



**AGENDA PLACEMENT FORM**

(Submission Deadline – Monday, 5:00 PM before Regular Court Meetings)

Date: 06/05/2023

COMMISSIONERS COURT

Meeting Date: 06/12/2023

JUN 12 2023

Submitted By: Jennifer VanderLaan

**No Action**

Department/Office: Public Works

Signature of Director/Official: \_\_\_\_\_

**Until City Approves**

Agenda Title:

Joint Airport Zoning Board Chapter 90

**Public Description** (Description should be 2-4 sentences explaining to the Court and the public what action is recommended and why it is necessary):

Consider and approve amendments to Chapter 90, Airport Zoning, of the  
Cleburne Code of Ordinances, prepared by the Joint Airport Zoning Board of  
Johnson County and City of Cleburne.

(May attach additional sheets if necessary)

Person to Present: Jennifer VanderLaan

(Presenter must be present for the item unless the item is on the Consent Agenda)

Supporting Documentation: (check one) PUBLIC  CONFIDENTIAL

(PUBLIC documentation may be made available to the public prior to the Meeting)

Estimated Length of Presentation: 10 minutes

Session Requested: Action Item (Action Item, Workshop, Consent, Executive)

Check All Departments That Have Been Notified:

County Attorney  IT  Purchasing  Auditor

Personnel  Public Works  Facilities Management

Other Department/Official (list) \_\_\_\_\_

**Please Inter-Office All Original Documents to County Judge's Office Prior to Deadline  
& List All External Persons Who Need a Copy of Signed Documents  
In Your Submission Email**



# JOHNSON COUNTY COMMISSIONERS COURT

**Christopher Boedeker**  
County Judge

**Rick Bailey**  
Commissioner  
Precinct 1

**Kenny Howell**  
Commissioner  
Precinct 2

**Mike White**  
Commissioner  
Precinct 3

**Larry Woolley**  
Commissioner  
Precinct 4

**THE STATE OF TEXAS**

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**ORDER 2023-42**

**COUNTY OF JOHNSON**

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## **COMMISSIONERS COURT ORDER ADOPTING THE JOINT AIRPORT ZONING BOARD'S AIRPORT ZONING REGULATIONS AS SET FORTH IN THE CITY OF CLEBURNE'S ORDINANCE NO. OR06-2023-39**

The Johnson County Commissioners Court met on June 12, 2023 in a regular session and considered the Joint Airport Zoning Board's Airport Zoning Regulations set forth in the City of Cleburne's Ordinance No. OR06-2023-39 which is attached hereto and incorporated by reference as though set forth verbatim.

**A motion was made by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_ that: "The Commissioners Court adopt the Joint Airport Zoning Board's Airport Zoning Regulations as set forth in the City of Cleburne's Ordinance No. OR06-2023-39."**

Said motion was approved by a vote of the Commissioners Court on the 12<sup>th</sup> day of June, 2023.

### **NOW THEREFORE BE IT RESOLVED AND ORDERED:**

The Commissioners Court of Johnson County, Texas does hereby enter this Order adopting the Joint Airport Zoning Board's Airport Zoning Regulations as set forth in the City of Cleburne's Ordinance No. OR06-2023-39.

WITNESS OUR HAND THIS THE 12<sup>th</sup> DAY OF JUNE, 2023.

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**Christopher Boedeker, Johnson County Judge**

Voted: \_\_\_ yes, \_\_\_ no, \_\_\_ abstained

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**Rick Bailey, Comm. Pct. 1**

Voted: \_\_\_ yes, \_\_\_ no, \_\_\_ abstained

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**Kenny Howell, Comm. Pct. 2**

Voted: \_\_\_ yes, \_\_\_ no, \_\_\_ abstained

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**Mike White, Comm. Pct. 3**

Voted: \_\_\_ yes, \_\_\_ no, \_\_\_ abstained

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**Larry Woolley, Comm. Pct. 4**

Voted: \_\_\_ yes, \_\_\_ no, \_\_\_ abstained

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**ATTEST: April Long, County Clerk**

# ORDINANCE

## NO. OR06-2023-39

**AN ORDINANCE AMENDING TITLE IX: GENERAL REGULATIONS, CHAPTER 90: AIRPORT, REPEALING AND REPLACING SECTIONS 90.080 THROUGH 90.091 BY ADOPTING A HEIGHT HAZARD ZONING ORDINANCE AND ASSOCIATED AIRPORT HAZARD ZONING MAP FOR CLEBURNE REGIONAL AIRPORT; AND AMENDING TITLE XV: LAND USAGE, CHAPTER 155: ZONING, BY REPLACING THE AIRPORT HAZARD ZONING MAP REFERENCED BY SECTION 4.06.F.3.b WITH THE AIRPORT HAZARD ZONING MAP DEVELOPED UNDER THE ADOPTED CLEBURNE REGIONAL AIRPORT MASTER PLAN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00 FOR EACH OFFENSE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Cleburne, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the City has adopted an Airport Master Plan and intends to adopt a Height Hazard Zoning Ordinance pursuant to Chapter 241 of the Texas Local Government; and

**WHEREAS**, having identified the regulations adopted by this ordinance as an effective means for accomplishing the purpose of protect the operations of the Airport, limiting any built or natural hazards around the airport that have the potential to interfere with safe operations, or create risks to either aircraft or people, and will serve as an embedded and defensible document based on a model ordinance that conforms to TxDOT and FAA requirements; and

**WHEREAS**, Regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Cleburne Regional Airport, Cleburne Texas, by creating the appropriate zones and establishing the boundaries thereof; providing for restrictions of such zones and the enforcement of such restrictions; defining certain terms used herein; referring to the Cleburne Regional Airport Hazard Zoning Map dated December, 2022 which is incorporated in and made a part of these regulations; providing for a board of adjustment; and imposing penalties; and

**WHEREAS**, these regulations are adopted pursuant to the authority conferred by the Airport Zoning Act, Texas Local Government Code, §§241.001 et seq.; and

**WHEREAS**, the Legislature of the State of Texas 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.

Accordingly, it is declared that the City of Cleburne benefits from the use of the Cleburne Regional Airport and the City Council of the City of Cleburne permits the Cleburne Regional Airport to be used by the public to an extent that the airport fulfills an essential community purpose; therefore, the Cleburne Regional Airport is used in the interest of the public; and

**WHEREAS**, the Joint Airport Zoning Board was appointed for the purpose of considering the regulations adopted herein, and on June 1, 2023 voted unanimously to recommend that said zoning regulations should be adopted; and

**WHEREAS**, the Planning and Zoning Commission on June 12, 2023 voted unanimously to recommend that said zoning regulations should be adopted; and

**WHEREAS**, the City Council has held a public hearing with respect to the amendment of the ordinances described above as required by law; and

**WHEREAS**, the City Council finds that this ordinance is in the best interest of the City and furthers the public health and welfare of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS, THAT:**

**SECTION ONE.** Title IX, “General Regulations”, Chapter 90, “Airport”, section 90.080 through 90.091 are hereby repealed and replaced to read as follows:

**AIRPORT ZONING**

**§ 90.080 SHORT TITLE.**

This subchapter shall be known and may be cited as “Cleburne Regional Airport Hazard Zoning Regulations.”

Cross-reference:

Buildings, see Ch. 150

Zoning, see Ch. 155

## **§ 90.081 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AIRPORT.** Cleburne Regional Airport.

**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 Cleburne Regional Airport is 854.2 feet above mean sea level (MSL).

**AIRPORT HAZARD.** Any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft or obstructs or interferes with the control, tracking, and/or data acquisition in the landing, takeoff, or flight at an airport or any installation or facility relating to flight, tracking, and/or data acquisition of the flight craft; is hazardous to, interferes with, or obstructs such landing, takeoff, or flight of aircraft; or is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

**APPROACH SURFACE.** A surface longitudinally centered on the extended runway center line, 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 § 90.083 below. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

**APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES.** These zones are set forth in § 90.082 below.

**BOARD OF ADJUSTMENT.** A board appointed under § 90.088 of this chapter and as provided in Texas Local Government Code § 241.032.

**CITY MANAGER.** The officer or person, or his or her designee, designated in § 90.087 to administer and enforce the regulations prescribed herein.

**CONICAL SURFACE.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally for each one (1) foot vertically for a horizontal distance of four thousand (4,000) feet.

**EXTRATERRITORIAL JURISDICTION (ETJ).** The unincorporated area, not a part of any other municipality, that is contiguous to the corporate limits of the City, the outer limits of which are measured from the extremities of the corporate limits of the City outward up to the distance stipulated in Chapter 42 of the Texas Local Government Code, as may be amended, according to the population of the City, and in which area the City may apply ordinances and regulations specifically provided by Chapters 42 and 241 of the Texas Local Government Code, or other provisions of State law to be applied by the City of Cleburne, Johnson County, or the Cleburne-Johnson County Joint Airport Zoning Board within the Extraterritorial Jurisdiction.

**HAZARD TO AIR NAVIGATION.** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**HEIGHT.** For the purpose of determining the height limits in all zones set forth in this subchapter and shown on the airport hazard zoning map described in § 90.082, the datum shall be height above mean sea level elevation as measured in feet, unless otherwise specified.

**HORIZONTAL SURFACE.** A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**NONCONFORMING USE, STRUCTURE, OR TREE.** Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this subchapter or an amendment thereto, which is existing as of the effective date of this subchapter, as amended.

**NONPRECISION INSTRUMENT RUNWAY.** 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. Within this subchapter, this term refers to Runway 15-33 as indicated on the adopted airport hazard zoning map described in § 90.082.

**OBSTRUCTION.** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in § 90.083 below.

**PERSON.** An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, an administrator, an executor, a guardian, or a similar representative.

**PRIMARY SURFACE.** A 500-foot-wide surface longitudinally centered on the runway extending the full length of the ultimate runway configuration plus two hundred (200) feet beyond each ultimate end of the runway. The width of the primary surface is set forth in § 90.082 below. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**RUNWAY.** Runway 15-33, or other runway as indicated on the adopted airport hazard zoning map described in § 90.082 below. Runway 15-33 is a defined area of the Cleburne Regional Airport prepared for landing and takeoff of aircraft along its length. The zoned length of Runway 15-33 at the Cleburne Regional Airport is 5,697 feet. The planned ultimate length of Runway 15-33 at the Cleburne Regional Airport is 6,280 feet.

**STRUCTURE.** An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, poles, earth formation, overhead transmission lines, and transverse ways. Transverse ways are considered to be the heights set forth in 14 C.F.R. Part 77.23.

**TRANSITIONAL SURFACES.** These surfaces extend outward at 90° angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each one (1) foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five-thousand (5,000) feet measured horizontally from either edge of the approach surface and at 90° angles to the extended runway centerline.

**TREE.** Any type of flora that is an object of natural growth.

## **§ 90.082 ZONES.**

In order to carry out the provisions of this subchapter, there are created and established certain zones which include all of the land lying beneath the approach, transitional, horizontal, and conical surfaces as they apply to Cleburne Regional Airport. Such zones are shown on Cleburne Regional Airport Zoning Map prepared by Coffman Associates, and adopted by City Council on December 13, 2022, which is attached to this subchapter and made a part hereof by reference. A copy of the map shall be made available upon request at the Cleburne Regional Airport administrative office. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(A) Approach Zones. Approach zones are hereby established beneath the approach surfaces at each end of Runway 15-33 at the airport. The approach surface shall have an inner edge width of 500 feet, which coincides with the width of the primary surface, at a distance of two-hundred (200)



feet beyond each runway end, widening thereafter uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet beyond the end of the primary surface. The centerline of the approach surface is the continuation of the centerline of the runway.

(B) Transitional zones. The transitional zones are the areas beneath the transitional surfaces Transitional surface, symmetrically located on either side of the runway, have variable widths as shown on the Cleburne Regional Airport Hazard Zoning Map. Transitional surfaces extend outward perpendicular to the runway centerline and the extended runway centerline from the periphery of the primary surface and the approach surfaces to where they intersect the horizontal surface. Where the precision instrument runway approach surface projects through and beyond the conical surface, there are hereby established transitional zones beginning at the sides of and at the same elevation as the approach surface and extending for a horizontal distance of five thousand (5,000) feet as measured perpendicular to the extended runway centerline.

(C) Horizontal zone. The horizontal zone is established beneath the horizontal surface at the airport which is a plane one-hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of the runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(D) Conical zone. The conical zone is established as the area beneath the conical surface at the airport that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

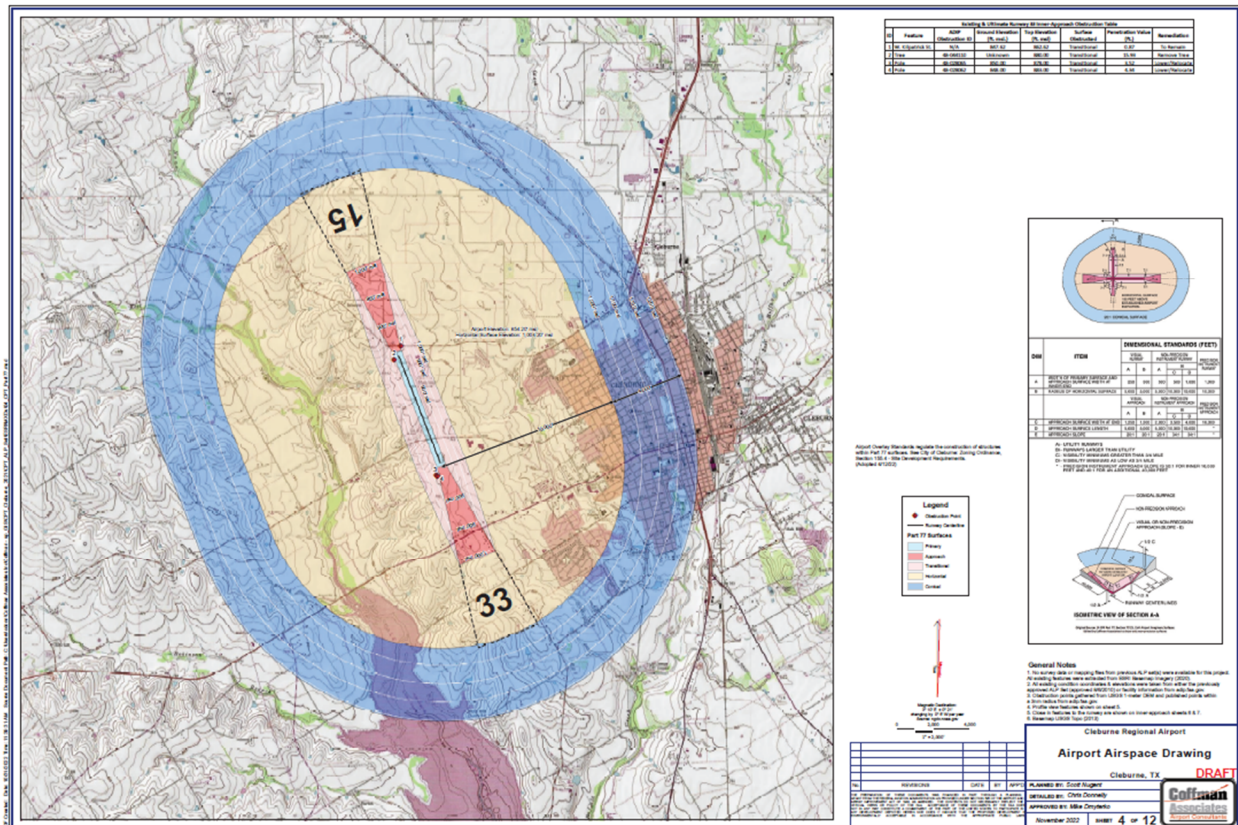


Figure 1: Cleburne Regional Airport Hazard Zoning Map



### **§ 90.083 HEIGHT LIMITATIONS.**

Except as otherwise provided in this chapter, no structure shall be erected, altered, or replaced, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height herein established for such zone, except as provided in this § 90.083. Such applicable height limitations are hereby established for each of the zones in question as follows:

(A) Approach Zones. Slope one (1) foot in height for each 34 feet in horizontal distance beginning at the end of and at the same elevation as the primary surface and extending to a point 10,000 feet beyond the end of the primary surface.

(B) Conical Zone. Slopes one (1) foot in height for each twenty (20) feet in horizontal distance beginning at the periphery of the horizontal zone and at one-hundred fifty (150) feet above the airport elevation and extending to a height of three-hundred fifty (350) feet above the airport elevation, or to a height of 1,204 feet above mean sea level.

(C) Horizontal Zone. Established at one-hundred fifty (150) feet above the airport elevation, or at a height of 1,004.2 feet above mean sea level.

(D) Transitional Zones. Slope one (1) foot in height for each seven (7) feet in horizontal distance beginning at the sides of and at the same elevations as the primary surface and the approach surfaces.

(E) Excepted Height Limitation. Nothing contained in these regulations shall be construed as prohibiting the growth, construction, or maintenance of any structure or tree to a height of up to fifty (50) feet above the surface of the land at its location.

### **§ 90.084 LAND USE RESTRICTION.**

Notwithstanding any other provisions of this subchapter, no use may be made of land or water within any zone established by this subchapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create potential bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

### **§ 90.085 NONCONFORMING USES.**

(A) Nonconforming Uses. Nothing contained in these regulations shall be construed as requiring changes in or interference with the continuance of any nonconforming use of land.

(B) Nonconforming Structures. Nothing contained in these regulations shall be construed as to require the removal, lowering, or other change to any existing nonconforming structure including all phases or elements of a multiphase structure the construction of which was begun prior to the effective date of these regulations and is diligently prosecuted.

(C) Nonconforming Trees. Nothing in these regulations shall be construed as to require the removal, lowering, or other change to any nonconforming tree. However, any nonconforming tree which grows to a greater height than it was as of the effective date of these regulations is subject to the provisions of these regulations as described in § 90.083 above.

(D) Marking and lighting. Notwithstanding divisions (A) through (C) of this section, the owner of any existing nonconforming structure or tree is required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the City Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such

airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the city.

## **§ 90.086 PERMITS.**

### **(A) Permits.**

(1) Any person who desires to replace, rebuild, substantially change, or repair a nonconforming structure or replace or replant a nonconforming tree must apply for and receive a permit, and the permit shall be granted upon affirmative demonstration by the applicant that the proposed construction, repair, or tree conforms to the requirements of this subchapter. However, no permit shall be granted which would allow the establishment of an airport hazard or allow a nonconforming structure or tree to exceed its original height or become a greater hazard to air navigation than it was at the time of the adoption of these regulations, except as provided for in § 90.086(D) below. Applications for permit shall be applied to and issued by the City Manager or designee.

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 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 permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

(2) Nothing contained in any of the foregoing exceptions set forth in divisions (a) through (c) above shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this subchapter except as set forth in § 90.083(E) above.

(B) Existing structures. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming structure or tree to become a greater hazard to air navigation, than it was on the effective date of this subchapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) Nonconforming structure abandoned or destroyed. Whenever the City Manager determines that a nonconforming tree has physically deteriorated, or decayed, or a structure has been abandoned or more than 50% torn down or damaged, no permit shall be granted that would allow such structure or tree to be rebuilt in such a way that it exceeds the applicable height limit or otherwise deviates from the regulations of this subchapter.

### **(D) Variances.**

(1) Any person desiring to erect, substantially change, or increase the height of any structure, or permit the growth of any tree so as to exceed the height limitations set forth in this subchapter, or change the use of property in such a way as to create a hazardous condition as described in § 90.084 above, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation

Administration under 14 C.F.R. Part 77 as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

(2) Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this subchapter.

(3) Additionally, no application for variance to the requirements of this subchapter may be considered by the Board of Adjustment unless a copy of the application has been furnished to the City Manager or designee for advice as to the aeronautical effects of the variance. If the City Manager or designee does not respond to the application within 15 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

(E) Requirements and Reasonable Conditions. Any variance granted may, at the discretion of the Board of Adjustment, impose any reasonable conditions as may be necessary to accomplish the purpose of these regulations.

(F) Obstruction marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this subchapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the city, at its own expense, to install, operate and maintain the necessary markings and lights.

#### **§ 90.087 DUTY OF CITY MANAGER TO ENFORCE.**

- (A) It shall be the duty of the City Manager, or the City Manager's designee, to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the City Manager or designee upon a form published for that purpose. Applications required by this subchapter to be submitted to the City Manager shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the City Manager or designee.
- (B) This Chapter shall remain in full force and effect within the Extraterritorial Jurisdiction (ETJ) of the City of Cleburne, as the ETJ may be enlarged, reduced, or amended by direct or indirect action of the City Council. Within the City Limits of the City of Cleburne, § 155.4.06.F shall have effect and this Chapter shall not have effect.

#### **§ 90.088 BOARD OF ADJUSTMENT.**

(A) Powers. The existing City of Cleburne Board of Adjustment is appointed as the Board of Adjustment for the City of Cleburne Regional Airport in accordance with Texas Local Government Code § 241.032 in order to have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision, or determination made by the City Manager or designee in the enforcement of this subchapter; and
- (2) To hear and decide specific variances.

(B) Composition; terms; vacancies. The Board of Adjustment shall consist of five (5) members; each to be appointed for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancy shall be filled for the unexpired term of any member whose term becomes vacant.

(C) Organization. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this subchapter. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the City Secretary and on due cause shown.

(D) Written conclusions. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this subchapter.

(E) Vote required for decisions. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the City Manager or designee, or decide in favor of the applicant on any matter upon which it is required to pass under this subchapter, or to effect variation to this subchapter.

#### **§ 90.089 APPEALS.**

(A) Any person aggrieved, any taxpayer affected, by any decision of the City Manager, made in the administration of this subchapter, may appeal to the Board of Adjustment if that person or taxpayer is of the opinion that a decision of the City Manager or designee is an improper application of these regulations. This same right of appeal is extended to the governing bodies of the City of Cleburne and Johnson County, Texas, and to the Cleburne-Johnson County Joint Airport Zoning Board.

(B) All appeals hereunder must be taken within ten (10) days of the decision, by filing with the City Manager or designee a notice of appeal specifying the grounds thereof. The City Manager or designee shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Manager or designee certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the opinion of the City Manager or designee, cause imminent peril to life or property. In such case, proceedings may be stayed only by an order of the Board of Adjustment, after notice to the City Manager or designee and only if due cause is shown.

(D) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within thirty (30) days of receiving the appeal. Upon the hearing, any party may appear in person or by agent or by attorney.

(E) The Board of Adjustment may, in conformity with the provisions of this subchapter, 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 the Board shall determine to be appropriate under the circumstances. For this purpose, the Board of Adjustment has the same powers as the City Manager or designee.

**§ 90.090 JUDICIAL REVIEW.**

Any person aggrieved or any taxpayer affected by a decision of the Board of Adjustment, may appeal to a court of record as provided in Texas Local Government Code §241.041. This same right of appeal is extended to the governing bodies of the City of Cleburne, Texas, and Johnson County, Texas, and to the Cleburne-Johnson County Joint Airport Zoning Board.

**§ 90.091 CONFLICTING REGULATIONS.**

Where there exists a conflict between any of the regulations or limitations prescribed in this subchapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

**§ 90.092. ENFORCEMENT AND REMEDIES.**

The governing bodies of the City of Cleburne, Texas, or Johnson County, Texas, or the Cleburne-Johnson County Joint Airport Zoning Board may institute in a court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of these regulations or of any order or ruling made in connection with their administration or enforcement including, but not limited to, an action for injunctive relief.

**SECTION TWO.** Title XV, “Land Usage”, Chapter 155, “Zoning”, Appendix A, “Zoning Ordinance”, section 155.4, “Site Development Requirements” is hereby amended as follows:

**§155.4.06.F.3. Height Limitation Zones**

b. Establishment of Height Limitation Zones

(1) Such zones are shown on Cleburne Regional Airport Zoning Map consisting of two sheets, prepared by Coffman Associates, and adopted by City Council on December 13, 2022, which is made a part of this subsection 4.06.F by reference.

**SECTION THREE.** **Effective Upon Adoption by Commissioners Court.** This Ordinance shall not become effective except and until its concurrent adoption by action or order of the Johnson County Commissioners Court.

**SECTION FOUR.** **Cumulative Clause.** This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

**SECTION FIVE.** **Severability Clause.** 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.

**SECTION SIX. Savings Clause.** All provisions of the Code of Ordinances of the City of Cleburne, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION SEVEN. Penalty Clause.** Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for each offense. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

**SECTION EIGHT. Publication Clause.** The City Secretary of the City of Cleburne, Texas, is directed to publish the caption, including the penalty of this Ordinance at least once within 10 days after its passage in the official newspaper of the City of Cleburne, Texas, as authorized by Section 3.16 of the Cleburne City Charter.

**SECTION NINE. Effective Clause.** This Ordinance shall become effective after the date of its passage and upon its publication as required by law.

**PASSED AND APPROVED** this the 13th day of June, 2023 at a Regular Meeting of the City Council of the City of Cleburne, Texas.

CITY OF CLEBURNE

BY: \_\_\_\_\_  
Scott Cain, Mayor

ATTEST:

\_\_\_\_\_  
Ivy Peterson, City Secretary