



# Moving Beyond Joint Land Use Study Recommendations: **Joint Airport Zoning Boards**

- Presenter: Courtney Alvarez, Kingsville, Texas
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- The City of Kingsville is located in the coastal bend of south Texas about 40 miles southwest of Corpus Christi.
- The City is the proud home to Naval Air Station-Kingsville, which trains tactical naval and marine jet pilots.





- Kingsville Timeline:
  - Meeting with NAS staff regarding JLUS submission- 2005
  - Start JLUS process- 2006
  - City Commission approves JLUS ordinance- 2008
  - Submit for JLUS Implementation grant- 2008
  - Start JLUS Implementation process- 2009
  - Create JAZB (Joint Airport Zoning Board) with County- 2010
  - JAZB approves compatible land use regulations- 2010
  - JAZB approves lighting regulations- 2011

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- The Naval Air Station is located just outside the eastern city limits.
- While part of the base is within the City's ETJ (extra territorial jurisdiction), most of the base is not, lying solely in the County.
- Why is this important?

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- Texas is the only state where counties have no comprehensive land use and development regulatory authority.
- Specific counties in Texas have specific authority, but most counties have little to no regulatory authority.
- Since Texas is also home to numerous military facilities, this can lead to concerns for sustaining compatible land use inside and outside the city limits, where authority for zoning is almost non-existent.
- While not all states grant counties zoning authority *per se*, they all have some mechanism to ensure that either zoning or long range planning controls encompass all of the territory within the state.



- Texas legislators realized the importance of providing a method for ensuring compatible land use around airports in the state.
- They adopted Chapter 241 of the Texas Local Government Code, known as the Texas Airport Zoning Act.

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- A political subdivision (ie, city or county) in which an “airport hazard area” is located may adopt, administer, and enforce (under its police powers) airport hazard area zoning regulations for the airport hazard area.
- An “airport hazard area” is defined as an area of land or water on which an airport hazard could exist.

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- An “airport hazard” is defined as 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.
- An “airport zoning regulation” is defined as an airport hazard area zoning regulation and an airport compatible land use zoning regulation adopted under chapter 241 of the Texas Local Government Code.



- What can be regulated?
- 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.

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- What is compatible land use?
- “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.

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- How far can the regulations extend?
- “Controlled compatible land use area” is an area around an airport where land use can be controlled is defined as **“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 each end of the paved surface of an instrument or primary runway.”**

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- Who makes the rules?
- Given all of the other issues political subdivisions deal with on a daily basis, the Legislature gave those bodies the ability to create a Joint Airport Zoning Board (JAZB) to handle this delicate area.
- The state statute says 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.

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- What is a Joint Airport Zoning Board (JAZB)?
- The JAZB has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations as a political subdivision.
- A JAZB is a five-member board.
- Two members are appointed by each of the political subdivisions creating the board and a chairman is elected by a majority of the appointed members.

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- How are regulations adopted?
- An airport zoning regulation may not be adopted except by action of (1) the governing body of the political subdivision or (2) a joint airport zoning board, after that group holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.
- Notice of the hearing on the proposed regulations must be published in a newspaper of general circulation in each political subdivision in which the area to be zoned is located.
- Notice must be in the newspaper before the 15<sup>th</sup> day before such a hearing.

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- Who gets to enforce the regulations?
- 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 JAZB adopting the regulations.



- What is an administrative agency?
- The administrative agency may not be the board of adjustment or include any member of the board of adjustment.
- The administrative agency shall hear and decide all applications for permits under the Airport Zoning Act.

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- What is the Board of Adjustment?
- Airport zoning regulations must provide for a Board of Adjustment.
- The Board of Adjustment hears requests for variances from airport zoning regulations meeting certain specified conditions.
- Appeals of Zoning Board of Adjustment decisions are heard in court.



- Conflict in regulations:
- If there is a conflict between the airport hazard zoning regulations and another regulation applicable to the same area, then the more stringent regulations control.
- If there is a conflict between the airport compatible land use zoning regulations and another regulation applicable to the same area, then the airport compatible land use zoning regulations control.

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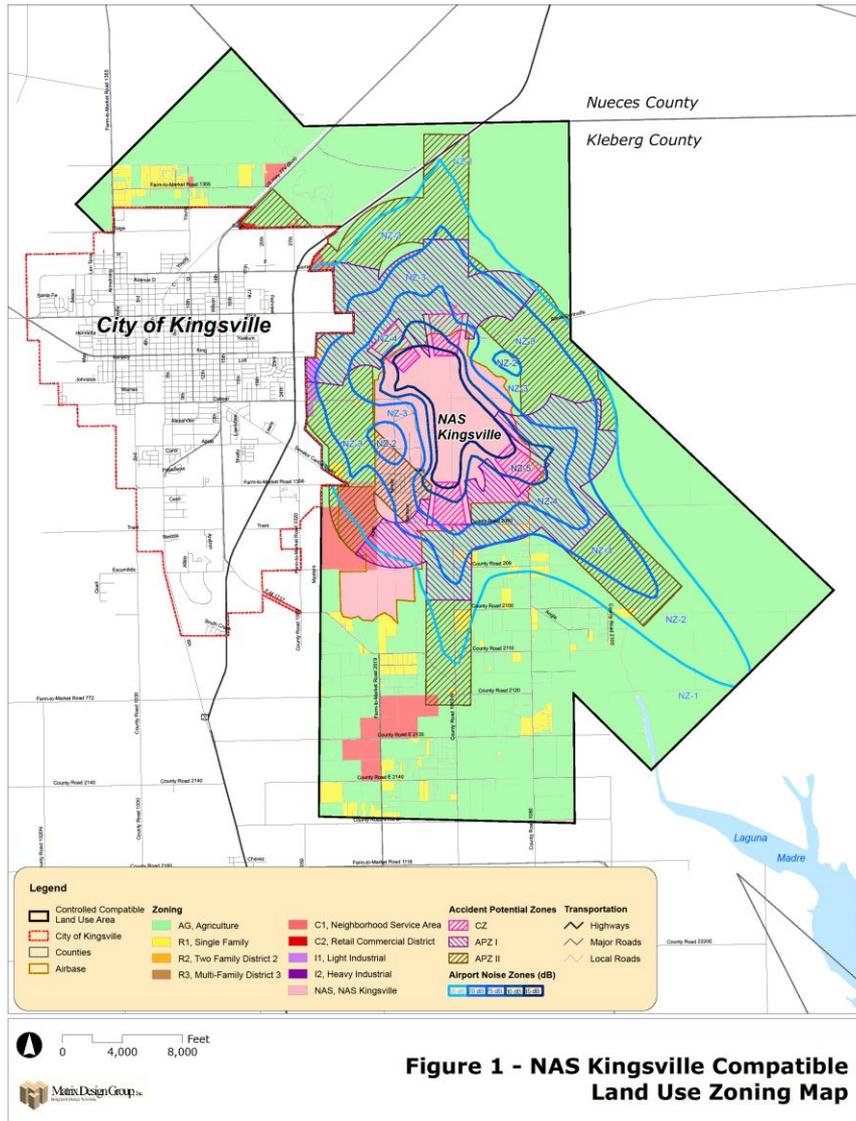
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- Miscellaneous Provisions
- In Texas, a political subdivision's ability to acquire air rights, aviation easements, or other estates or interests in property or in nonconforming structures or uses is also set out in Chapter 241 of the Texas Local Government Code.



- How to put it into practice, the Kingsville story:
  - The City approached the County about forming a Joint Airport Zoning Board.
  - As per the statute, the board was created with each of the political subdivisions appointing two persons to the board via resolution.
  - Also as per statute, the four board members then held a meeting to appoint a fifth member who would serve as the chairman of the board.
  - After notice and public hearing, the Joint Airport Zoning Board adopted compatible airport zoning regulations.



**Figure 1 - NAS Kingsville Compatible Land Use Zoning Map**

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- “Take-Aways”:
  - 1. Verify land use regulatory authority
    - Who has is?
    - What do they really have?



- “Take-Aways”
  - 2. Meet with other similarly situated entities in your state
    - Work on building relationships
    - Identify common areas of concern

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- “Take-Aways”
  - 3. Work with state legislators to craft legislation (revisions or new)
    - Start about 1-year prior to next legislative session if possible
    - Have all entities speak with one voice on same issues with their elected officials



- If you communicate and coordinate, then your chances of success will increase!