airport creates an emergency and requires that this ordinance, for the protection of the public health, safety and general welfare, shall take effect immediately from and after its passage, and the publication of the caption of said ordinance, as the law in such cases provides.

DULY ADOPTED by the City Council of the City of Addison on the 25 day of November, 1980.

MAYOR



ATTEST:

Jacque Sharp  
CITY SECRETARY