

ORDINANCE NO. O-2025-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 12, "AIRPORT AND TRANSIT", ADOPTING AN AIRPORT HEIGHT HAZARD ZONING DISTRICT, REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF TYLER POUNDS REGIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; PROVIDING CERTAIN DEFINITIONS; REFERRING TO A TYLER POUNDS REGIONAL AIRPORT ZONING MAP AND OVERLAY MAP WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; ESTABLISHING AND DEFINING THE AUTHORITY OF THE ZONING BOARD OF ADJUSTMENT AND APPEALS AS THE AIRPORT HEIGHT HAZARD ZONING BOARD OF APPEALS; AND IMPOSING PENALTIES; AMENDING TYLER CITY CODE CHAPTER 10, "TYLER UNIFIED DEVELOPMENT CODE", REQUIRING A NOTATION ON SUBDIVISION PLATS FOR LAND LOCATED IN THE HEIGHT HAZARD ZONES OF TYLER POUNDS REGIONAL AIRPORT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Texas Local Government Code Section 217.042(a) provides that a home rule municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet thereof; and

WHEREAS, Texas Local Government Code Section 217.042(b) provides that a home-rule municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, Texas Transportation Code Section 22.011(a) states that a local government may plan, establish, construct, improve, equip, maintain, operate, regulate, protect and police an airport or air navigation facility in or outside the territory of the local government, or the territory of the State; and

WHEREAS, Texas Transportation Code Section 22.014(a) states that a local government may adopt ordinances, resolutions, rules and orders necessary to manage, govern and use an airport or air navigation facility under its control or an airport hazard area relating to the airport, and that

such authority applies to an airport, air navigation facility, or airport hazard area in or outside the territory of the local government; and

WHEREAS, on May 25, 2011, the City Council, pursuant to Texas Local Government Code Section 43.102, adopted Ordinance No. O-2011-36 annexing Tyler Pounds Regional Airport and the rights-of-way of public roads and highways connecting the Airport to the City limits by the most direct route; and

WHEREAS, Texas Local Government Code Chapter 241 contains regulations related to municipal zoning authority around airports; and

WHEREAS, Texas Local Government Code Section 241.011(a) provides that 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; and

WHEREAS, Texas Local Government Code Section 241.011(b) provides that 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; and

WHEREAS, Texas Local Government Code Section 241.012(a)(1) provides that a political subdivision may adopt, administer, and enforce, under its police power, airport compatible land use zoning regulations for the part of the controlled compatible land use area located within the political subdivision if the airport is used in the public interest of the public to the benefit of the political subdivision; and

WHEREAS, Texas Local Government Code Section 241.015 provides that 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 ordinance, if the two zoning regulations apply, in whole or in part, to the same area; and the comprehensive zoning ordinance includes, among other matters, a regulation on the height of buildings; and

WHEREAS, Texas Local Government Code Section 241.016(a) provides that before an airport zoning regulation may be adopted, a political subdivision must appoint an airport zoning commission; and

WHEREAS, Texas Local Government Code Section 241.016(a) also provides that if the political subdivision has an existing planning commission or comprehensive zoning commission, that commission may be designated as the Airport Zoning Commission; and

WHEREAS, Texas Local Government Code Section 241.018(a) provides that 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 Texas Local Government Code Chapter 241; and

WHEREAS, Texas Local Government Code Section. 241.089(b) states that in determining which airport zoning regulations to adopt, the governing body of a political subdivision 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; and

WHEREAS, the City Council has created a Planning and Zoning Commission pursuant to Texas Local Government Code Chapter 211 and Tyler City Code Chapter 10; and

WHEREAS, Texas Local Government Code Section 241.032(a) provides that airport zoning regulations must provide for a Board of Adjustment; and

WHEREAS, Texas Local Government Code Section 241.032(b) provides that if a zoning board of appeals or adjustment exists, it may be designated as the board of adjustment under Chapter 241; and

WHEREAS, the City Council has created a Zoning Board of Adjustment pursuant to Texas Local Government Code Chapter 211 and Tyler City Code Chapter 10; and

WHEREAS, Texas Local Government Code Section 241.031(a) provides that airport zoning regulations must provide for the administration and enforcement of the regulations by an administrative agency; and

WHEREAS, Texas Local Government Code Section 241.031(a)(2) provides that the airport administrative agency may be an existing official, board, or other agency of the political subdivision adopting the regulations; and

WHEREAS, the City Council has adopted ordinances regulating Tyler Pounds Regional Airport in City Code Chapter 12; and

WHEREAS, the City of Tyler has established the Airport Advisory Board in Tyler City Code Chapter 12, and the Board's duties include making recommendations to the City Council regarding Airport construction, expansion, improvements, maintenance and operation; and

WHEREAS, per City Code Section 12-3, the Airport Manager has been designated as the Administrative Agency responsible for the administration and enforcement of all Airport zoning regulations pursuant to Texas Local Government Code Chapter 241 or successor statute; and

WHEREAS, per City Code Section 12-3, any proposed airport zoning regulations, airport hazard zoning regulations, and compatible land use regulations affecting the airport, shall be reviewed by the Airport Advisory Board, which shall provide its recommendations; and

WHEREAS, per City Code Section 12-3, the Planning and Zoning Commission has been designated as the Airport Zoning Commission in City Code Section 10-770; and

WHEREAS, per City Code Section 12-3, the Zoning Board of Adjustment has been designated as the Airport Board of Adjustment in City Code Section 10-771; and

WHEREAS, it is important to update certain provisions related to Tyler Pounds Regional Airport; and

WHEREAS, the City of Tyler has adopted Chapter 10, Tyler Unified Development Code and Chapter 12, Airport and Transit, of the City of Tyler Code of Ordinances; and

WHEREAS, the City Council recognizes the need to review said ordinances to identify and correct outdated regulations and to establish new legislation to make the ordinances accurate, timely, easier to use, less prone to misinterpretation and confusion, and more legally defensible; and

WHEREAS, the City Council recognizes the need to protect property, and occupants of land in the vicinity of Tyler Pounds Regional Airport ("Airport") from airport hazards and protect the airport from incompatible development; and

WHEREAS an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport; and

WHEREAS 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; and

WHEREAS the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard; and

WHEREAS it is necessary in the interest of the public health, public safety, and general welfare to prevent the creation of an airport hazard; and

WHEREAS the creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation; and

WHEREAS 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; and

WHEREAS the City Council finds and determines that the Airport fulfills an essential community purpose; and

WHEREAS, the Airport Advisory Board during its regular meeting on March 24, 2025, recommended approval of the proposed amendments to City Code Chapters 10 and 12; and

WHEREAS, the Tyler Planning and Zoning Commission during its regular meeting on May 6, 2025, conducted a public hearing at which parties in interest and citizens had an opportunity to be heard, with appropriate notice under State law, and recommended approval of the proposed airport zoning regulations; and

WHEREAS, the City Council has conducted a public hearing at which parties in interest and citizens had an opportunity to be heard, with appropriate notice under State law; and

WHEREAS, the City Council is empowered under the provisions of the Texas Airport Zoning Act, Texas Local Government Code Chapter 241 or successor, to adopt, administer, and enforce airport hazard area zoning and airport land use zoning regulations outside the political subdivision of the City of Tyler, Texas, by preventing the creation or establishment of airport hazards thereby protecting the lives and property of users of the Tyler Pounds Regional Airport and of occupants of land in its vicinity, and preventing destruction or impairment of the utility of the Airport and the public investment therein; and

WHEREAS, the City Council has determined that the proposed amendments to City Code Chapters 10 and 12 are reasonably necessary to achieve the purposes of the Airport Zoning Act in Texas Local Government Code Chapter 241 or successor; and

WHEREAS the City Council finds and determines the foregoing recitals are true and correct and hereby makes them part of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That the City Council hereby makes the following findings:

1.The City Council finds and determines that the Tyler Pounds Regional Airport fulfills an essential community purpose.

2.The proposed airport zoning regulations herein are reasonable, and the requirements or restrictions herein are found to be reasonably necessary to achieve the purpose of Texas Local Government Code Chapter 241.

3.In adopting the airport zoning regulations herein, the City Council has considered the following:

(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. (Ord. No. 0-2025-23;5/28/25)

PART 2: That Tyler City Code Chapter 12, "Airport and Transit", Article II., "Airport Regulations" is hereby amended by adopting a new Division A. "Miscellaneous", to read as follows:

DIVISION A. Miscellaneous

Sections 12-11 through 12-17. No changes...
(Ord. No. 0-97-60; 11/26/97) (Ord. No. 0-2025-28;5/28/25)

PART 3: That Tyler City Code Chapter 12, "Airport and Transit", Article II. "Airport Regulations", is hereby amended by adopting a new Division B., "Tyler Pounds Regional Airport Height Hazard Zoning District", to read as follows:

DIVISION B. Tyler Pounds Regional Height Hazard Zoning District

Section 12-18. Definitions

As used in this Division, the following terms shall have the meaning respectively ascribed to them herein.

Airport shall mean the Tyler Pounds Regional Airport used interchangeably with Tyler Pounds Field and Tyler Pounds Airport.

Airport Elevation means the established elevation of the highest point on the usable landing area measured in feet from mean sea level. For Tyler Pounds Regional Airport, the Airport Elevation is 544 feet from mean sea level.

Airport Hazard Means a structure or object or 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.

Airport Hazard Area means an area of land or water on which an airport hazard could exist.

Airport Reference Point means that point on the surface of the airport located at latitude 30° 42'56.50"N and Longitude 96°19'52.90"W, which is the approximate geographic center of the Tyler Pounds Regional Airport landing area.

Airport Safety Area shall mean any area of land adjacent to Tyler Pounds Regional Airport, which includes any of the following zones: Runway Protection Zone,

Primary Surface, Approach Surface, Transitional Surface, Horizontal Surface, or Conical Surface. These zones have been delineated on the official Tyler Pounds Regional Airport Zoning Map and have been described in this Division as to use and limitation of use.

Approach Surface shall mean 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 12-19 of this Division. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Conical Surface shall mean 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.

Established Elevation of Airport shall mean the elevation of 544 feet above mean sea level, which is the elevation of the highest point within the usable landing area. All elevations referred to in this Division shall be above mean sea level.

Hazard to Air Navigation shall mean an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height is defined with the purpose of determining the height limits in all zones set forth in this Article and shown on the Tyler Pounds Regional Airport Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

Height Hazard Zoning Board of Appeals shall mean the Zoning Board of Adjustment.

Height Hazard Zoning District and sometimes referred to as *Airfield Zone* or *Height Hazard Zone* shall mean the Tyler Pounds Regional Airport zones and height limitations established in Section 12-19 of this Division and depicted on the Tyler Pounds Regional Airport Zoning Map.

Horizontal Surface shall mean a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

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.

Landing Area shall mean the surface area of the Airport used for the landing, take-off or taxiing of aircraft.

Minimum Descent Height shall mean a specified altitude or height in an instrument approach, below which descent must not be made without the required visual reference.

Nonconforming Use, as used in this Division, means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto.

Non-Precision Instrument Runway shall mean a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Obstruction shall mean any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 12-19 of this Division.

Person shall mean a natural person, firm, partnership, corporation, company, association, joint stock association or other Organization per the Texas Business Organizations Code, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

Primary Surface shall mean a surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of the runway, extending from a width of 250 feet uniformly from each side of the centerline of the runway. The width of the primary surface is 500 feet. For future planning purposes, the primary surface assumes future 500 feet runway extensions off each existing runway end.

Runway means a defined area of an airport operated for the landing and taking off of aircraft along its length.

Runway Protection Zone shall mean an area at ground level prior to the threshold or beyond the runway end to enhance the safety and protection of people and property on the ground.

Structure means an object constructed or installed by one or more persons and includes a building, tower, smokestack, and overhead transmission line.

Structural Change or Alterations shall mean any change in the structure, in regards to alterations, repair, or rebuilding, height, etc.

Transitional Surfaces shall mean surfaces which 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.

Tree shall mean any object of natural growth.

Utility Runway shall mean a runway that is constructed for and intended to be used by propeller driven aircraft 12,500 pounds maximum gross weight and less.

Visual Runway shall mean a runway intended solely for the operation of aircraft using visual approach procedures. (Ord. No. 0-2025-23;5/28/25)

Section 12-19. Height Hazard Zoning District Standards

a. The City Council finds and determines that the Tyler Pounds Regional Airport fulfills an essential community purpose.

a. Airfield Zone Boundaries.

Under the Texas Zoning Act in Texas Local Government Code Chapter 241 or successor, and to carry out the purpose of this Division, the following zones are established for Tyler Pounds Regional Airport: Approach Zones, Transitional Zone, Horizontal Zone, and Conical Zone. Such zones are shown on the Tyler Pounds Regional Airport Zoning Map which is attached hereto as Exhibit "A" and hereby made a part hereof and is incorporated herein. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limit.

1. *Approach zone.* An approach zone is established beneath the approach surface at the end of all existing and proposed runways of Tyler Pounds Regional Airport. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. *Transition zones.* Transition zones are hereby established beneath the transitional surface adjacent to each runway and approach surface as indicated on the Tyler Pounds Regional Airport Zoning Map. Transitional surfaces, symmetrically located on either side of runways, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward 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.
3. *Horizontal zone.* A horizontal zone is established as the area beneath a horizontal surface 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 runways connecting the adjacent

arcs by lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

4. *Conical zone.* A conical zone is established as the area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one (20:1) for a horizontal distance of 4,000 feet.

b. Height Limitations within Airfield Zones.

Except as otherwise provided in this Division, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Division to a height in excess of the applicable height limit herein established for such zone. Height limitations are hereby established for each of the zones in question and depicted on the Tyler Pounds Regional Airport Zoning Map:

1. *Runway Protection Zone.* The RPZ is trapezoidal in shape and centered about the extended runway centerline. Two different components comprise the RPZ: the approach and departure RPZ, which normally overlap.
 - a. The approach RPZ extends from a point 200 feet (61 m) from the runway threshold for a distance as prescribed in Appendix G of FAA Circular 150-5300-13B or latest.
 - b. The departure RPZ begins 200 feet (61 m) beyond the runway end. If the end of the Takeoff Run Available (TORA) and the runway end are not the same, it is 200 feet (61 m) beyond the far end of the TORA. Refer to Appendix G of FAA Circular 150-5300-13B or latest for dimensional standards.
2. *Approach Zones.* Horizontal distance beginning at the end of and at the elevation of the primary surface and sloping upward from the end of the primary surface. It is horizontally centered on the extended runway centerline, extending 34 feet outward for each one foot upward (34:1) from the end of the primary surface and for a distance of 10,000 feet.
3. *Transition Zones.* Slope seven 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. The airport elevation is established as 544 feet above mean sea level, adjacent the primary surface or for 5,000 feet adjacent an approach surface.
4. *Horizontal Zone.* Established at 150 feet above the airport elevation, or a height of 694 feet above mean sea level.
5. *Conical Zone.* Slopes 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.

c. Maps Adopted. Zoning Maps.

The location and boundaries of the districts are shown on the Tyler Pounds Regional Airport Zoning Map and Tyler Pounds Regional Airport Overlay Map, which are adopted herein by reference. The City is responsible for custody of the Tyler Pounds Regional Airport Zoning Map and the Tyler Pounds Regional Airport Overlay Map and will promptly make any changes thereon approved by the City Council.

d. Subdivision Plat Note.

Any subdivision plat approved by the City of Tyler for any real property located in any Tyler Pounds Regional Airport Height Hazard Zone shall contain the following notation:

The property shown on this subdivision plat is located within the Tyler Pounds Regional Airport Height Hazard Zoning District. Decisions on the use of the land shall comply with the land use development regulations and height limitations for said district set forth in Chapter 12 of the Code of Ordinances of the City of Tyler, Smith County, Texas.

e. Use Restrictions.

1. No use may be made of land within any airport approach zone, horizontal zone, conical zone, or transitional zone, in such a manner as to
 - a. create electrical interference with radio communications between the airport and aircraft;
 - b. make it difficult to distinguish between airport lights and other lights;
 - c. result in glare in the eyes of flyers using the airport;
 - d. impair visibility in the vicinity of the airport including, but not limited to, the creating of excessive smoke, fog, mist, dust, or other matter endangering the landing, taking-off or maneuvering of aircraft;
 - e. or in any other manner constituting an Airport Hazard.
2. For the purposes of compatible land use zoning, the Runway Protection Zone (RPZ) includes restrictions on land use. To protect the safety of airport operations and ground activities, requirements are established within these areas and defined as follows:
 - i. Undeveloped
 - ii. Agricultural
 - iii. Surface Parking

f. Nonconforming Uses.

1. *Regulations Not Retroactive.* The regulations prescribed by this Division shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree lawfully in existence as of the effective date of this Division, or otherwise interfere with the continuance of any legal nonconforming use. Nothing herein contained shall

require any change in the construction or alteration of which was begun prior to the effective date of this Division and is diligently prosecuted. It shall not be permitted to subsequently increase the height of a legal non-conforming structure, should that structure be lowered to a height equal to or exceeding the height limitation of the zone in which the structure is located. If any legal non-conforming use is voluntarily discontinued for six (6) months or more, any future use of such land shall conform to the provisions of this Division.

2. *Nonconforming Uses Abandoned or Destroyed.* Whenever the Airport Manager or designee determines that a legal nonconforming structure or tree has been abandoned or more than 60 percent torn down, physically deteriorated, or decayed, no height permit shall be granted that would allow such structure to exceed the applicable height limit or otherwise deviate from the height limitations in this Division. If any legal non-conforming structure or object of natural growth which is hereafter damaged by any means to an extent exceeding 60 percent of its then reproduction value may not be restored or reconstructed to a height greater than permitted under the provisions of these regulations. Nothing herein contained shall require any change in construction, alteration of a legal use which has begun prior to the effective date of this Division, and is diligently prosecuted and completed within two (2) years thereof.

3. *Construction 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 Airport Manager or designee, to indicate to the operators of aircraft in the vicinity of Tyler Pounds Regional Airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Tyler. (Ord. No. 0-2025-23;5/28/25)

Section 12-20. Airport Height Hazard Zoning Board of Adjustment and Appeals; Permits and Variances.

a. Airport Height Hazard Zoning Board of Appeals Established.

The Zoning Board of Adjustment, as defined in Section 10-771 of this Code, shall be the Height Hazard Zoning Board of Appeals and shall have the powers and authority specified in this Division.

b. Permit Procedure.

1. *Issuing Agents.* The Airport Manager or designee is hereby authorized to issue permits for height within the airfield zones.
2. *FAA Submission.* Applications for development in a Height Hazard Zone shall be presented to the Federal Aviation Administration (FAA) through the submission of form FAA 7460 – 1, Notice of Proposed Construction or Alteration. Applications shall be submitted in accordance with the procedures set forth by the Federal Aviation Administration. The FAA 7460 – 1 form is only a permit to determine if the proposed development will or will not be an obstruction or hazard to Tyler Pounds Regional

Airport. It is not a permit to complete the proposed development. For example, it is not a permit to build a house, construct a business establishment, install a drainage ditch or septic system or grade a parcel of land. A copy of the approved FAA determination concerning a FAA 7460-1 submission shall be included in conjunction with the height permit application to the Airport Manager or designee. The Airport Manager shall not issue a height permit that has been determined by FAA to be an obstruction or hazard to Tyler Pounds Regional Airport.

3. *Height permit required.* Except as specifically provided in a, b, and c below, 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 height permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to determine whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the height permit shall be granted. No height permit for a use inconsistent with the provisions of this Division shall be granted unless a variance has been approved in accordance with this Division. Exceptions are as follows:
 - a. In the area lying within the limits of the horizontal zone and conical zone, no height permit shall be required for any tree or structure less than (75) seventy-five feet of vertical height above the ground, 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 height permit shall be required for any tree or structure less than (75) seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
 - 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 (75) seventy-five 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.
4. *Permit procedures.* Permit requirements for development in a Height Hazard Zone shall be determined based on the location within a Height Hazard Zone as described in this Division.
5. Application for Height Permit within a Height Hazard Zone shall be presented to the Airport Manager or designee and may include, but not be limited to, a site plan drawn to scale showing the proposed GPS coordinates of highest point above ground, site elevation, final structure or object height and dimensions, total structure elevation, and all existing structures. Additional information to assist in determining compliance with this Division may be required.

6. Applicants applying for a Height Permit within a Height Hazard Zone that is located within the City of Tyler shall separately apply for a building permit when a building permit is required in accordance with Tyler City Code Chapter 6. A Height Permit and/or an Airport Hazard Zoning District development permit is only a permit to determine if the proposed object shall be an obstruction to the airport and is not a permit to complete the proposed development.
7. *Existing Uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Division.
8. *Approval.* Within ten (10) business days after the receipt of an application, the Airport Manager or designee shall either approve or disapprove the application.
9. *Expiration of permit.* If the work described in the height permit has not begun within 180 calendar days from the date of issuance, the permit shall expire.
10. *Construction to be as Provided in Application.* Permits issued on the basis of plans and applications approved by the Airport Manager or designee shall authorize only the construction detailed in the application. Any construction which increases the height contrary to, or otherwise violates the requirements of, the permit issued is unlawful and shall be deemed as a punishable violation of this Division.
11. *Stop Work Order.* Subsequent to determination that work is being done contrary to this Division, the Airport Manager or designee may issue a Stop Work Order and post it on the premises involved. Removal or violation of a Stop Work Order, except by the order of the Airport Manager or designee, is unlawful and shall constitute a punishable violation of this Division.
12. *Permit Revocation.* The Airport Manager or designee may issue a notice to revoke a height permit which was issued contrary to this Division or based upon false information or misrepresentation in the application.
13. *Notice of Violation.* Whenever the Airport Manager or designee determines that there is a violation of any provision of this Division, a warning shall be issued and shall serve as a notice of violation. Such order shall be in writing; identify the violation; include a statement of the reason(s) why it is being issued and refer to the section(s) of the Division being violated; and state the time by which the violation shall be corrected.

Service of the notice of violation shall be as follows:

1. By personal delivery to the person(s) responsible, or by leaving the notice at the usual place of residence by the owner with a person of suitable age and discretion; or

2. By certified mail through US Postal Service addressed to the person(s) responsible at a last known address. If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail, and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Airport Manager or designee. Service shall be deemed complete when the certificate of mailing is entered on record, provided that the ordinary mail envelope is not returned by the post office with an endorsement showing failure of delivery for reasons other than "refused"; or
3. By posting a copy of the notice form in a conspicuous place on the premises found to be in violation.

c. Variances.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, in violation of the regulations prescribed in this Division, may apply to the Height Hazard Zoning Board of Appeals for a variance from such regulations in question. The variance application shall be submitted to the Airport Manager or designee and 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 only be allowed when the Board makes the following determinations:

1. A literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship; and
2. Granting of relief would result in substantial justice being done; and
3. Relief granted would not be contrary to the public interest or create conditions dangerous to the safety of aircraft using the airport; and
4. Would not raise the Minimum Descent Height for instrument approaches to the airport, but will do substantial justice; and
5. Be in accordance with the spirit of this Division.

d. Appeals.

1. *Appeal of Manager's Interpretation.* The Height Hazard Zoning Board of Appeals may reverse or affirm, in whole or part, or modify the Airport Manager or designee's order, requirement, decision or determination from which an appeal is requested hereunder and make the correct order, requirement, decision or determination. Any action under this subsection requires a three-fourths vote of the entire Height Hazard Zoning Board of Appeals. The applicant may appeal staff's interpretation of this Division to the Board by:
 - a. Submitting a written request within (15) fifteen days after the decision has been rendered to the Airport Manager or designee for an appeal of interpretation and must specify the action or decision being appealed.

- b. Submitting appeal fees required for each appeal.

2. The Height Hazard Zoning Board of Appeals shall consider the appeal no later than the second scheduled meeting from which the appeal request was submitted to the Airport Manager or designee. The Height Hazard Zoning Board of Appeals shall hear the appeal and review all related documentation submitted as part of the FAA 7460 – 1 form and all other related materials.

3. After hearing the appeal, the Height Hazard Zoning Board of Appeals shall issue a final decision to affirm, modify or overturn the order, requirement, decision or determination.

4. *Appeal to Court.* In accordance with Texas Local Government Code Sec. 241.041 et seq. or successor, an aggrieved person, taxpayer or the governing body of a political subdivision may appeal the decision of the Height Hazard Zoning Board of Appeals to a court of record. A verified petition of appeal must be filed with the court clerk within (10) ten calendar days from the date the decision is filed in the Building Services office. (Ord. No. 0-2025-23; 5/28/25)

Sec. 12-21. Penalties; conflicting laws

a. Penalties. Any violation of this Division is unlawful. Any person violating any provision of this Division shall be deemed guilty of a misdemeanor, and upon conviction thereof may be subject to a penalty as provided in City Code Section 1-4.

b. Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this Division 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 matter, the more stringent limitation or requirement shall govern and prevail. (Ord. No. 0-2025-23; 5/28/25)

Secs. 12-22-12-29. Reserved.

PART 4: That Tyler City Code Chapter 10, “Tyler Unified Development Code”, Article VIII., “Development Approval Procedures”, Division D., “Subdivisions”, is hereby amended by amending Section 10-635 to read as follows:

Sec. 10-635. – Final Plat.

No changes to Diagram.

a. No changes...

b. Application Procedure and Requirements

A final plat for minor subdivisions may be approved by the Planning Director. Final plats must comply with the preliminary plat where applicable. The application must be accompanied by the following:

1. through 10. No changes... (Ord. No. 0-2013-41; 5/22/13)
11. For property located in any Tyler Pounds Regional Airport Height Hazard Zones, the plat shall contain the following notation: The property shown on this subdivision plat is located within the Tyler Pounds Regional Airport Height Hazard Zoning District. Decisions on the use of the land shall comply with the development regulations and height limitations for said district set forth in the Code of Ordinances of the City of Tyler, Smith County, Texas. (Ord. No. 0-2025-23; 5/28/25)

PART 5: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 6: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be May 30th, 2025.

PASSED AND APPROVED this the 28th day of May A.D., 2025.

DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK



DEBORAH G. BULLUM,
CITY ATTORNEY

ORDINANCE NO. O-2025-23
EXHIBIT "A"
TYLER POUNDS REGIONAL AIRPORT ZONING MAP

