

ORDINANCE NO. 2014-48

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER XV, LAND USE, ARTICLE 6 ZONING, AIR INSTALLATION ZONING REGULATIONS, SECTION 41, RESPONSIBILITY OF DEVELOPERS: SUBDIVISIONS, PROVIDING FOR A NOTICE TO BUYER/LESSEE ABOUT AICUZ AND CCLUA; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City-County Joint Airport Zoning Board (JAZB) recently met and adopted a “notice to buyer/lessee” to be provided to land owners and agents to give buyers and lessees to make them aware that Air Installation Compatible Use Zones (AICUZ) and Controlled Compatible Land Use Areas (CCLUA) exist within the City and County; and

WHEREAS, the JAZB would like this notice provided throughout the county and not just within the area controlled by the JAZB, they are requesting the City and County approve similar notice requirements; and

WHEREAS, the mission of Naval Air Station-Kingsville is critical to the community, state and nation, as well as to the City’s economic development, and the base’s continued mission would be enhanced by this notice; and

WHEREAS, the City of Kingsville Planning and Zoning Commission has reviewed this ordinance at a meeting on July 23, 2014 and recommends its approval; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 15-6-41 of Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

AIR INSTALLATION ZONING REGULATIONS

§ 15-6-41. AICUZ- NOTICE TO BUYER/LESSEE.

- (A) Each developer or landowner who owns property within the City of Kingsville must notify any purchaser or lessee of any property within the City of the existence of a "controlled compatible land use area" that is governed by a Joint Airport Zoning Board (JAZB) by having each seller or lessor provide an “AICUZ – NOTICE TO BUYER(S) OR LESSEE” containing the following language:

"Notice is hereby given to the Buyer(s) or Lessee(s) that this property may be located in the vicinity of Naval Air Station (NAS) Kingsville and may be impacted by noise, odors, flight safety hazards, frequency interference and other potential compatibility issues relating to installation operations. You are encouraged to drive and review the area around any property in which you are interested at various times and days.

Notice is also hereby given that subject property may:

- (1) Lie within the "Controlled Compatible Land Use Area" as defined by Chapter 241 of the Texas Local Government Code, Section 241.003(7) which gives a municipality or county the authority to regulate land use within a designated airport hazard area. The Kingsville-Kleberg JAZB(Joint Airport Zoning Board) provides zoning regulations and enforcement within the unincorporated portions of Kleberg County that are located within the "Controlled Compatible Land Use Area,"*
- (2) And/or within an area defined by the 65 decibel (dB) day-night average sound level (Ldn) noise contour(s) as defined in NAS Kingsville's current Air Installations Compatible Use Zones (AICUZ) study, plus ¼ mile outside that area,*
- (3) And/or within an area defined by the Accident Potential Zones (APZ) as defined in NAS Kingsville's current AICUZ study, plus ¼ mile outside that area.*

As the AICUZ study is updated, the zone boundaries may change.

This property may also be subject to additional development regulations relative to the property's proximity to the installation.

Information on any property located within 6 miles of NAS Kingsville may be found at the following website:

<http://www.cityofkingsville.com/dept/engineering/docs/AICUZ%20Map.pdf> or by visiting the City of Kingsville Planning Department."

- (B) Such "AICUZ – NOTICE TO BUYER OR LESSEE" shall be executed simultaneously with any "earnest money" contract or other agreement to buy land, and if no "earnest money" contract or other agreement to buy land is executed, prior to the "date of closing" as that term is understood in real estate transactions.*
- (C) Development within the noise zones designated on the current AICUZ map shall be built to mitigate the noise level to 45 DNL (indoors). It shall be the responsibility of the developer to provide to the Director of Development Services how this will be accomplished, to include site layout and type of material used.*

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 28th th day of July, 2014.

PASSED AND APPROVED on this the 11 th day of August, 2014.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

Effective Date: August 27, 2014