

**LOCAL GOVERNMENT CODE**  
**SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE**  
**TYPE OF LOCAL GOVERNMENT**  
**CHAPTER 241. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND**  
**AIRPORTS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 241.001. **SHORT TITLE.** This chapter may be cited as the Airport Zoning Act.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.002. LEGISLATIVE FINDINGS.** The legislature finds that:

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

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.003. DEFINITIONS.** In this chapter:

- (1) "Airport" means an area of land or water, publicly or privately owned, 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 that purpose. The term includes an area with installations relating to flights, including installations, facilities, and bases of operations for tracking flights or acquiring data concerning flights.
- (2) "Airport hazard" means a structure or object of natural growth that obstructs the air space required for the taking off, landing, and flight of aircraft or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.
- (3) "Airport hazard area" means an area of land or water on which an airport hazard could exist.
- (4) "Airport zoning regulation" means an airport hazard area zoning regulation and an airport compatible land use zoning regulation adopted under this chapter.
- (5) "Centerline" means a line extending through the midpoint of each end of a runway.
- (6) "Compatible land use" means a use of land adjacent to an airport 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.

- (7) "Controlled compatible land use area" means an area of land located outside airport boundaries and within a rectangle bounded by lines located no farther than 1-1/2 statute miles from the centerline of an instrument or primary runway and lines located no farther than five statute miles from each end of the paved surface of an instrument or primary runway.
- (8) "Instrument runway" means an existing or planned runway of at least 3,200 feet for which an instrument landing procedure published by a defense agency of the federal government or the Federal Aviation Administration exists or is planned.
- (9) "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 hazard area zoning regulation.
- (10) "Political subdivision" means a municipality or county.
- (11) "Primary runway" means an existing or planned paved runway, as shown in the official airport layout plan (ALP) of the airport, of at least 3,200 feet on which a majority of the approaches to and departures from the airport occur.
- (12) "Runway" means a defined area of an airport prepared for the landing and taking off of aircraft along its length.
- (13) "Structure" means an object constructed or installed by one or more persons and includes a building, tower, smokestack, and overhead transmission line.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.004. AIRPORT USED IN INTEREST OF PUBLIC.** For the purposes of this chapter, an airport is used in the interest of the public if:

- (1) The owner of the airport, by contract, license, or otherwise, permits the airport to be used by the public to an extent that the airport fulfills an essential community purpose; or
- (2) The airport is used by the state or an agency of the state or by the United States for national defense purposes or for any federal program relating to flight.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.005. ADOPTION OF REGULATION INCLUDES AMENDMENT OR OTHER CHANGE.** A reference in this chapter to the adoption of an airport zoning regulation includes the amendment, repeal, or other change of a regulation. A reference to the adoption of an airport zoning regulation also includes the amendment of an airport zoning regulation existing on the date the law codified by this chapter took effect, which was September 5, 1947.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

## **SUBCHAPTER B. ADOPTION OF AIRPORT ZONING REGULATIONS**

**Sec. 241.011. AIRPORT HAZARD AREA ZONING REGULATIONS.**

- (a) To prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations for the airport hazard area.
- (b) The airport hazard area zoning regulations may divide an airport hazard area into zones and for each zone:

- (1) Specify the land uses permitted;
- (2) Regulate the type of structures; and
- (3) Restrict the height of structures and objects of natural growth to prevent the creation of an obstruction to flight operations or air navigation.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.012. AIRPORT COMPATIBLE LAND USE ZONING REGULATIONS.**

- (a) A political subdivision may adopt, administer, and enforce, under its police power, airport compatible land use zoning regulations for the part of a controlled compatible land use area located within the political subdivision if the airport is:
  - (1) Used in the interest of the public to the benefit of the political subdivision; or
  - (2) Located within the political subdivision and owned or operated by a federal defense agency or by the state.
- (b) The political subdivision by ordinance or resolution may implement, in connection with airport compatible land use zoning regulations, any federal law or rules controlling the use of land located adjacent to or in the immediate vicinity of the airport.
- (c) The airport compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.013. EXTRATERRITORIAL ZONING IN POLITICAL SUBDIVISIONS WITH POPULATION OF MORE THAN 45,000.**

- (a) A political subdivision with a population of more than 45,000 in which an airport used in the interest of the public to the benefit of the political subdivision is located may adopt, administer, and enforce:
  - (1) airport hazard area zoning regulations applicable to an airport hazard area relating to the airport and located outside the political subdivision; and
  - (2) airport compatible land use zoning regulations applicable to a controlled compatible land use area relating to the airport and located outside the political subdivision.
- (b) The political subdivision has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.
- (c) The airport hazard area zoning regulations or airport compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 98, Sec. 1, 2, eff. Aug. 26, 1991.*

**Sec. 241.014. JOINT AIRPORT ZONING BOARD.**

- (a) A political subdivision to whose benefit an airport is used in the interest of the public or in which an airport owned or operated by a defense agency of the federal government or the state is located may create a joint airport zoning board with another political subdivision in which an airport hazard area or a controlled compatible land use area relating to the airport is located. The political subdivisions must act by resolution or ordinance in creating the joint board.
- (b) The joint airport zoning board has the same power to adopt, administer, and enforce airport

hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.

(c) The joint airport zoning board must consist of two members appointed by each of the political subdivisions creating the board and, in addition, a chairman elected by a majority of the appointed members.

(d) If an agency of the state owns and operates an airport located within an airport hazard area or controlled compatible land use area governed by a joint airport zoning board, the agency is entitled to have two members on the board.

(e) The joint airport zoning board for an airport that is owned or operated by a defense agency of the federal government and that is closed by the federal government may provide that zoning regulations adopted by the board continue in effect until the fourth anniversary of the date the airport is closed.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 352, Sec. 1, eff. May 27, 1997; Acts 1999, 76th Leg., ch. 1176, Sec. 1, eff. June 18, 1999.*

**Sec. 241.015. INCORPORATION OF AIRPORT ZONING REGULATION INTO COMPREHENSIVE ZONING ORDINANCE.** A political subdivision may incorporate an airport zoning regulation in a comprehensive zoning ordinance and administer and enforce it in connection with the administration and enforcement of the comprehensive zoning ordinance if:

- (1) The two zoning regulations apply, in whole or in part, to the same area; and
- (2) The comprehensive zoning ordinance includes, among other matters, a regulation on the height of buildings.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.016. AIRPORT ZONING COMMISSION.**

(a) Before an airport zoning regulation may be adopted, a political subdivision acting unilaterally under Section 241.013 must appoint an airport zoning commission. If the political subdivision has a planning commission or comprehensive zoning commission, that commission may be designated as the airport zoning commission.

(b) The commission shall recommend the boundaries of the zones to be established and the regulations for these zones.

(c) The commission shall make a preliminary report and hold public hearings on the report before submitting a final report.

(d) Before the 15th day before the date of a hearing under Subsection (c), notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the airport hazard area or controlled compatible land use area to be zoned is located.

(e) A joint airport zoning board created under Section 241.014 is not required to appoint a commission under this section.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 697, Sec. 1, eff. Sept. 1, 1995.*

**Sec. 241.017. PROCEDURAL LIMITATIONS APPLYING TO ADOPTION OF ZONING REGULATIONS.**

(a) The governing body of a political subdivision may not hold a public hearing or take other action concerning an airport zoning regulation until it receives the final report of the airport zoning commission.

(b) An airport zoning regulation may not be adopted except by action of the governing body of the

political subdivision or a joint airport zoning board after the political subdivision or joint airport zoning board holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.

(c) Before the 15th day before the date of a hearing under Subsection (b), notice of the hearing must be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the area to be zoned is located.

(d) A procedural requirement adopted or applied by a political subdivision, including any requirement in the charter of a home-rule municipality, that imposes a waiting period before the adoption of a zoning regulation or requires the submission of a zoning regulation to a binding referendum election does not apply to this chapter.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 697, Sec. 2, eff. Sept. 1, 1995.*

*Amended by:*

*Acts 2007, 80th Leg., R.S., Ch. 190, Sec. 2, eff. May 23, 2007.*

#### **Sec. 241.018. REASONABLENESS OF AIRPORT ZONING REGULATIONS.**

(a) An airport zoning regulation must be reasonable and may impose a requirement or restriction only if the requirement or restriction is reasonably necessary to achieve the purposes of this chapter.

(b) In determining which airport zoning regulations to adopt, the governing body of a political subdivision or a joint airport zoning board shall consider, among other things:

- (1) The character of the flying operations expected to be conducted at the airport;
- (2) The nature of the terrain within the airport hazard area;
- (3) The character of the neighborhood; and
- (4) The current and possible uses of the property to be zoned.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.019. NONCONFORMING USES AND STRUCTURES.** Except as provided by Section 241.035, airport zoning regulations may not require:

- (1) Changes in nonconforming land use existing on the date of the adoption of the regulations;
- (2) The removal, lowering, or other change of a structure that does not conform to the regulations on the date of their adoption, including all phases or elements of a multiphase structure, regardless of whether actual construction has commenced, that received a determination of no hazard by the Federal Aviation Administration under 14 C.F.R., Part 77, before the regulations were adopted;
- (3) The removal, lowering, or other change of an object of natural growth that does not conform to the regulations on the date of their adoption; or
- (4) Any other interference in the continuation of a use that does not conform to the regulations on the date of their adoption.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

#### **Sec. 241.020. PERMITS.**

(a) Airport zoning regulations may require that a permit be obtained before:

- (1) A new structure is constructed;
- (2) An existing structure is substantially changed or repaired;

- (3) A new use is established; or
  - (4) An existing use is substantially changed.
- (b) Airport zoning regulations must provide that a permit be obtained from the administrative agency authorized to administer and enforce the regulations before:
- (1) A nonconforming structure may be replaced, rebuilt, or substantially changed or repaired; or
  - (2) A nonconforming object of natural growth may be replaced, substantially changed, allowed to grow higher, or replanted.
- (c) A permit may not allow:
- (1) The establishment of an airport hazard;
  - (2) A nonconforming use to be made;
  - (3) A nonconforming structure or object of natural growth to become higher than it was at the time of the adoption of the airport zoning regulations relating to the structure or object of natural growth or at the time of the application for the permit; or
  - (4) A nonconforming structure, object of natural growth, or use to become a greater hazard to air navigation than it was at the time of the adoption of the airport zoning regulations relating to the structure, object of natural growth, or use or at the time of the application for the permit.
- (d) Except as provided by Subsection (c), an application for a permit shall be granted.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

## **SUBCHAPTER C. ADMINISTRATIVE AGENCY AND BOARD OF ADJUSTMENT**

### **Sec. 241.031. ADMINISTRATIVE AGENCY.**

- (a) Airport zoning regulations must provide for the administration and enforcement of the regulations by an administrative agency. The administrative agency may be:
- (1) An agency created by the regulations;
  - (2) An existing official, board, or agency of the political subdivision adopting the regulations; or
  - (3) An existing official, board, or other agency of a political subdivision that participated in the creation of a joint airport zoning board adopting the regulations, if satisfactory to that political subdivision.
- (b) The administrative agency may not be the board of adjustment or include any member of the board.
- (c) The administrative agency shall hear and decide all applications for permits under Section 241.020.
- (d) The agency may not exercise any of the powers delegated to the board of adjustment.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

### **Sec. 241.032. BOARD OF ADJUSTMENT.**

- (a) Airport zoning regulations must provide for a board of adjustment.
- (b) If a zoning board of appeals or adjustment exists, it may be designated as the board of adjustment under this chapter.

(c) If a zoning board of appeals or adjustment does not exist or is not designated as the board of adjustment under this chapter, a board of adjustment must be appointed. The board must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(d) The concurring vote of four members of the board is necessary to:

- (1) Reverse an order, requirement, decision, or determination of the administrative agency;
- (2) Decide in favor of an applicant on a matter on which the board is required to pass under an airport zoning regulation; or
- (3) Make a variation in an airport zoning regulation.

(e) The board shall adopt rules in accordance with the ordinance or resolution that created it.

(f) Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All hearings of the board shall be open to the public.

(g) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.033. AUTHORITY OF BOARD.** The board of adjustment shall:

- (1) Hear and decide an appeal, as provided by Section 241.036, from an order, requirement, decision, or determination made by the administrative agency in the enforcement of an airport zoning regulation;
- (2) Hear and decide special exceptions to the terms of an airport zoning regulation when the regulation requires the board to do so; and
- (3) Hear and decide specific variances under Section 241.034.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.034. VARIANCES.**

(a) A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the board of adjustment for a variance from the regulation.

(b) The board shall allow a variance from an airport zoning regulation if:

- (1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and
- (2) the granting of the relief would:
  - (A) Result in substantial justice being done;
  - (B) Not be contrary to the public interest; and
  - (C) Be in accordance with the spirit of the regulation and this chapter.

(c) The board may impose any reasonable conditions on the variance that it considers necessary to

accomplish the purposes of this chapter.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.035. HAZARD MARKING AND LIGHTING.** If the administrative agency or board of adjustment considers it reasonable in the circumstances and advisable to accomplish the purposes of this chapter, the agency or board may require in a permit or a variance granted under this chapter that the owner of a structure or object of natural growth allow the political subdivision, at its own expense, to install, operate, and maintain on the structure or object of natural growth any markers and lights necessary to indicate to flyers the presence of an airport hazard.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.036. APPEAL TO BOARD.**

- (a) A decision of the administrative agency made in its administration of an airport zoning regulation may be appealed to the board of adjustment by:
- (1) A person who is aggrieved by the decision;
  - (2) A taxpayer who is affected by the decision; or
  - (3) The governing body of a political subdivision or a joint airport zoning board that believes the decision is an improper application of the airport zoning regulation.
- (b) The appellant must file with the board and the administrative agency a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the administrative agency shall immediately transmit to the board all the papers constituting the record of the action that is appealed.
- (c) An appeal stays all proceedings in furtherance of the action that is appealed unless the administrative agency certifies in writing to the board facts supporting the agency's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by an order of the board, after notice to the administrative agency, if due cause is shown.
- (d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.
- (e) The board 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 that purpose the board has the same authority as the administrative agency.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**SUBCHAPTER D. JUDICIAL REVIEW AND OTHER REMEDIES**

**Sec. 241.041. JUDICIAL REVIEW OF BOARD DECISION.**

- (a) A person who is aggrieved or a taxpayer who is affected by a decision of a board of adjustment, or the governing body of a political subdivision or a joint airport zoning board that believes a decision of a board of adjustment is illegal, may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality. The petition must be presented within 10 days after the date the decision is filed in the board's office.
- (b) On the presentation of the petition, the court may grant a writ of certiorari directed to the board

of adjustment to review the board's decision. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(c) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision that is appealed. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as provided by the writ.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

#### **Sec. 241.042. TRIAL BY COURT.**

(a) The court, in an appeal from a decision of a board of adjustment as provided by Section 241.041, shall try and determine the case de novo on the basis of the facts adduced in the trial of the case in the court. The court shall independently rule on the facts and the law as in an ordinary civil suit.

(b) The court has exclusive jurisdiction to reverse or affirm, in whole or in part, or modify the decision that is appealed and, if necessary, may order further proceedings by the board.

(c) Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.043. EFFECT OF HOLDING OF THE COURT.** If the court holds that an airport zoning regulation, although generally reasonable, interferes with the use or enjoyment of a particular structure or parcel of land to such an extent that, or is so onerous in its application to a particular structure or parcel of land that, the application of the regulation constitutes a taking or deprivation of property in violation of the state or federal constitution, the holding does not affect the application of the regulation to any other structure or parcel of land.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

#### **Sec. 241.044. ADDITIONAL REMEDIES.**

(a) A political subdivision or joint airport zoning board adopting airport zoning regulations may bring an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation of:

- (1) this chapter;
- (2) an airport zoning regulation adopted by the political subdivision or board; or
- (3) an order or ruling made in connection with the administration or enforcement of an airport zoning regulation adopted by the political subdivision or board.

(b) The court shall grant any relief, including an injunction which may be mandatory, as may be proper under all the facts and circumstances of the case to accomplish the purposes of this chapter and the regulations adopted and orders and rulings made under it.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

### **SUBCHAPTER Z. MISCELLANEOUS PROVISIONS**

#### **Sec. 241.901. CONFLICT OF AN AIRPORT HAZARD AREA ZONING REGULATION WITH ANOTHER REGULATION.**

(a) If an airport hazard area zoning regulation conflicts with any other regulation applicable to the same area, the more stringent limitation or requirement controls.

(b) Subsection (a) applies to any conflict with respect to the height of a structure or object of natural growth or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport hazard area zoning regulation whether the regulation was adopted by the political subdivision that adopted the airport zoning regulation or by another political subdivision.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.902. CONFLICT OF AN AIRPORT COMPATIBLE LAND USE ZONING REGULATION WITH ANOTHER REGULATION.**

(a) If an airport compatible land use zoning regulation conflicts with any other regulation applicable to the same area, the airport compatible land use zoning regulation controls.

(b) Subsection (a) applies to any conflict with respect to the use of land or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport compatible land use zoning regulation, whether the regulation was adopted by the political subdivision that adopted the airport compatible land use zoning regulation or by another political subdivision.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*

**Sec. 241.903. ACQUISITION OF AIR RIGHTS OR OTHER PROPERTY.**

(a) A political subdivision may acquire from a person or other political subdivision an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use if:

- (1) The acquisition is necessary to accomplish the purposes of this chapter;
- (2) The property or nonconforming structure or use is located within the political subdivision, the political subdivision owns the airport, or the political subdivision is served by the airport; and

(3)

(A) The political subdivision desires to remove, lower, or terminate the nonconforming structure or use;

(B) Airport zoning regulations are not sufficient to provide necessary approach protection because of constitutional limitations; or

(C) The acquisition of a property right is more advisable than an airport zoning regulation in providing necessary approach protection.

(b) An acquisition under this section may be by purchase, grant, or condemnation in the manner provided by Subchapter B, Chapter 21, Property Code.

*Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.*