



**June 19, 2014**

**AGENDA**

**The Agenda for the Meeting of the Joint Airport Zoning Board scheduled for 12:00p.m. (noon), Wednesday, June 25, 2014, in the meeting room of the Greater Texoma Utility Authority, 5100 Airport Drive, Denison, TX, is as follows:**

- I. Call To Order. \* \*\***
- II. Approval of the minutes of the June 9, 2014, Joint Airport Zoning Board Meeting.**
- III. Workshop to continue review of draft Airport Zoning Ordinance.**
- IV. Public Comments.**
- V. Adjourn.**

**If you plan to attend this Meeting, and you have a disability that requires special arrangements, please contact the Administration Office at 903-786-2904 within 24 hours of the Meeting and reasonable accommodations will be made to assist you.**

**\* The Board may vote and/or act upon each of the items listed in this Agenda.**

**\*\* The Board reserves the right to retire into Executive Session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act.**

**JOINT AIRPORT ZONING BOARD**

**ITEM NUMBER: Two**  
**MEETING DATE: 06-25-14**

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**ITEM TITLE:** Approval of the minutes of the June 9, 2014, Joint Airport Zoning Board meeting

**SUBMITTED BY:** Terry Morrow, Administrative Asst.

**DATE SUBMITTED:** June 19, 2014

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**SUMMARY:**

Minutes of the June 9, 2014, Joint Airport Zoning Board Meeting as transcribed from recorded tape.

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**ATTACHMENTS (LIST)**

Minutes

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**ALTERNATIVES/RECOMMENDATIONS:**

Approve minutes with changes if any.

**NORTH TEXAS REGIONAL AIRPORT  
JOINT AIRPORT ZONING BOARD  
JUNE 9, 2014**

**MEMBERS' PRESENT:**

Phil Roether, Chairman  
Ken Brawley  
Kevin Farley  
Randy Hensarling  
Ryan Johnson  
Jason Sofey  
Todd Thompson

**MEMBERS' ABSENT:**

Janet Gott  
Lee Olmstead

**OTHERS' PRESENT:**

Michael Hutchins, Herald Democrat  
Bart Lawrence, Commission, Pct. #4  
Scott Shadden, City of Sherman

Jim Copeland  
Wm. B. (Ben) Munson, Esquire  
Alex Moser

**I.  
Call to Order.**

Mr. Roether called the meeting to order at 12:00 p.m. Mr. Roether stated that the Board was at a point where they had been through the entire document, although there are a few issues that need to be completed before this could go to a public hearing. He stated that depending on how things went at this meeting, the Board would have another regular meeting on June 25. He stated that if everything went well, the Board may be in a position to make a recommendation to take its position to a public hearing which could be scheduled in July.

**II.  
Approval of the minutes of the April 30, 2014, Joint Airport Zoning Board Meeting.**

Mr. Roether asked if the Board had the opportunity to review the minutes of the previous meeting. Mr. Johnson made the motion to approve the minutes. Mr. Sofey seconded the motion. All members voted aye.

**III.  
Workshop to review Airport Zoning Committee recommendations for the Airport Zoning Ordinance.**

Mr. Roether asked Mr. Hensarling to update the Board on the progress of the sub-committee. Mr. Hensarling stated that the committee was made up of himself, Mr. Sofey, Mr. Thompson, and Mr. Brawley. He stated that Mr. Pete Hudgins and Mr. Jim Copeland were the land owners that were on the committee. He stated that the committee had come up with a revised map. He stated that the committee tried to look at this differently so that it would have a minimal impact on landowners. He stated that Zone A had been divided into two zones, which would be Zone A1 and Zone A2. He stated that Zone A1 had a maximum 1 dwelling unit per 5 acres and a maximum of 100 persons per acre for residential intensity. He stated that some prohibited uses had been removed, which included restaurants, office, retail, etc. He stated that some prohibited uses had been left in because it was felt that they were a real safety concern. Mr. Hensarling stated that Zone A2 restrictions were lightened up. He stated that 1 dwelling unit for 2.5 acres and 250 persons per acre and with no limit to the open land requirement. He stated that the

prohibited uses were reviewed and changed to what Zone B had been originally. Mr. Hensarling stated that Zone B was left intact with the only requirement being a fair disclosure statement signed at the time that the property changes hands. He stated that the lines for Zone A1 and A2 were drawn using the existing avigation easements because it was felt that those landowners were already aware of the height restrictions. He stated that the lines were shortened some from the avigation easements in order to follow existing roads or property lines.

Mr. Roether asked if the size of Zone A was reduced to what is in the current avigation easement. Mr. Hensarling stated that was correct with the exception of them being shortened somewhat on the north and south ends. He did state that the existing avigation easement would remain in place. Mr. Hensarling stated that Zone B had grown some due to Zone A being decreased. Mr. Johnson asked what the fair disclosure statement was and Mr. Hensarling stated that it was a statement that stated that you were aware that you were either building or buying property near an airport. Mr. Johnson asked if the disclosure statement in the packet was what they were talking about and Mr. Hensarling stated that was correct.

Mr. Roether stated that it was his understanding that the current avigation easement has been filed in the County Clerk's office on all the properties within the boundaries. He asked if rather than relying on people's memories when property is finally sold if there was a way to do the same with this notice. Mr. Munson stated that it could be done. He stated that should the Board determine an appropriate disclosure statement for each of the three zones, a surveyor could develop metes and bounds for that particular disclosure area. He stated that the Board could pass a resolution that it be recorded with the County Clerk.

Mr. Copeland stated that he felt this was more reasonable than the original proposal. He stated that as he talked to landowners they were most concerned about the dwelling units per acre in Zone A2. He asked the committee to review this so that it might be removed. Mr. Hensarling stated that the committee had not met since the last meeting and therefore it was still in the document. Mr. Copeland stated that the prohibited uses seemed reasonable and the reduction of the open land requirement was reduced. Mr. Copeland stated that he did not understand the safety factor in the residential restriction more than 1 nautical mile from the Airport. Mr. Hensarling stated that the removal of the dwelling unit requirement had not been discussed but he stated that he understood that on approach the aircraft is lined up well before that one nautical mile and is coming in directly over those properties in Zone A2. Mr. Hensarling stated that they had reviewed some other airport's ordinance and this seemed to fall in line with those. After some discussion, it was agreed that this would be left in place.

Mr. Sofey stated that there had been some discussion on the 30% open land requirement and a definition for it. Mr. Roether stated that the reasoning behind the 30% requirement was to give the pilot room to land in the case of an emergency and do minimal damage. He further stated that the 30% was for the entire area, and not per parcel of land. After some discussion, it was agreed that a definition of open land should be included in Table A. Mr. Copeland suggested that the definition could be "land not occupying a building" and could be included as a footnote.

After all discussion, Mr. Hensarling made the motion to replace the existing map and Table A with the map and Table A proposed by the Zoning Sub-Committee once a definition of open land is inserted. Mr. Johnson seconded the motion. All members voted aye.

Mr. Roether stated that Mr. Johnson was going to review the appeal process. Mr. Johnson stated that he had reviewed Midway Airport and liked the way that they had it structured. He stated that any aggrieved person or taxpayer that is affected by a decision, and also any municipality, could bring an action through judicial process in order to enforce the ordinance or force compliance with the ordinance. He stated that the Board needed to decide if the appeal process included just the aggrieved land owner or

included the municipality that is trying to enforce the ordinance. Mr. Roether asked if Mr. Johnson if he could make a recommendation for this section for the June 25 meeting. He stated that he could but he wanted some guidance from the Board. Mr. Sofey stated that he thought the landowner should have the right to maximize the appeal opportunities without going through the judicial system. Mr. Johnson stated that he would prepare something for a two-tiered system like Midway Airport and the Board could discuss it at the next meeting. Mr. Copeland stated that some of the landowners wanted the governing elected officials of the municipality or county to make the decision on the permit request and/or appeal before going to judicial review. He stated that this would allow an elected official, versus an appointed official, to make the decision. Mr. Johnson asked Mr. Copeland if he would agree that the permit request go through P&Z and appeals be heard by the City Council and Mr. Copeland stated that would be fine. Mr. Sofey asked Mr. Copeland if he wanted the appeal for property in the county to go before Commissioners Court instead of the RMA and Mr. Copeland stated that was correct. Mr. Sofey stated that he felt that the verbiage relating to property in the county was what needed to be addressed. Mr. Roether asked Mr. Johnson to validate the rules is 241 about the JAZB being able to hear appeals.

**IV.**  
**Public Comments.**

Commissioner Lawrence asked Mr. Roether to repeat the schedule of events for the Board. Mr. Roether stated that there would be a property owner meeting on June 28, 2014. He stated that the Board would meet again on June 25, 2014. He stated that he hoped that they Board would be in a position to make a recommendation to take what has been accepted to a public hearing in July. He stated that they might be in a position to incorporate what has been developed at the July meeting, which is the last Wednesday in July. He stated that he hoped to be able to enact the ordinance in either July or August.

**V.**  
**Adjourn.**

Mr. Sofey made the motion to adjourn the meeting and Mr. Brawley seconded the motion. All members voted aye. The meeting was adjourned at 12:55pm.

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Phil Roether, Chairman

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Terry Morrow, Administrative Asst.

## JOINT AIRPORT ZONING BOARD

ITEM NUMBER: **Four**  
MEETING DATE: **06-25-14**

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**ITEM TITLE:** Workshop to continue review of the draft Airport Zoning Ordinance.

**SUBMITTED BY:** Mike Shahan, Airport Director

**DATE SUBMITTED:** June 19, 2014

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### **SUMMARY:**

Enclosed is Revision 8 of the draft NTRA Zoning Ordinance in red-line format so you can see the changes. The remaining changes include are listed below:

1. Section 6, page 5 has been modified
2. Exhibit B, page 9 has been modified to show the recommended enforcement procedure as recommended by the JAZB at the last meeting.
3. Section 6, page 10 added paragraph 8.2 outlining height related appeal process
4. Section 9, page 11 change Section 241.041 to Section 241.042
5. Section 11.0, page 11 inserted that the penalty is a Class B misdemeanor and a fine of up to \$2,000.00 per offense.

Attachment E: Implementation Materials is included as an attachment for your review.

Attachments A through D, which are the zoning maps and legal descriptions for the various properties being covered by this draft zoning ordinance is not included in this agenda packet due to the size of the attachments. These attachments will need to be modified once the zones have been accepted by the JAZB. All attachments will be covered in greater detail at a later JAZB Workshop. Please refer to your previous draft zoning ordinance booklet to review the attachments.

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### **ATTACHMENTS (LIST)**

Draft NTRA Zoning Ordinance, revision 8 dated June 19, 2014

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### **ALTERNATIVES/RECOMMENDATIONS:**

# North Texas *Grayson County, TX*

## REGIONAL AIRPORT



**Draft NTRA Zoning Ordinance  
Revision 8  
June 19, 2014**



**DRAFT FINAL AIRPORT ZONING ORDINANCE**

# DRAFT NORTH TEXAS REGIONAL AIRPORT LAND USE COMPATIBILITY ZONING ORDINANCE

## 1.0 PURPOSE

The North Texas Regional Airport (the “Airport”) is used in the interest of the public and fulfills an essential purpose for the communities of Denison, Pottsboro, Sherman, and Grayson County. This *Airport Land Use Compatibility Zoning Ordinance* (the “Ordinance”) for the Airport is intended to protect and promote the safety and welfare of Airport users and residents near the Airport, while promoting the continued operation of the Airport. Specifically, the Ordinance seeks to protect the public from the adverse effects of Airport noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities encroach upon or adversely affect the use of navigable airspace.

The Ordinance will ensure compatible development in the vicinity of the Airport by defining terms of use within created compatibility zones, creating the appropriate compatibility zones, and providing for enforcement. The Ordinance is adopted pursuant to the authority conferred by the *Airport Zoning Act*, Texas Local Government Code, Section 241. Municipal and County Zoning Authority around Airports.

## 2.0 DEFINITIONS

(1) **ACT** - means the *Airport Zoning Act*, Texas Local Government Code, Section 241.001

(2) **ADMINISTRATIVE AGENCY** – The Grayson County-Denison-Pottsboro-Sherman Joint Airport Zoning Board (the “Joint Airport Zoning Board”) or an administrative agency, commission, board, or person designated by the Joint Airport Zoning Board to administer and enforce airport compatible land use zoning regulations.

(3) **AIRPORT** - Means that area of land owned by Grayson County and located within Grayson County, Texas, currently referred to as the North Texas Regional Airport which is designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose. The term includes an area with installations relating to flights, including facilities, and bases of operation for tracking flights or acquiring data concerning flights.

(4) **Airport Director** – Means the Airport Director of the North Texas Regional Airport.

(5) **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 the North Texas Regional Airport is 749 feet above mean sea level (MSL).

(6) **AIRPORT HAZARD** - Means a structure or object of natural growth or use of land that obstructs the air space required for the taking off, landing, and flight of aircraft or that in-

interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.

(7) **AIRPORT HAZARD AREA** - Means an area of land or water on which an airport hazard could exist defined by the Act or Regulation.

(8) **AIRPORT ZONING REGULATION** - Means an airport hazard area defined or described by zoning regulation or an airport compatible land use zoning regulation adopted under this Ordinance.

(9) **AVIGATION EASEMENT** - Means an easement which shall include, but is not limited to, the right of aircraft to fly over the Land, together with its attendant noise, vibrations, fumes, dust, fuel and lubricant particles, and all other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at or on the Airport.

(10) **CENTERLINE** - Means a line extending through the midpoint of each end of a runway and extending outward to the North and/or South end of Zone A.

(11) **COMPATIBLE LAND USE** - Means a use of land in the vicinity of the Airport within the Development Zone that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the Airport, including the taking off and landing of aircraft, as indicated on attached **Exhibit A**.

(12) **CONTROLLED COMPATIBLE LAND USE** - Means an area of land located outside airport boundaries and within a rectangle bounded by lines located no farther than one and one-half statute miles from the centerline of an instrument or primary runway and lines located no farther than five statute miles from the each end of the paved surface of an instrument or primary runway. Further definition of controlled compatible land use is found in Section 3.0 and Exhibit A: Zoning Boundaries.

(13) **EXISTING LAND USE** - A land use which either physically exists or for which local government commitments along with substantial construction investment by the property owner make it not feasible for the land to be used for anything other than its proposed use. Local government commitment to a proposal can usually be considered firm once a vesting tentative map, development agreement, or other land use entitlement has been approved or all discretionary approvals have been made and exists before the date of these adopted regulations.

(14) **INSTRUMENT RUNWAY** - An existing or planned runway of at least 3,200 feet for which there is or is planned to be an instrument landing procedure published by the Federal Aviation Administration. Runway 17L - 35R is the instrument runway at the Airport.

(15) **JOINT AIRPORT ZONING BOARD** - Means a board created by Resolution or Order consisting of nine members, two members appointed by Grayson County, two members appointed by the City of Denison, two members appointed by the City of Pottsboro, and two

members appointed by the City of Sherman (the "Board). The eight appointed members shall elect by a majority vote the ninth member who shall serve as chairman of the Board in accordance with the *Airport Zoning Act*, Texas Local Government Code, Section 241.014 (c).

(16) **NONCONFORMING USE** - Any structure, object of natural growth, or use of land which exist before the date of these adopted regulations and is inconsistent with the provisions set forth in these policies. See Section 6: Nonconforming Uses, Regulations not Retroactive.

(17) **OBSTRUCTION** - Means a structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by an Airport Zoning Regulation.

(18) **ORDINANCE COORDINATOR** - The ordinance coordinator shall mean the Airport Director.

(19) **PERSON** - Means an individual, firm, partnership, corporation, limited liability company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

(20) **POLITICAL SUBDIVISION** - Means a municipality or county as defined by the Act.

(21) **PRIMARY RUNWAY** - Means the paved runway, as shown in the official Airport Layout Plan (ALP), greater than 3,200 feet in length on which a majority of the approaches to and departures from the Airport occur. Currently, Runway 17L-35R is the primary runway at the Airport.

(22) **RUNWAY** - A defined area on an airport prepared for landing and take-off of aircraft along its length.

### 3.0 ADMINISTRATION OF ORDINANCE

**3.1 RESPONSIBLE JURISDICTION.** It shall be the duty of the Grayson County Planning Department to administer and enforce this Ordinance within the unincorporated portion of Grayson County. It shall be the duty of the City of Denison Planning Department to administer and enforce this Ordinance within the city limits of Denison. It shall be the duty of the City of Pottsboro Planning Department to administer and enforce this Ordinance within the city limits of Pottsboro. It shall be the duty of the City of Sherman Zoning Department to administer and enforce this Ordinance within the city limits of Sherman.

**3.2 Ordinance Coordinator.** To ensure consistency and efficiency in administration of this ordinance, the Joint Airport Zoning Board appoints the Airport Director or the appropriate governing body to coordinate administration of this ordinance. It is not intended by this ordinance that the Airport Director be given any authority to make final determinations or enforce this ordinance.

3.3 ***Procedure.*** All applications, appeals, or other documents and inquiries required by this ordinance shall be filed with the Airport Director. The Airport Director shall assign such application, appeal or procedure to the responsible jurisdiction in accordance with Section 3.1. The Airport Director shall coordinate with the jurisdictions the processing and status of applications, appeals and any other procedures affecting the zoning at the Airport. Procedure for processing applications is provided in Section 7.0. Procedure for processing appeals is provided in Section 8.0. **Exhibit B** depicts the enforcement process.

#### 4.0 CONTROLLED COMPATIBLE LAND USE AREA

The Controlled Compatible Land Use Area is defined by the boundaries of the Airport and in the vicinity of the Airport as indicated on attached **Exhibit A**.

#### 5.0 COMPATIBILITY CRITERIA

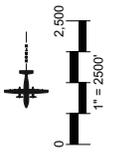
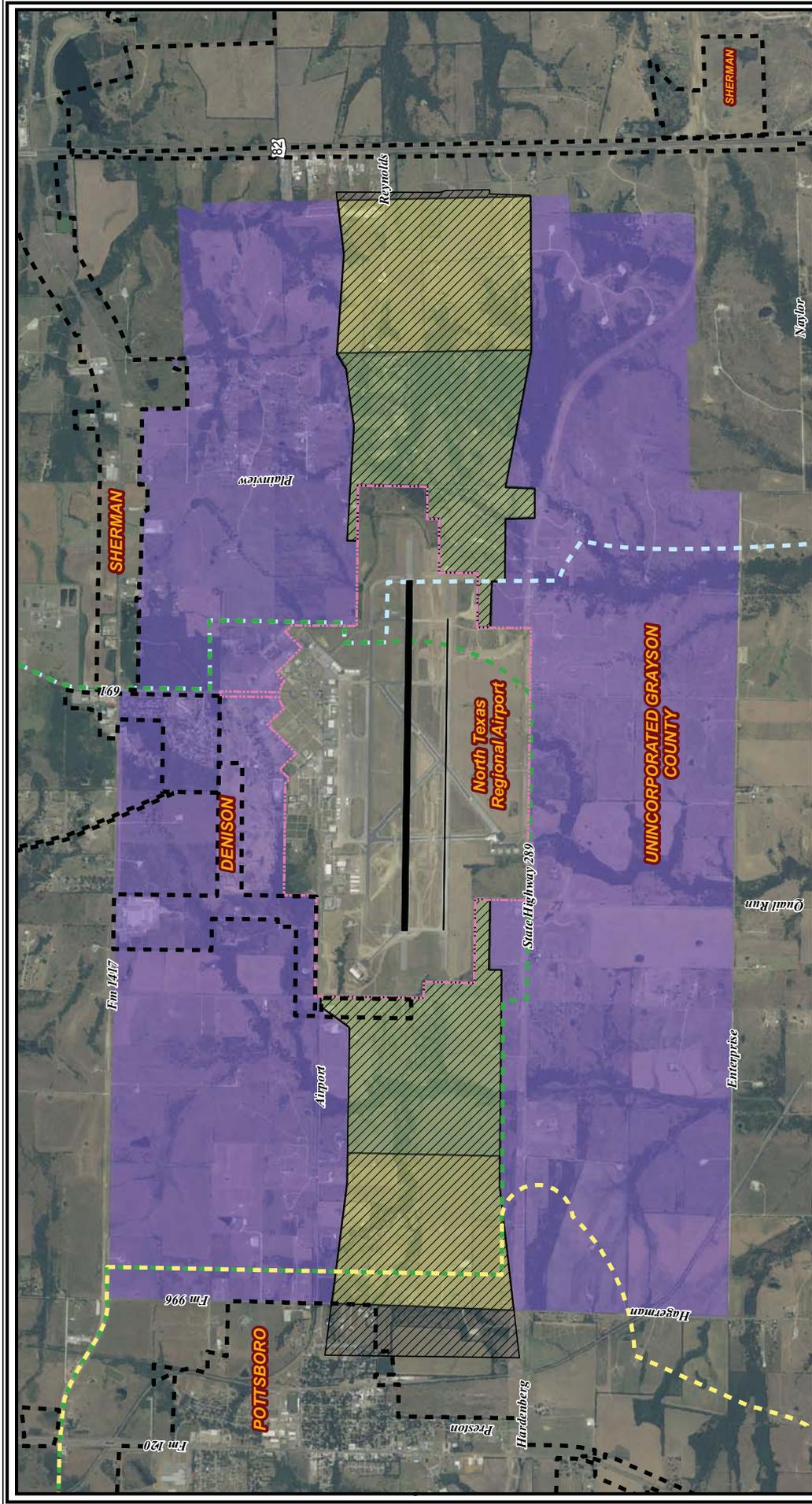
The criteria for assessing whether a land use plan, ordinance, or development proposal is to be judged compatible with the Airport are set forth in the Compatibility Criteria matrix, **Table A**. These criteria are to be used in conjunction with the Controlled Compatibility Land Use Area map depicted on **Exhibit A**. For the purposes of reviewing proposed amendments to community land use plans and zoning ordinances, as well as in the review of individual development proposals, the Compatibility Criteria in the matrix will control.

There are three -Airport Hazard Areas defined for the Airport which include:

**Zone A1**, this zone encompasses areas overflown at low altitudes, typically 200 or less above Airport elevation. Residential uses are prohibited unless the dwelling unit per acre criteria is met in Table A: Compatibility Criteria Matrix. Nonresidential uses for activities which attract people (uses such as , theaters, meeting halls, multi-story office buildings, and labor-intensive manufacturing plants) are prohibited. In addition, children’s schools, day care centers, hospitals, nursing homes, and hazardous uses (e.g., aboveground bulk fuel storage and landfills) are prohibited. **Table A** provides a complete list of prohibited uses and conditions for Zone A1.

**Zone A2**, this zone encompasses areas overflown at low altitudes, typically 200 to 400 feet above Airport elevation. Residential uses are prohibited unless the dwelling unit per acre criteria is met in Table A: Compatibility Criteria Matrix. Nonresidential uses for activities which attract people (such as outdoor stadiums and similar uses with very high intensities are prohibited). In addition, airport hazards (physical [e.g., tall objects], visual, and electronic forms of interference with the safety of aircraft operations) are also prohibited. **Table A** provides a complete list of prohibited uses and conditions for Zone A2.

Zone B, this zone includes all other portions of regular aircraft traffic patterns and pattern entry routes.



SOURCES:  
 \* Coffman Associates Analysis  
 \* Aerial photographs a 2008 National Agricultural Imagery Program (USDA)

- Legend**
- City Limits
  - Airport Property
  - Existing Avigation Easement
  - Extraterritorial Jurisdiction DENISON
  - Extraterritorial Jurisdiction POTTSBORO
  - Extraterritorial Jurisdiction SHERMAN
  - Proposed Zones Zone A1
  - Proposed Zones Zone B
  - Proposed Zones Zone A2

<b>TABLE A Compatibility Criteria Matrix</b>					
<b>Zone</b>	<b>Maximum Densities/Intensities/Required Open Land</b>			<b>Additional Criteria</b>	
	<b>Dwelling Units per Acre<sup>1</sup></b>	<b>Maximum Non- residential Intensity<sup>2</sup></b>	<b>Req'd Open Land<sup>3</sup></b>	<b>Prohibited Uses<sup>4</sup></b>	<b>Other Development Conditions<sup>5</sup></b>
Zone A1	1 d.u. per 5 acres	100 persons per acre	30%	<ul style="list-style-type: none"> <li>• Residential, except for very low residential</li> <li>• Petroleum refining &amp; storage<sup>8</sup></li> <li>• Natural gas &amp; petroleum pipelines<sup>9</sup></li> <li>• Children's schools, day care centers, libraries</li> <li>• Hospitals, nursing homes</li> <li>• Places of worship</li> <li>• Schools</li> <li>• Theaters, auditoriums, &amp; stadiums</li> <li>• Dumps or landfills, other than those consisting entirely of earth &amp; rock.</li> <li>• Waterways that create a bird hazard, does not include flood control, detention ponds or stock tanks.</li> <li>• Hazards to flight<sup>6</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Avigation easement dedication</li> <li>• Within reason, locate structures maximum distance from extended runway centerline</li> <li>• FAA airspace review required for objects &gt; 770' MSL elevation<sup>7</sup></li> </ul>
Zone A2	1 d.u. per 2.5 acres	250 persons per acre	No Limit	<ul style="list-style-type: none"> <li>• Theaters, auditoriums, &amp; stadiums</li> <li>• Dumps or landfills, other than those consisting entirely of earth &amp; rock.</li> <li>• Waterways that create a bird hazard, does not include flood control, detention ponds or stock tanks.</li> <li>• Hazards to flight<sup>6</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Avigation easement dedication</li> <li>• FAA airspace review required for objects &gt; 770' MSL elevation<sup>7</sup></li> </ul>
Zone B	No Limit	No Limit	No Limit	• No Limit	• Fair disclosure statement

**Notes:**

<sup>1</sup> Residential development must not contain more than the indicated number of dwelling units (excluding secondary units) per gross acre (d.u./ac). Clustering of units is encouraged. Gross acreage includes the property at issue plus a share of adjacent public or private roads and any adjacent, permanently dedicated, open lands.

<sup>2</sup> Usage intensity calculations shall include all people (e.g., employees, customers/visitors, etc.) who may be on the property at a single point in time, whether indoors or outside.

<sup>3</sup> Open land requirements are to be applied with respect to an entire Zone A1. This is typically accomplished as part of a community general plan or a specific plan, but may also apply to large (10 acres or more) development projects. Open land is defined as all land not occupied by a structure, to include roadways, parking areas, allowed waterways, etc.

<sup>4</sup> The uses listed here are ones that are explicitly prohibited regardless of whether they meet the intensity criteria. In addition to these explicitly prohibited uses, other non-residential uses will not be permitted in the respective compatibility zones when they do not meet the usage intensity criteria.

<sup>5</sup> As part of certain real estate transactions involving residential property within any compatibility zone (that is, anywhere within the Airport influence area); information regarding Airport proximity and the existence of aircraft overflights must be disclosed. Easement dedication and deed notice requirements indicated for specific compatibility zones apply only to new and redevelopment if approval is required.

<sup>6</sup> Hazards to flight include physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations. Land use development that may cause the attraction of birds to increase is prohibited.

<sup>7</sup> This Mean Sea Level (MSL) height criterion is for general guidance. Objects below this 770' MSL height normally will not be airspace obstructions. Taller objects may be acceptable if determined not be obstructions.

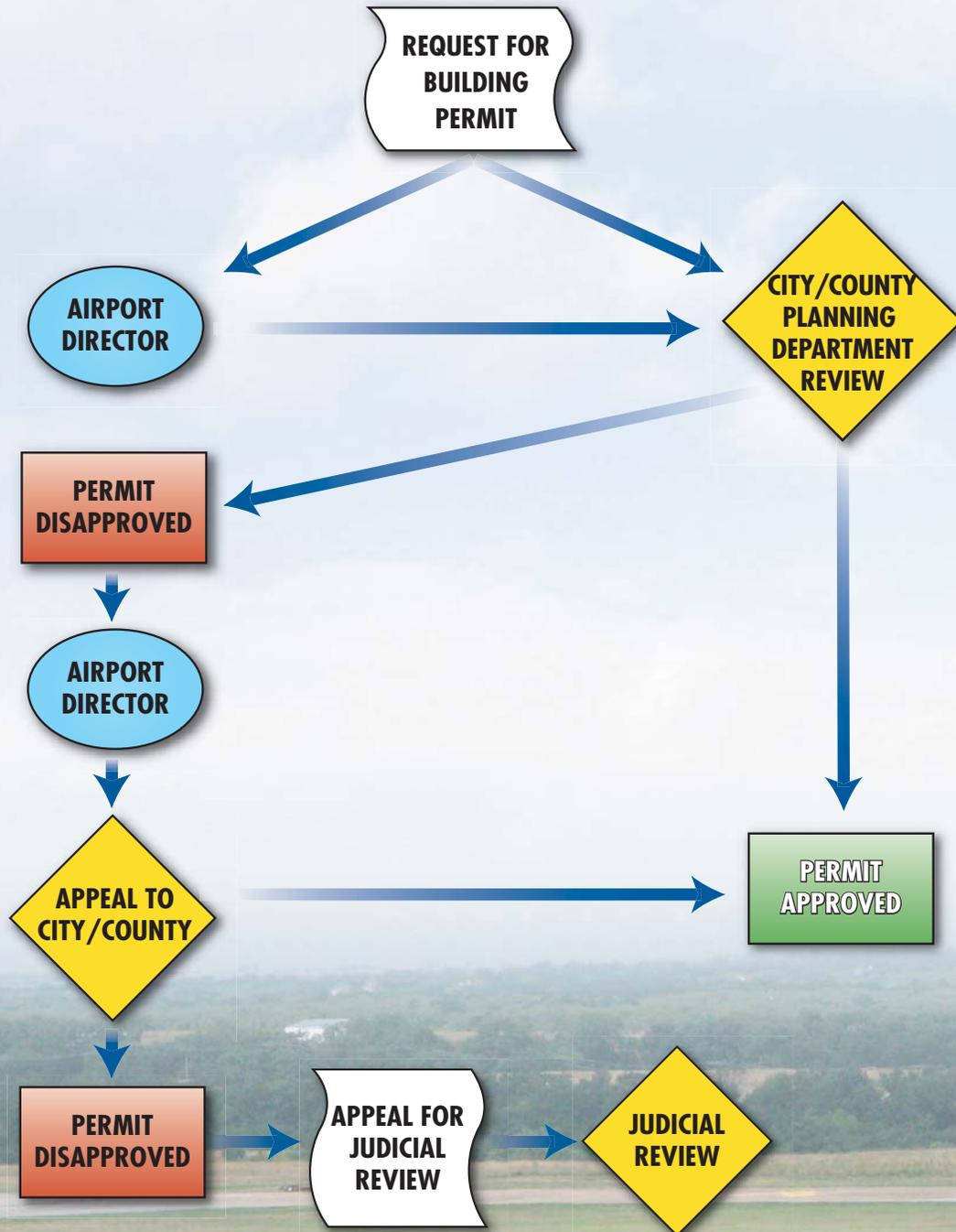
<sup>8</sup> Does not include storage tanks associated with well heads.

<sup>9</sup> Natural gas & petroleum pipelines less than 36 inches below the surface.

## 6.0 NONCONFORMING USES, REGULATIONS NOT RETROACTIVE

This Ordinance shall not be construed to require changes in land use or the removal or other change or alteration of any structure not conforming 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 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 whose completion is diligently pursued. For purposes of this Ordinance, permitted non-conforming structures shall include all phases or elements of a multi-phase structure, whether or not actual construction has commenced, which have received a completed determination by the Federal Aviation Administration under Title 14 of the Code of Federal Regulations, Part 77.31 before the effective date of this Ordinance or amendments thereto under the Airport Zoning Act. ~~of no hazard by the Federal Aviation Administration under Title 14 of the Code of Federal Regulations, Part 77 before the effective date of this Ordinance or amendments thereto under the *Airport Zoning Act.*~~

# AIRPORT OVERLAY ZONING ENFORCEMENT PROCESS



## **7.0 PERMITS**

*7.1 Future Uses.* No change shall be made in the use of land and no structure shall be erected or otherwise established in any zone hereby created unless a permit has been applied for and granted under this Ordinance-. Each application for a permit shall be filed with the Airport Director and indicate the purpose of the permit and include sufficient information to determine whether the resulting use or structure would conform to this Ordinance. The Airport Director shall assign the permit application and transmit all permit application documentation to the responsible jurisdiction in accordance with Section 3.1.

If the responsible jurisdiction determines that the requested permit is consistent with the provisions of this Ordinance, the permit shall be granted. Within Zone A, an Avigation Easement is required as a condition of the approval of the permit. No Permit that is inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 7.4.

*7.2 Existing Uses.* No permit shall be granted that would allow the expansion of an established nonconforming use or structure or creation of a new nonconforming use or structure.

*7.3 Nonconforming Use, Abandoned or Destroyed.* Whenever the responsible jurisdiction, County or City determines that a nonconforming structure has been abandoned or more than -sixty (60) percent torn down, physically deteriorated, or decayed, no Permit shall be granted that would allow such structure or any nonconforming structure that is inconsistent with the provisions of this Ordinance.

*7.4 Variances.* Any person desiring to use his or her property in violation of the provisions of this Ordinance may apply for a variance. Applications for a variance shall be filed with the Airport Director. The Airport Director shall assign the variance application and transmit all variance application documentation to the responsible jurisdiction in accordance with Section 3.1. Each jurisdiction shall determine if the variance meets the requirement of the applicable state and/or federal law, local zoning ordinance and this ordinance. A variance may be allowed where it is found that a literal application or enforcement of this Ordinance would result in practical difficulty or unnecessary hardship and granting relief would result in substantial justice being done, would not be contrary to public interest and the relief would be in accordance with the spirit of this ordinance.

## **8.0 APPEALS**

*8.1* Any person aggrieved, or any taxpayer affected, by any decision of a responsible jurisdiction (Denison, Pottsboro, Sherman, or Grayson County acting by and through the Grayson County Regional Mobility Authority) made in administration or enforcement of this Ordinance, may appeal to the respective jurisdiction (Denison, Pottsboro, Sherman or Grayson County acting by and through the Grayson County

Regional Mobility Authority), if that person or taxpayer is of the opinion that a decision of any jurisdiction is an improper application of this Ordinance.

- 8.2 All height related appeals must be filed with the Airport Director and taken within a reasonable time as provided by the rules of the responsible jurisdiction (Denison, Potttsboro, Sherman or the Grayson County Regional Mobility Authority), by filing a notice of appeal specifying the grounds for the appeal. -A completed aeronautical study determination from the Federal Aviation Administration under Title 14 of the Code of Federal Regulations, Part 77.5 must accompany the appeal before it can be considered by the responsible jurisdiction. The Airport Director shall assign such appeal and transmit the appeal documentation constituting the record upon which the action appealed was taken to the responsible jurisdiction in accordance with Section 3.1.
- 8.3 All appeals must be filed with the Airport Director and taken within a reasonable time as provided by the rules of the responsible jurisdiction (Denison, Potttsboro, Sherman or the Grayson County Regional Mobility Authority), by filing a notice of appeal specifying the grounds for the appeal. The Airport Director shall assign such appeal and transmit the appeal documentation constituting the record upon which the action appealed was taken to the responsible jurisdiction in accordance with Section 3.1.
- 8.4 An appeal shall stay all actions and proceedings by any party in furtherance of the decision appealed from, unless the responsible jurisdiction (Denison, Potttsboro, Sherman or Grayson County acting by and through the Grayson County Regional Mobility Authority) certifies in writing that by reason of the facts stated in such certification, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the responsible jurisdiction on due cause shown.
- 8.5 The responsible jurisdiction (Denison, Potttsboro, Sherman or Grayson County acting by and through the Grayson County Regional Mobility Authority) 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. At the hearing, any party may appear in person, by agent or by attorney.
- 8.6 The responsible jurisdiction (Denison, Potttsboro, Sherman or Grayson County acting by and through the Grayson County Regional Mobility Authority) 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.

## 9.0 JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the responsible jurisdiction (Denison, Pottsboro, or Sherman or the Grayson County Regional Mobility Authority), may appeal to a court of record, as provided by the *Airport Zoning Act*, Texas Local Government Code, ~~Section 241.041~~ Section 241.042.

## 10.0 ENFORCEMENT AND REMEDIES (Ryan is reworking this section)

Denison, Sherman, Pottsboro, or Grayson County acting by and through the Grayson County Regional Mobility Authority may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Ordinance 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*, Texas Local Government Code, Section 241.044.

## 11.0 PENALTIES

Each violation of this Ordinance or of any regulation, order past the established date of the Ordinance, or ruling promulgated hereunder shall constitute a Class B misdemeanor and upon conviction shall be punishable by a fine of not more than \$2,000.00. Each day a violation continues to exist shall constitute a separate offense.

## 12.0 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations affecting the same land, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the Airport compatibility criteria shall govern or prevail as provided by the *Airport Zoning Act*, Texas Local Government Code, Section 241.902.

## 13.0 SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this 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.

#### **14.0 EFFECTIVE DATE**

Implementation of the provisions of this Ordinance is for the general welfare of the public and preservation of the Airport. This Ordinance shall be in full force and effect from and after its passage by the Grayson County Joint Airport Zoning Board and publication and posting as required by law.

Adopted by the Grayson County Joint Airport Zoning Board this \_\_\_ Day of \_\_\_\_\_, 20\_\_.

## **Attachment E**

### **IMPLEMENTATION MATERIALS**

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The materials in this attachment are for use in implementing the North Texas Regional Airport Land Use Compatibility Zoning Ordinance and include the following:

- Sample Airport Disclosure Statement For New Development Around North Texas Regional Airport
- Sample Avigation Easement and Release for North Texas Regional Airport

**SAMPLE AIRPORT DISCLOSURE STATEMENT  
FOR NEW DEVELOPMENT AROUND  
NORTH TEXAS REGIONAL AIRPORT**

\_\_\_\_\_ 2013

For inclusion into covenants, conditions and restrictions (CC&Rs) or for disclosure notice:

Proximity to Airport. Each Owner, by accepting a deed to a Lot or Parcel, or by otherwise acquiring title to a Lot or Parcel, acknowledges (for such Owner and such Owner's heirs, successors and assigns) that: **(a)** the Lot or Parcel is in close proximity to the North Texas Regional Airport (the "Airport"), which is currently located generally between the Farm to Market Road 1417 on the east, Highway 289 to the west, Refuge Road to the north, and Plainview Road to the south; **(b)** as of the date hereof, the Airport is operated as a general aviation and cargo service airport and used generally for single engine and twin engine airplanes, corporate jets, helicopters, unscheduled cargo, and charter service by turbo prop and jet aircraft and military aircraft; **(c)** aircraft taking off from and landing at the Airport may fly over the Lot or Parcel and adjacent properties at altitudes which will vary with meteorological conditions, aircraft type, aircraft performance and pilot proficiency; **(d)** as of the date hereof, the majority of aircraft takeoffs and landings occur daily between 6:00 a.m. and 11 :00 p.m., but the Airport is open twenty-four (24) hours each day, so takeoffs and landings may occur at any hour of the day or night; **(e)** as of the date hereof, the number of takeoffs and landings at the Airport average approximately 200 each day, but that number will vary and may increase with time if the number of Airport operations increases; **(f)** flights over the Lot or Parcel or adjacent properties by aircraft taking off from or landing at the Airport may generate noise, the volume, pitch, amount and frequency of occurrence of which will vary depending on a number of factors, including without limitation the altitudes at which the aircraft fly, wind direction and other meteorological conditions and aircraft number and type, and may be affected by future changes in Airport activity; **(g)** such Owner (for such Owner and such Owner's heirs, successors and assigns) hereby accepts and assumes any and all risks, burdens and inconvenience caused by or associated with the Airport and its operations (including, without limitation, noise caused by or associated with aircraft flying over the Lot or Parcel and adjacent properties), and agrees not to assert or make a claim against the County of Grayson, the Cities of Denison, Pottsboro and Sherman, the Grayson County Regional Mobility Authority, the North Texas Regional Airport, their officers, directors, commissioners, representatives, agents, servants and employees.

Any questions regarding the operation of the Airport can be directed to the Airport Administration office at 903-786-2904.

**SAMPLE AVIGATION EASEMENT AND RELEASE FOR  
NORTH TEXAS REGIONAL AIRPORT**

Recitals

[DEVELOPER/LANDOWNER] (“Owner”) is the owner of land located in Grayson County, Texas, more particularly described in Exhibit A attached to and incorporated in this Easement by this reference (“the Land”).

Owner desires to develop or change the use of the Land.

Owner is aware that the Land lies under the aircraft overflight area for aircraft utilizing the North Texas Regional Airport (the “Airport”).

Owner is willing to develop and use the Land subject to the right of flight over the Land and all normal effects of that flight.

Easement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the undersigned, Owner does hereby give and grant to Grayson County, the Airport, and the Airport’s grantees, lessees, sub-lessees, permittees, invitees, successors, and assigns a permanent and perpetual noise, aviation, and avigation easement over the Land for the purpose of the passage of all aircraft within the Navigable Airspace over and above the surface of the Land.

This easement shall include, but is not limited to, the right of aircraft to fly over the Land, together with its attendant noise, vibrations, fumes, dust, fuel and lubricant particles, and all other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at or on the Airport; and Owner does further release, discharge Grayson County and waive any right, claim, or cause of action against Grayson County, the Cities of Denison, Sherman and Pottsboro, the North Texas Regional Mobility Authority and their past, present, and future elected officials, officers, directors, employees, and agents, and the Airport’s officers, directors, employees, grantees, lessees, sublessees, permittees, invitees, successors and assigns, from and for any and all liability for any and all claims for damages of any kind to persons or property that may arise at any time in the present or in the future over, through, or in connection with the use of the Navigable Airspace over and above the Land.

Grantor, for and on behalf of itself, its heirs, successors and assigns, further covenants and agrees that upon the Land no use shall be permitted that causes a discharge into the air of fumes, smoke or dust which will obstruct visibility and adversely affect the operation of aircraft or cause any interference with navigational facilities necessary to aircraft operation.

This Avigation Easement and Release shall be binding upon Owner and Owner’s heirs, assigns and successors in interest to the Land, and this instrument shall be a covenant running with the land and shall be recorded in the office of the County Clerk of Grayson County, Texas.

IN WITNESS WHEREOF, Owner has caused this Avigation Easement and Release to be executed and signed by the undersigned duly authorized officer this \_\_\_\_\_ day of [Month], 20\_\_.

“Owner”

[CORPORATE/ENTITY NAME], [correct as necessary]

By: \_\_\_\_\_  
[Name, Title]

State of \_\_\_\_\_)

SS

\_\_\_\_\_ County)

The foregoing instrument was acknowledged before me on \_\_\_\_\_ by [Signer’s name], [Title] of [ENTITY NAME], [correct as necessary].

My commission expires:

Notary Public

\_\_\_\_\_

\_\_\_\_\_

Accepted by the Grayson County acting by ordinance through the North Texas Regional Airport

By \_\_\_\_\_

\_\_\_\_\_, Airport Director

\_\_\_ day of \_\_\_\_\_, 20\_\_

State of Texas

Grayson County

The foregoing instrument was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_, Airport Director, North Texas Regional Airport.

My commission expires:

Notary Public

\_\_\_\_\_

\_\_\_\_\_

**JOINT AIRPORT ZONING BOARD**

**ITEM NUMBER: Five**  
**MEETING DATE: 06-25-14**

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**ITEM TITLE:** Public Comments  
**SUBMITTED BY:** Mike Shahan, Airport Director  
**DATE SUBMITTED:** June 19, 2014

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**SUMMARY:**

This item has been added so that the public may address the Board. Each person will be limited to three minutes.

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**ATTACHMENTS (LIST)**

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**ALTERNATIVES/RECOMMENDATIONS:**