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TO: City Plan Board

Item Number: 6

FROM: Department of Doing Staff

**DATE: January 26,
2017**

SUBJECT: Petition PB-16-186 TCH. City Plan Board. Update Appendix F – Airport Hazard Zoning regulations and related definitions in Section 30-23 of the Land Development Code.

Recommendation

Staff recommends approval of Petition PB-16-186 TCH.

Discussion

The Florida legislature in July of 2016 amended Chapter 333 (Aviation Zoning) of the Florida Statutes. The statutory amendments require changes to Section 30-23(c). Definitions, and, Appendix F. Airport Hazard Zoning Regulations of the City's Land Development Code. The staff-recommended revisions to Sec. 30-23 and to Appendix F are consistent with applicable statutory (and federal requirements reflected in Chapter 333, F.S.) pertaining to airport zoning. The recommended revisions include various revisions provided by the Chief Executive Officer of Gainesville Regional Airport, Allan Penksa, whose input has been extremely helpful and sincerely appreciated.

Finally, per Section 333.135, F.S., local government airport zoning regulations that conflict with F.S. 333 shall be amended to conform to the requirements of this chapter by July 1, 2017.

Recommended Changes to Land Development Code:

Delete the following definitions from *Sec. 30-23(c)*.

~~*Airport* means the Gainesville Regional Airport.~~

~~*Airport elevation* means the highest point of an airport's usable landing area measured in feet from mean sea level.~~

~~*Minimum obstruction clearance altitude (MOCA)* means the lowest published altitude between radio fixes on federal voice omni range (VOR) airways.~~

~~*Minimum vectoring altitude (MVA)* means the lowest above mean sea level (AMSL) altitude at which aircraft operating on instrument flight rules (IFR) will be vectored by a radar~~

~~controller, except when otherwise authorized for radar approaches, departures or missed approaches.~~

~~*Nonprecision instrument runway* means 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 nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on a Federal Aviation Administration (FAA) planning document or military service's military airport planning document.~~

~~*Precision instrument runway* means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA-approved airport layout plan, a military service's approved military airport layout plan, or any other FAA planning document or military service's military airport planning document.~~

~~*Runway* means a defined area on an airport prepared for the landing and takeoff of aircraft along its length.~~

~~*Structure, airport* means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formations and overhead transmission lines.~~

Delete and transfer these definitions from *Sec. 30-23(c). Definitions to Appendix F.*

~~*Aircraft* means any motor vehicle or contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.~~

~~*Airport authority* means the Gainesville-Alachua County Regional Airport Authority.~~

~~*Airport obstruction* means any structure or tree or use of land which would exceed the federal obstruction standards as contained in 14 CFR 77.21, 77.23, 77.25, 77.28 and 77.29 and which obstructs the airspace required for flight of aircraft in taking off, maneuvering or landing at an airport; or, regardless of height, may otherwise be hazardous to or interfere with the taking off, maneuvering or landing of aircraft.~~

~~*Approach, transitional, horizontal and conical zones* means zones that apply to the area under the approach, transitional, horizontal and conical surfaces defined in Part 77 of the Federal Aviation Regulations (FAR).~~

~~*Minimum descent altitude (MDA)* means the lowest AMSL altitude to which descent is authorized on final approach or during circling-to-land maneuvering in execution of a standard instrument approach procedure where electronic glide slope is not provided.~~

~~*Nonconforming use, airport* means any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.~~

Primary surface means a surface longitudinally centered on a runway extending 200 feet beyond each end of that runway's prepared surface. The width of the primary surface of a runway will be that width prescribed in FAR Part 77 for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Utility runway means a runway that is constructed for and intended to be used only by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on-an FAA airport layout plan, or by any planning document submitted to the FAA by competent authority.

The various amendments to Appendix F. Airport Hazard Zoning Regulations are shown in Exhibit B-1, herein.

Respectfully submitted,



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List of Appendices

Appendix A Application

Exhibit A-1 Application

Appendix B Supplemental Documents

Exhibit B-1 Revised Appendix F – Airport Hazard Zoning regulations

Exhibit B-2 Chapter 333 (Airport Zoning), F.S.

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[Exhibit A-1 Application goes here]

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Appendix B Supplemental Exhibits

Exhibit B-1 Revised Appendix F – Airport Hazard Zoning regulations

APPENDIX F. - AIRPORT HAZARD ZONING REGULATIONS^[26]

Purpose. The purpose of the Airport Hazard Zoning regulations is to provide both airspace protection and land use compatibility in relation to the normal operation of public-use airports located within the city. These regulations attempt to promote:

- A. The maximum safety of residents and property within the areas surrounding the airport;
- B. The maximum safety of aircraft arriving at and departing from the Gainesville Regional Airport and all public-use airports;
- C. The full utility of the public-use airport;
- D. Compatible development standards for land uses within the prescribed Airport Zones of Influence associated with the normal operation of the airport;
- E. Building/structure height standards for use within the Airport Zones of Influence and other zones prescribed in the Federal Aviation Regulations through the use of variance procedures in cases of justifiable hardship; and
- F. Proper enforcement of these regulations in compliance with state and federal laws in a manner which provides the greatest degree of safety, comfort, and well-being to both the users of the airport facility and the property owners within the vicinity of the airport.

Findings. The regulations set forth herein are adopted pursuant to the authority conferred by Section 333.032, Florida Statutes. It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces, has the potential for being hazardous to aircraft operations as well as to persons and property on the ground in the vicinity of the hazard. A hazard may affect land use in its vicinity and may reduce the size of areas available for the taking off, maneuvering, or landing of aircraft, thus tending to impair or destroy the utility of the airport and the public investment therein. ~~In addition,~~ It is further found that certain activities and uses of land in the immediate vicinity of airports as enumerated in s. 333.03(2) are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, adversely affect their health, or otherwise limit the accomplishment of normal activities negatively impact airport operations, as well as endanger the safety of residents and their property, adversely affect the health of residents, or otherwise limit the accomplishment of the residents normal activities. It is hereby found that ~~excessive aircraft noise may be an annoyance or may be objectionable to residents in the city.~~ Accordingly, it is declared that:

- A. The creation ~~creating~~ or establishment of an airport hazard which reduces the size of the areas available for such operations, or which inhibits the safe and efficient use of airspace or the airport, creates a public nuisance and injury to the city and no variance by the city shall be granted to authorize any such obstruction;
- B. It is therefore necessary in the interest of the public health, safety and welfare that the creation of airport hazards and incompatible use of land within the airport overlay district or the airport noise zones be prevented;

- C. The ~~creation~~ ~~creating~~ or establishment of anything affecting the safety of aircraft or pilots or passengers, or which inhibits the safe operation of aircraft operating to or from the airport shall be prevented;
- D. The prevention of these hazards and incompatible land uses is desirable and that this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation, in accordance with Chapter 333, Florida Statutes; and
- E. The prevention of the creation of airport hazards and incompatible land uses, and the elimination, removal, alteration, mitigation or marking and lighting of existing airport ~~obstructions~~ hazards, are public purposes for which the political subdivision may raise and expend public funds and acquire land or interests in land or air rights thereover.
- F. Per Section 333.04, F.S., in the event of conflict between the Airport Hazard Zoning Regulations adopted herein and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or vegetation, the use of land, or any other matter, and whether such regulations were adopted by the City or by some other political subdivision having jurisdiction, the more stringent limitation or requirement shall govern and prevail.

Footnotes:

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Editor's note— Ord. No. 090384, § 1(Exh. A), adopted Dec. 3, 2009, amended App. F in its entirety to read as herein set out. The former App. F, §§ I—X, pertained to similar subject matter and derived from Ord. No. 981149, § 2, adopted May 10, 1999.

I. - Definitions and Administration.

- A. *Definitions.* Throughout these regulations, the following words and phrases shall have the meanings indicated unless the text of the ordinance clearly indicates otherwise:

Aeronautical study means a Federal Aviation Administration study, conducted in accordance with the standards of 14 C.F.R. part 77, subpart C, and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace.

Aircraft means any motor vehicle or contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

Airport authority means the Gainesville-Alachua County Regional Airport Authority.

Airport elevation means the highest point of an airport's usable landing area measured in feet from mean sea level.

Airport means those ~~any~~ areas of land or water designed or set aside for the landing and taking-off of aircraft ~~utilized, or to be utilized,~~ and used ~~or to be used~~ in the interest of the public for such purpose, ~~and validly licensed by the State of Florida Department of Transportation~~

(FDOT) as a "Public Airport" known as the Gainesville Regional Airport.

Airport hazard means an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities. ~~means any structure, object of natural growth, or use of land that would exceed the federal obstruction standards contained in 14 Code of Federal Regulations (CFR) Part 77, ss. 77.21, 77.23, 77.25, 77.28, and 77.29 and that obstructs the airspace required for flight of aircraft in taking off, maneuvering or landing at an airport; or may otherwise be hazardous to or interfere with taking off, maneuvering or landing of aircraft and for which no person has previously obtained a permit or variance pursuant to section 333.025 or section 333.07, Florida Statutes.~~

Airport hazard area means any area of land or water upon which an airport hazard might be established.

Airport land use compatibility zoning means airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports.

Airport layout plan means a set of scaled drawings that provides a graphic representation of the existing and future development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the airport.

Airport master plan means a comprehensive plan of an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand.

Airport protection zoning regulations means airport zoning regulations governing airport hazards.

Airport reference point means the approximate geometric center of the runways of an airport, expressed by its latitude and longitude, as shown on the approved airport layout plan of the Gainesville Regional Airport, and identified as the "future airport reference point."

Avigation easement means the permanent grant of airspace rights over and above the surface of property in order to permit airport operations and operation of aircraft, despite the associated nuisance effects on the underlying surface property, such as but not limited to, noise, vibration, fumes, and fuel particles.

Day Night Average Sound Level (DNL) means the sound exposure level generated by aircraft operations, as defined in Federal Aviation Regulation Part 150 entitled "Airport Noise Compatibility Planning" (FAR Part 150) codified under 14 C.F.R. Part 150, estimated using the Federal Aviation Administration (FAA) Integrated Noise Model (INM) in a manner that complies with the requirements set forth in Part 150.

Decision Height (or Decision Altitude) means the lowest AMSL altitude to which descent is authorized on final approach in execution of a standard precision instrument approach where electronic glide slope is provided.

Department means the Department of Transportation as created under Section 20.23, Florida Statutes.

Educational facility means any structure, land, or use that includes a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or

university campus. The term does not include space used for educational purposes within a multitenant building.

Landfill has the same meaning as provided in Section 403.703, Florida Statutes.

Minimum descent altitude (MDA) means the lowest AMSL altitude to which descent is authorized on final approach or during circling-to-land maneuvering in execution of a standard instrument approach procedure where electronic glide slope is not provided.

~~Minimum obstruction clearance altitude (MOCA) means the lowest published altitude between radio fixes on federal voice omni range (VOR) airways.~~

~~Minimum vectoring altitude (MVA) means the lowest above mean sea level (AMSL) altitude at which aircraft operating on instrument flight rules (IFR) will be vectored by a radar controller, except when otherwise authorized for radar approaches, departures or missed approaches.~~

Noise Exposure Map means documentation identifying aircraft-related noise exposure around an airport that is developed in a manner that FAA finds compliant with the requirements set forth in FAR Part 150.

Noise level reduction (NLR) means a measurement standard for the reduction in sound level transmission between the exterior and interior of a structure. NLR standards are used to evaluate the effectiveness or establish requirements of techniques to limit sound transmission in order to prevent or mitigate adverse noise impacts through incorporation of noise attenuation into the design and construction of a structure.

~~Nonconforming use means any existing structure, object of natural growth, or use of land that is inconsistent with the provisions of these regulations, provided it was lawfully established in accordance with the City Code of Ordinances as existed at the time of establishment.~~

Nonconforming use, airport means any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

Nonprecision instrument runway means any 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 nonprecision instrument approach procedure has been approved or planned, or for which no precision approach facilities are planned.

Object of natural growth means any organism of the plant kingdom, including trees.

Obstruction means any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C. The term includes:

(a) Any object of natural growth or terrain;

(b) Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or

(c) Alteration of any permanent or temporary existing structure by a change in the structure's height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

Occupied rooms means rooms within enclosed structures that are, or may reasonably be expected to be, used for human activities including, but not limited to, sound communications, education or instruction, sleeping, eating, entertainment, or the use of telephones and other audio devices.

Occupied structure means a structure with at least one occupied room. See "Occupied Rooms."

Other-than-utility runway means any existing or planned runway that is constructed for, and intended to [be] used by, all types of aircraft, including those having gross weights greater than 12,500 pounds.

Person means individual, firm, partnership, corporation, company, association, joint stock association, or political body, including the trustee, receiver, assignee, administrator, executor, guardian, or other similar representative.

Political subdivision means the local government of any county, municipality, town, village, or other subdivision or agency thereof, or any district or special district, port commission, port authority, or other such agency authorized to establish or operate airports in the state.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an Instrument Landing System, Microwave Landing System, or a Precision Approach Radar or other approach procedure defined by FAA as "Precision" whereby vertical guidance information is provided, or any runway for which a precision approach system is planned.

Primary surface means a surface longitudinally centered on a runway extending 200 feet beyond each end of that runway's prepared surface. The width of the primary surface of a runway will be that width prescribed in FAR Part 77 for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Public-use airport means an airport, publicly or privately owned, licensed by the state, which is open for use by the public

Runways means those existing or planned portions of the airport prepared for the landing and take-off of aircraft, as shown on the approved airport layout plan of the Gainesville Regional Airport, or those portions of each privately-owned airport prepared for the landing and take-off of aircraft, and identified as such by the Florida Department of Transportation.

Runway end elevation means the elevation at each runway end centerline, expressed in "feet Above Mean Sea Level (AMSL)," as shown on the approved airport layout plan of the Gainesville Regional Airport. For each airport runway, the runway end elevation is that value reported by the Florida Department of Transportation for each respective runway.

Runway protection zone means an area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.

Sound level means the quantity, in decibels, measured by an instrument satisfying the requirements of the American Standard Specification for Type I sound level meters. The sound level is the frequency-weighted sound pressure level obtained with the frequency weighting "A" and the standardized dynamic characteristic "SLOW."

Statute mile means a distance of 5,280 feet.

Structure (for the purpose of airport hazard zoning regulation) means any ~~temporary or permanent~~ object constructed erected, altered, or installed by man, including but not limited to, antennae, buildings, cranes, towers, smoke stacks, power generation equipment, utility poles and overhead transmission lines.

Substantial modification means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

~~*Utility runway* means any existing or planned runway that is constructed for and intended to be used by only propeller driven aircraft having gross weights less than or equal to 12,500 pounds.~~

Utility runway means a runway that is constructed for and intended to be used only by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

~~*Visual runway* means any runway intended solely for the operation of aircraft using visual approach procedures and for which no straight-in instrument approach procedure exists, or is planned, and is so indicated on the approved airport layout plan of the Gainesville Regional Airport.~~

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA airport layout plan, or by any planning document submitted to the FAA by competent authority.

B. *Administration of the Airport Regulations.* All airport zoning regulations shall be administered and enforced by the City Manager or designee.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

II. - Permits and Airport Zones of Influence.

PERMITS – A person proposing to construct, alter or allow an airport obstruction in an airport hazard area in violation of this Airport Hazard Zoning Regulation must apply for a permit. A permit may not be issued if it would allow the establishment or creation of an airport hazard or if it would permit a nonconforming obstruction to become a greater hazard to air navigation than it was prior to May 10, 1999 or than it is when the application for a permit is made.

The City of Gainesville hereby adopts three airport zones of influence. These zones are established to regulate land development in relation to the Gainesville Regional Airport as licensed for public use. The location of these airport zones of influence, and restrictions on the use of land within said zones, are hereby established by these regulations to protect the public

safety and interest and ensure conformance with Code of Federal Regulations 14CFR Part 77 and Florida Statutes Chapter 333. The boundaries of said zones, and restrictions on the use of land within said zones, shall be changed only through the amendment of these regulations by the city commission of the City of Gainesville. Any application for land development within these airport zones of influence shall comply with these regulations, any applicable state or federal regulations, and any applicable requirements of the land development regulations of the City of Gainesville. The airport zones of influence established in these regulations include:

- the Airport Height Notification Zone;
- the Airport Runway Clear Zone; and
- the Airport Noise Zone.

A. *Airport Height Notification Zone and Regulations.*

1. *Establishment of Zone.* The Airport Height Notification Zone is hereby established as an overly zone on the adopted city zoning map atlas. The Airport Height Notification Zone is established to regulate the height of structures and objects of natural growth in areas around the Gainesville Regional Airport. The Airport Height Notification Zone consists of two subzones, defined as follows:

Airport Height Notification Subzone 1: The area surrounding the Gainesville Regional Airport extending outward 20,000 feet from the ends and each side of all active runways.

Airport Height Notification Subzone 2: The area within the city limits not within Airport Height Notification Subzone 1.

For the Gainesville Regional Airport the boundary of the Airport Height Notification Zone established in these regulations is based on the runway configuration which is planned and documented as such in its approved airport layout plan.

The Airport Height Notification Zone map is attached as Attachment 1 and is adopted and made a part of these regulations as if set forth fully herein. When future Airport Height Notification Zone maps are prepared, the City shall consider revisions to the boundary of the Airport Height Notification Zone and to these regulations. Any such revisions shall not be operative or effective for purposes of these regulations, until adopted by ordinance of the City.

In the event a discrepancy arises between an Airport Height Notification Zone boundary depicted on the maps attached at Attachment 1 and an Airport Height Notification Zone boundary located by application of the definition of said boundary as set forth in these regulations, the boundary as prescribed by the latter shall prevail.

2. *Airport Height Notification Regulations.*
 - a. All development proposals for land lying within an Airport Height Notification Zone shall be reviewed for conformance with the federal obstruction standards contained in Title 14 of the Code of Federal Regulations (CFR), Part 77, for civil airports.
 - b. A proposed development shall be considered a "potential airport obstruction," if the proposed development would result in a structure or object of natural growth having a height that would exceed:

an imaginary surface extending outward and upward from the ends and sides of a runway at a slope of one foot vertically for every 100 feet horizontally, for a distance of 20,000 feet, in Airport Height Notification Subzone 1; or

200 feet above ground level in Airport Height Notification Subzone 2.

- c. The applicant for any land development proposal determined to result in a structure or object of natural growth that constitutes a "potential airport obstruction" shall be issued a Notice of Potential Airport Obstruction during the development review process by the Planning Division. No land development proposal determined to result in a structure or object of natural growth that constitutes a potential airport obstruction shall be approved for construction unless:
- an Airport Obstruction Permit is issued by the city manager or designee; or
 - The ~~Board of Adjustment~~ Development Review Board grants an Airport Obstruction Variance, if applicable.
- d. Any land development proposal that has been determined to include no "potential airport obstruction" is exempt from any Airport Height Notification Zone permitting and variance requirements contained herein.
3. *Airport Obstruction Permit Procedures and Criteria for Approval.* Any applicant receiving a Notice of Potential Airport Obstruction may apply to the Planning Division for an Airport Obstruction Permit.
- a. *Procedures for Obtaining an Airport Obstruction Permit.*
 - i. The applicant shall submit a completed Airport Obstruction Permit application, as provided by City, and shall provide documentation that the required Notice of Proposed Construction or Alteration has been filed with the Federal Aviation Administration (FAA). The city manager or designee may consider permit requests concurrent with the development plan approval consideration.
 - ii. Prior to any such permit request being scheduled for consideration by the city manager or designee, the applicant shall submit a copy of the final written Determination, as issued by the FAA based on its review of the applicant's Notice of Proposed Construction or Alteration, in accordance with the provisions of 14 CFR Part 77.
 - b. *Criteria for Granting an Airport Obstruction Permit.*
 - i. If the FAA has reviewed a proposed land development and determined it would not exceed any federal obstruction standard contained in 14 CFR Part 77, the city manager or designee shall grant an Airport Obstruction Permit for the proposed development. The permit shall include conditions to ensure the installation, operation, and maintenance of appropriate obstruction marking, lighting, and/or flagging, at the property owners expense, if such obstruction marking, lighting, and/or flagging is required by either Chapter 333, Florida Statutes, Chapter 14-60, Florida Administrative Code, or by the FAA in its written Determination. No Airport Obstruction Permit shall be issued after the expiration date indicated on the FAA's written Determination. Each Airport Obstruction Permit issued shall specify a reasonable expiration date as a condition.

ii. The City Manager or designee shall not approve a permit solely on the determination by the Federal Aviation Administration that the proposed object is not an airport hazard. The following additional criteria required in F.S. 333.025 shall be considered when determining whether to approve or deny a permit:

(1) The safety of persons on the ground and in the air.

(2) The safe and efficient use of navigable airspace.

(3) The nature of the terrain and height of existing structures.

(4) The effect of the construction or alteration of an obstruction on the state licensing standards for a public-use airport contained in F.S. Chapter 330.

(5) The character of existing and planned flight operations and development at public use airports within the city.

(6) Federal; Airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.

(7) The effect of the construction or alteration of an obstruction on the Minimum Descent Altitude or the Decision Height at the affected airport

(8) The cumulative effects on navigable airspace of all existing obstructions and all known proposed obstructions in the area.

iii. Where the FAA has reviewed a proposed land development and determined it would exceed the federal obstruction standards contained in 14 CFR Part 77, no Airport Obstruction Permit shall be granted by the city manager or designee. In order for the proposed land development to proceed, an applicant must apply for and obtain an Airport Obstruction Variance from the Board of Adjustment of the City of Gainesville.

4. *Airport Obstruction Variance Procedures and Criteria for Approval.*

a. *Procedures for Obtaining an Airport Obstruction Variance.*

i. The applicant shall submit to the Planning Division a completed Airport Obstruction Variance application, as provided by the City. At the time of filing an Airport Obstruction Variance application, the applicant must provide proof to the city that a copy of said application has been forwarded by certified mail, return receipt requested, to the Florida Department of Transportation (FDOT) Central Aviation Office in Tallahassee, Florida. The FDOT shall have 45 days from the receipt of the application to provide comments to the Board of Adjustment, after which time its right is waived. ~~The Board of Adjustment~~ Development Review Board may approve, deny or approve the application with conditions.

ii. Prior to the variance request being scheduled for consideration by the ~~Board of Adjustment~~ Development Review Board, comments must be received from the FDOT or the applicant must submit a copy of the return receipt showing that the FDOT has waived its right to comment. In addition, the applicant shall submit to the Planning Division the following:

a copy of the notice of proposed construction form submitted to the FAA;
and

a copy of the final written Determination issued by the FAA, based on its review of the applicant's Notice of Proposed Construction or Alteration, in accordance with the provisions of 14 CFR Part 77.

b. *Criteria for Granting an Airport Obstruction Variance.*

i. The ~~Board of Adjustment~~ Development Review Board shall consider the criteria enumerated in Section 333.025(6), Florida Statutes, and Chapter 14-60, Florida Administrative Code, in its consideration of an Airport Obstruction Variance request.

ii. The ~~Board of Adjustment~~ Development Review Board may grant an Airport Obstruction Variance if it determines that:

a literal application or enforcement of these regulations would result in practical difficulty or unnecessary hardship and that the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these regulations, and Chapter 333, Florida Statutes, and Chapter 14-60, Florida Administrative Code, and

the proposed development can be accommodated in navigable airspace without adverse impact to Gainesville Regional Airport aviation operations.

iii. In granting an Airport Obstruction Variance, the ~~Board of Adjustment~~ Development Review Board may prescribe appropriate conditions, requirements and safeguards in conformity with these regulations and the intent hereof, including aviation easements if deemed necessary and shall require the owner of the structure or tree in question to install, operate, and maintain thereon, at his or her own expense, such marking and lighting as may be necessary to indicated to the aircraft pilots the presence of an obstruction. Such marking and lighting shall conform to the specific standards established by Chapter 333, Florida Statutes, and Chapter 14-60, Florida Administrative Code.

B. *Airport Runway Clear Zone and Regulations.*

1. *Establishment of Zone.* There is hereby established the Airport Runway Clear Zone as an airport zone of influence. The Airport Runway Clear Zone is established to regulate the uses of land lying in specified areas above which aircraft must routinely operate at low altitudes and climb from or descend to the runways of the Gainesville Regional Airport. Within the Airport Runway Clear Zone, certain land uses are restricted or prohibited due to land use characteristics which could result in further death, injury, and property damage in the event of an aircraft accident, as such areas are more likely, statistically, to be exposed to accidents involving aircraft climbing from, or descending to, the runway at low altitudes.

The Airport Runway Clear Zone includes the area over which aircraft routinely operate at altitudes of 50 feet or less above the runway end elevation, and is defined as follows:

That portion of the Approach Surface, as defined by 14 CFR Part 77.25, that extends outward from, and perpendicular to, its common boundary with the Primary Surface, as defined in 14 CFR Part 77.25, for a horizontal distance of:

- 1,000 feet for utility/visual runways,
- 1,700 feet for nonprecision instrument/other-than-utility runways, and
- 2,500 feet for precision instrument runways.

The Airport Runway Clear Zone map is attached as Attachment 2 and is adopted and made a part of these regulations as if set forth fully herein. When future Airport Runway Clear Zone maps are prepared, the City shall consider revisions to the boundary of the Airport Runway Clear Zone and to these regulations. Any such revisions shall not be operative or effective for purposes of these regulations, until adopted by ordinance of the City.

In the event a discrepancy arises between an Airport Runway Clear Zone boundary depicted on the maps attached as Attachment 2 and an Airport Runway Clear Zone boundary located by application of the definition of said boundary as set forth in these regulations, the boundary as prescribed by the latter shall prevail.

2. *Airport Runway Clear Zone (aka Runway Protection Zone) Regulations.*

- a. *Prohibited uses.* The following types of land uses shall be prohibited within the established Airport Runway Clear Zone:
 - educational facilities (including all types of schools, pre-schools, and child-care facilities);
 - hospitals, medical and health-related facilities;
 - places of religious assembly;
 - hotels and motels (including transient lodging, recreational vehicle and mobile home parks); and
 - other similar land uses wherein or whereabouts persons are ~~concentrated or~~ assembled;
- b. *Allowable uses.* Any use that is not prohibited in an Airport Runway Clear Zone as determined above, is allowable within such zone, subject to compliance with applicable Airport Noise and Height Notification Zone and zoning district regulations.

C. *Airport Noise Zone and Regulations.*

1. *Establishment of Zone.* There is hereby established the Airport Noise Zone as an airport zone of influence. The Airport Noise Zone is established around the Gainesville Regional Airport to regulate land uses sensitive to sound levels generated by the routine operation of the Airport. Within the Airport Noise Zone, land use restrictions and special construction standards are established to minimize impacts of airport-generated noise. The Airport Noise Zone consists of three subzones, defined as follows:

Airport Noise Subzone A: The area commencing at the airport reference point and extending outward therefrom to that boundary which approximates a Day Night Average Sound Level of 65 dB DNL.

Airport Noise Subzone B: The area commencing at the airport reference point and extending outward therefrom to that boundary which approximates a Day Night Average Sound Level of 60 dB DNL, excluding Subzone A.

Airport Noise Subzone C: The area commencing at the airport reference point and extending outward therefrom to that boundary which approximates a Day Night Average Sound Level of 55 dB DNL, excluding Subzones A and B.

For the Gainesville Regional Airport, the boundary of the Airport Noise Zone established in these regulations is based on the forecast of Day Night Average Sound Level noise contours documented in the 2012 Noise Exposure Map prepared for the Gainesville Regional Airport by RS&H and determined compliant by the FAA on April 20, 2009.

The Airport Noise Zone Map based on the 2012 Noise Exposure Map is attached as Attachment 3 and is adopted and made a part of these regulations as if set forth fully herein. When future Noise Exposure Maps are prepared and determined compliant by the FAA, the City shall consider revisions to the boundary of the Airport Noise Zones and to these regulations. Any such revisions shall not be operative or effective for purposes of these regulations, until adopted by ordinance of the City.

2. *Airport Noise Zone Land Use Regulations.* The provisions of this section shall apply to the construction, expansion, alteration, moving, repair, replacement, use, and changes of use or occupancy of any occupied structure located within any Airport Noise Zone defined by these regulations and to any structure that is moved into or within any Airport Noise Zone, and those proposed to be constructed within any Airport Noise Zone.
 - a. *Existing Structures.* Structures located within any Airport Noise Zone at the time of the adoption of these regulations to which additions, expansions, alterations, repairs, replacement, and changes of use or occupancy are made shall comply with the requirements of these regulations, with the following exceptions:

Structures for which the cost of such additions, expansions, alterations, or repairs made within any five-year period does not exceed 50 percent of the value of such structures.
 - b. *Moved Structures.* Structures moved into or within any Airport Noise Zone defined by these regulations shall comply with requirements of these regulations before permanent occupancy is permitted.

- c. *New Structures.* New structures proposed within any Airport Noise Zone defined by these regulations shall comply with the requirements of these regulations before permanent occupancy is permitted.
- d. *Regulated Uses within the Airport Noise Zone.*

Table 1. Land Use Regulation Chart

Subzones	A 65 dB DNL	B 65—60 dB DNL	C 60—55 dB DNL
Dwelling, intended for residential occupancy (excluding hotels, motels, and similar short-term transient occupancies)	Prohibited	Restricted (1)	Permitted (2)
Places of religious assembly, auditoriums, concert halls, libraries and similar assembly uses (primarily indoor uses)	Prohibited	Restricted (1)	Permitted (2)
Hospital	Prohibited	Prohibited	Permitted (2)
Correctional institution	Prohibited	Restricted (1)	Permitted (2)
Nursing homes, assisted living facilities, social service homes and halfway houses	Prohibited	Restricted (1)	Permitted (2)
Public and private school, daycare centers, and other educational facilities (excluding aviation-related schools)	Prohibited	Restricted (1)	Permitted (2)
Outdoor Sports Arenas, amphitheaters and similar uses (primarily outdoor uses)	Prohibited	Permitted (2)	Permitted (2)
(1) Development shall be allowed only on isolated lots within neighborhoods or developments that were constructed prior to December 3, 2009 (i.e., "infill development lots.") Any such development that is allowed shall provide a minimum of 25 dB of exterior-to-interior noise level reduction and the property owner shall provide the City and the Gainesville Regional Airport with a permanent avigation easement in accordance with (g) below.			
(2) All development shall provide a minimum of 25 dB of exterior-to-interior noise level reduction and the property owner shall provide the City and the Gainesville Regional Airport with a permanent avigation easement in accordance with (g) below.			

- e. *Other uses not specified.* Uses that are not specified in Table 1 may be allowed in the Airport Noise Zone if permitted by the underlying zoning and other applicable Land Development regulations, provided all development shall provide a minimum of 25 dB of exterior-to-interior noise level reduction and the property owner shall provide the City and the Gainesville Regional Airport with a permanent avigation easement in accordance with (g) below.

- f. *Variances* Any property owner desiring to erect a structure or otherwise use his/her/its property in violation of these regulations may apply to the board of adjustment for a variance from the airport noise zone regulation in question. All such appeals to the Board of Adjustment shall be filed, reviewed, and heard in a manner consistent with section 333.07, Florida Statutes.
- g. *Avigation Easements.* Property owners required or choosing to provide an avigation easement shall grant said easement to the City of Gainesville and to the Gainesville-Alachua County Regional Airport Authority, and to their respective successors and/or assigns. The easement shall be in the form provided by the city attorney and airport authority and shall be executed by the property owner and recorded by the property owner in the Public Records of Alachua County, upon the first to occur of the following:
- prior to release of a development site plan,
 - prior to recording of a lot split, minor subdivision or final plat, or
 - prior to issuance of a building permit, as applicable.

The property owner shall provide a copy of the recorded easement to the city and to the airport authority.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

III. - Special Requirements.

Notwithstanding any of the provisions of this section, no use of land, air or water shall be made in such a manner to interfere with the operation of any airborne aircraft or aircraft operation at the Gainesville Regional Airport. The following special requirements shall apply to proposed developments.

- A. *Aircraft Bird Strike Hazard.* No land use shall be permitted to store, handle, or process organic or any other materials that foster or harbor the growth of insects, rodents, amphibians, or other similar organisms, in such a way as to significantly increase the potential for aircraft bird strike hazard to aircraft operations at the Gainesville Regional Airport:
- within 10,000 feet of the nearest point of any runway used or planned to be used by turbine powered aircraft;
 - within 5,000 feet of the nearest point of any runway used or planned to be used only by non-turbine ~~conventional piston engine powered~~ aircraft;
 - within the lateral limits of the airport imaginary surfaces defined in 14 CFR Part 77.2519; or
 - in locations where the passage of a significant volume of bird traffic originating from or destined to bird feeding, watering, or roosting areas is induced across any Primary Surface or Approach Surface, as defined in 14 CFR Part 77.2519, of the airport.

- B. *In-Flight Visual or Electronic Interference.* No land use shall produce smoke, steam, glare, or other visual impairment within three statute miles of any runway of the Gainesville Regional Airport. Furthermore, no land use shall:

produce electronic interference with navigation signals or radio communications of any airborne aircraft or aircraft operations at the airport;

utilize high energy beam devices that interfere with aircraft operations at the airport, and for which such energy transmission is not fully contained within a structure, or absorbing or masking vessel; or

utilize lights or illumination arranged or operated in such manner that either misleads or obscures the vision of pilots during take-off and landing stages of aircraft operations at the airport.

~~Proposed developments which produce light or illumination, smoke, glare or other visual hazards, or produce electronic interference with airport/airplane navigation signals are subject to the standards specified in the FAA Procedures Manual 7400-2G, consistent with Chapter 333.03(3), Fla. Stat., as may be applied and enforced by the state and/or federal governments.~~

- C. *Restrictions on the Educational Facilities of Public and Private Schools.*

1. *Educational Facilities Restricted.* The construction of any educational facility of a public or private school, with the exception of aviation school facilities, is prohibited within an area that extends five miles out from either end of any runway, along the extended runway centerline, and which has a width measuring one-half the length of the longest runway of the Gainesville Regional Airport. The Restrictions on the Educational Facilities of Public and Private Schools map is attached as Attachment 4 and is adopted and made a part of these regulations as if set forth fully herein. When future Restrictions on the Educational Facilities of Public and Private Schools maps are prepared, the City shall consider revisions to the boundary of the Restrictions on the Educational Facilities of Public and Private Schools and to these regulations. Any such revisions shall not be operative or effective for purposes of these regulations, until adopted by ordinance of the City.
2. *Existing Educational Facilities.* These restrictions shall not be construed to require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of any non-conforming educational structure or site, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in Section 1013.36, Florida Statutes.
3. *Exceptions.* Exceptions approving construction of an educational facility within the delineated area(s) shall only be granted when the ~~Board of Adjustment~~ Development Review Board makes specific findings detailing how public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.
4. *Criteria for Granting Exceptions.* The ~~Board of Adjustment~~ Development Review Board shall consider, at a minimum, the following criteria in determining whether or not to grant exceptions approving construction of educational facilities within the delineated area(s):

Physical attributes of the proposed site, including the nature of the terrain and topography, and the density of planned/existing land uses;

Situation of the proposed site relative to other geographic features, either natural or man-made, and other planned/existing land uses and activities;

Public and private interests and investments;

Safety of persons on the ground and in the air;

Any other applicable airport zoning restrictions;

Availability of alternate sites;

Any unique attributes of the proposed site;

Planned approach type of the runway: either precision instrument, nonprecision instrument, or visual;

Type(s) of aircraft using the runway, including the number and type of engine(s) used by, and gross weight of, aircraft; and

Inbound approach or outbound departure bearing relative to the extended runway centerline.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

IV. - Determination of Boundaries.

In determining the location of airport zone of influence boundaries, the following rules shall apply:

Where boundaries are shown to follow streets or alleys, the centerline of such streets or alleys shall be the airport zone boundary;

Where boundaries are shown to enter or cross platted lots, property lines of the lots shall be the airport zone boundary;

Notwithstanding the above, where boundaries are shown on any platted lot, provisions of the more restrictive airport zone that crosses the platted lot shall apply to the entire platted lot;

Where boundaries are shown to enter or cross unsubdivided property of less than five acres in area, property lines of the unsubdivided parcel shall be the airport zone boundary;

Notwithstanding the above, where boundaries are shown on unsubdivided property of less than five acres in area, provisions of the more restrictive airport zone that crosses the unsubdivided parcel shall apply to the entire unsubdivided parcel; and

Where boundaries are shown on unsubdivided property of five or more acres in area, the location shall be determined by the Airport Noise Zone boundary shown in Attachment 3, or the Airport Height Notification Zone or Airport Runway Clear Zone boundary located by application of the definition of said zone boundaries set forth in these regulations.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

V. - Nonconforming Uses.

No use of land, structure or development may be permitted in any airport zone of influence unless it conforms to the specific limitations set forth in these regulations. The requirements of these regulations shall not be construed to necessitate the removal, lowering, alteration, or other change of any nonconforming use. Any nonconforming use that is an object of natural growth shall not be allowed to exceed the height of said object as it was on May 10, 1999, unless permitted by the city manager or designee. Nothing in these regulations should be construed to require sound conditioning or other alteration of any nonconforming use.

The provisions of Section 333.0706(3), Florida Statutes, and Section 30-346 of the land development regulations (to the extent not in conflict or inconsistent with section 333.0706(3), Florida Statutes) also apply to non-conformities.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

VI. - Future Uses.

No change shall be made in the use of land, and no structure shall be altered or otherwise established in any airport zone of influence created by these regulations except in conformance with the requirements of this section. Land use and zoning changes that would allow a prohibited use within an airport zone of influence shall be prohibited.

Properties with an incompatible land use and zoning map designation may be changed to a compatible land use and zoning by ordinance, Planned Use District (PUD) land use and Planned Development (PD) zoning may be used to designate new uses of properties within airport noise zones.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

VII. - Appeals.

Any person aggrieved, or taxpayer affected, by any decision of the City Manager, or designee, made in the administration of these airport hazard zoning regulations; or any governing body of a political subdivision, or the Department of Transportation, or any joint airport zoning board, which is of the opinion that a decision of the City Manager, or designee, is an improper application of airport hazard zoning regulations of concern to such governing body or board, may appeal to the ~~board of adjustment~~ Development Review Board, which is hereby authorized to hear and decide appeals from the decisions of the City Manager, or designee. All such appeals to the ~~board of adjustment~~ Development Review Board shall be filed, reviewed and heard in a manner consistent with ~~sections 333.08 and 333.10~~ 333.09, Florida Statutes.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

VIII. - Judicial Review.

Any person aggrieved by any decision of the Board of Adjustment regarding these regulations may appeal to the Circuit Court as provided by Section 333.11, Florida Statutes.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

IX. - Conflicting Regulations.

Where there exists a conflict between any of the requirements or limitations prescribed in these regulations and any other requirements, regulations or zoning applicable to the same area, whether the conflict be with respect to the height of structures or objects of natural growth, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. The variance to or waive of any such more stringent limitation or requirement shall not constitute automatic variance or waiver of the less stringent limitations or requirements of these regulations.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

X. - Severability.

If any of the provisions of these regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these regulations that can be given effect without the invalid provisions or applications, and to this end the provisions of these regulations are declared to be severable.

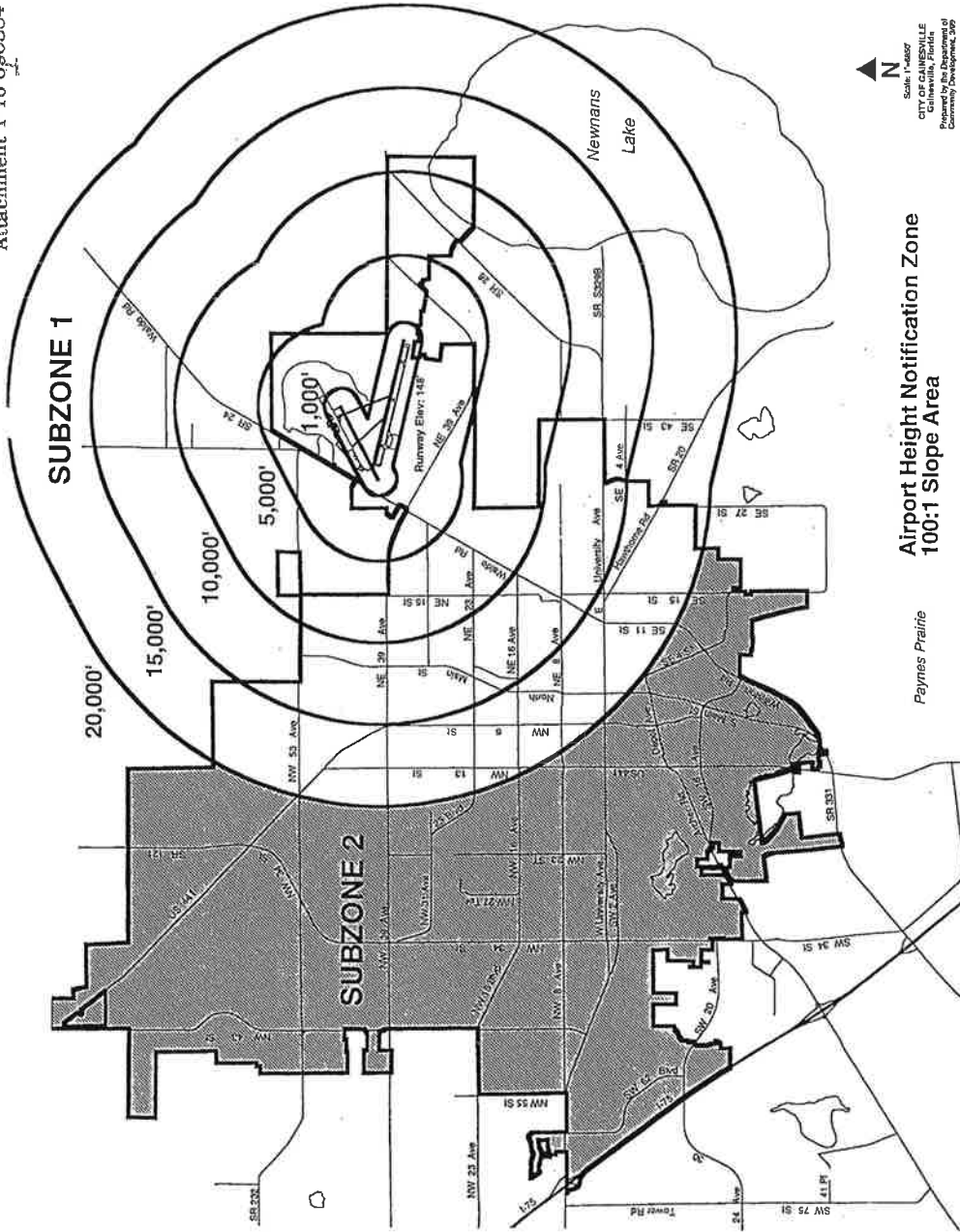
(Ord. No. 090384, § 1(Exh. A), 12-3-09)

XI. - Penalties.

In addition to other remedies for violation of these regulations provided in the Land Development Code, the City may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of chapter 333, Fla. Stat., these regulations, or any order or ruling made in connection with their administration or enforcement. The court shall adjudge to the City such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of ch. 333, Fla. Stat. and of these regulations, and the orders and rulings made pursuant thereto.

(Ord. No. 090384, § 1(Exh. A), 12-3-09)

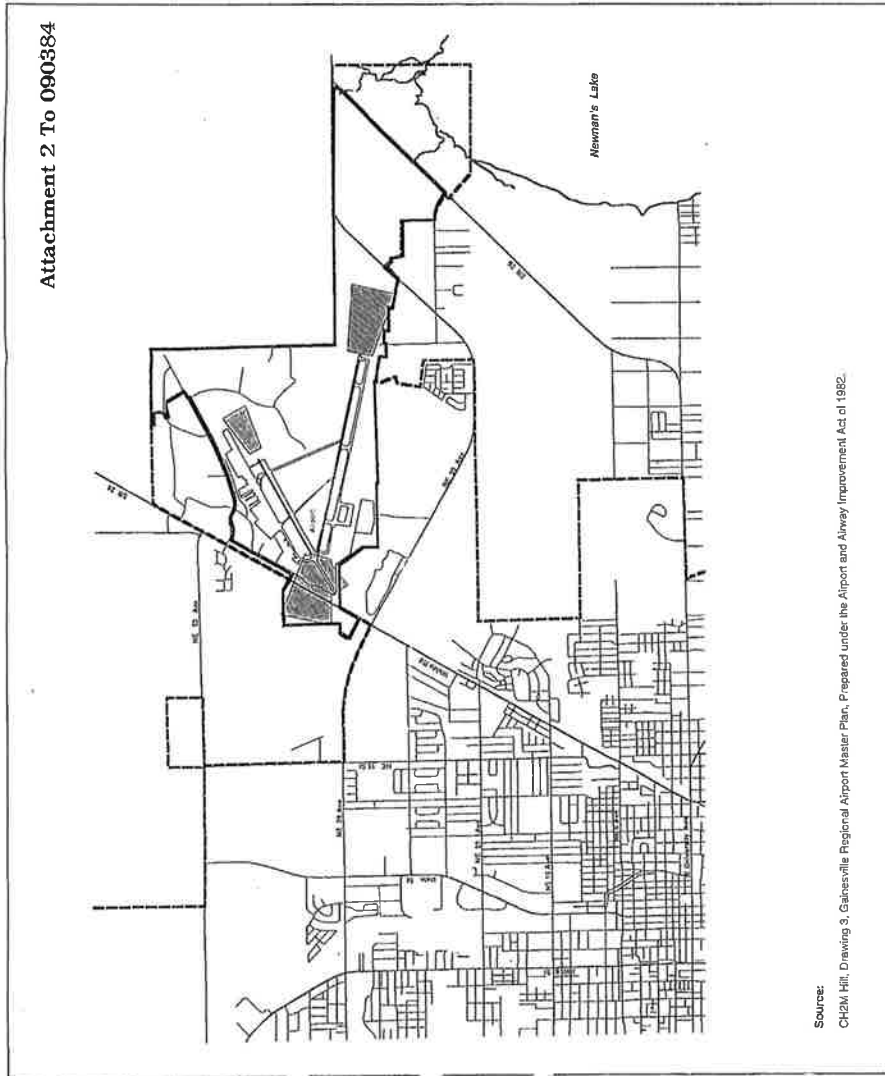
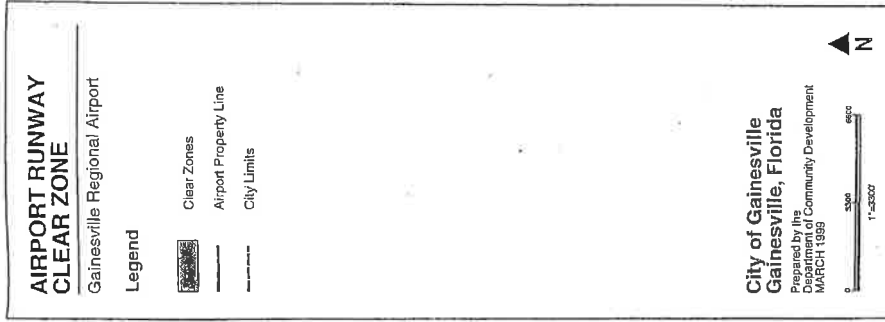
Attachment 1 To 090384

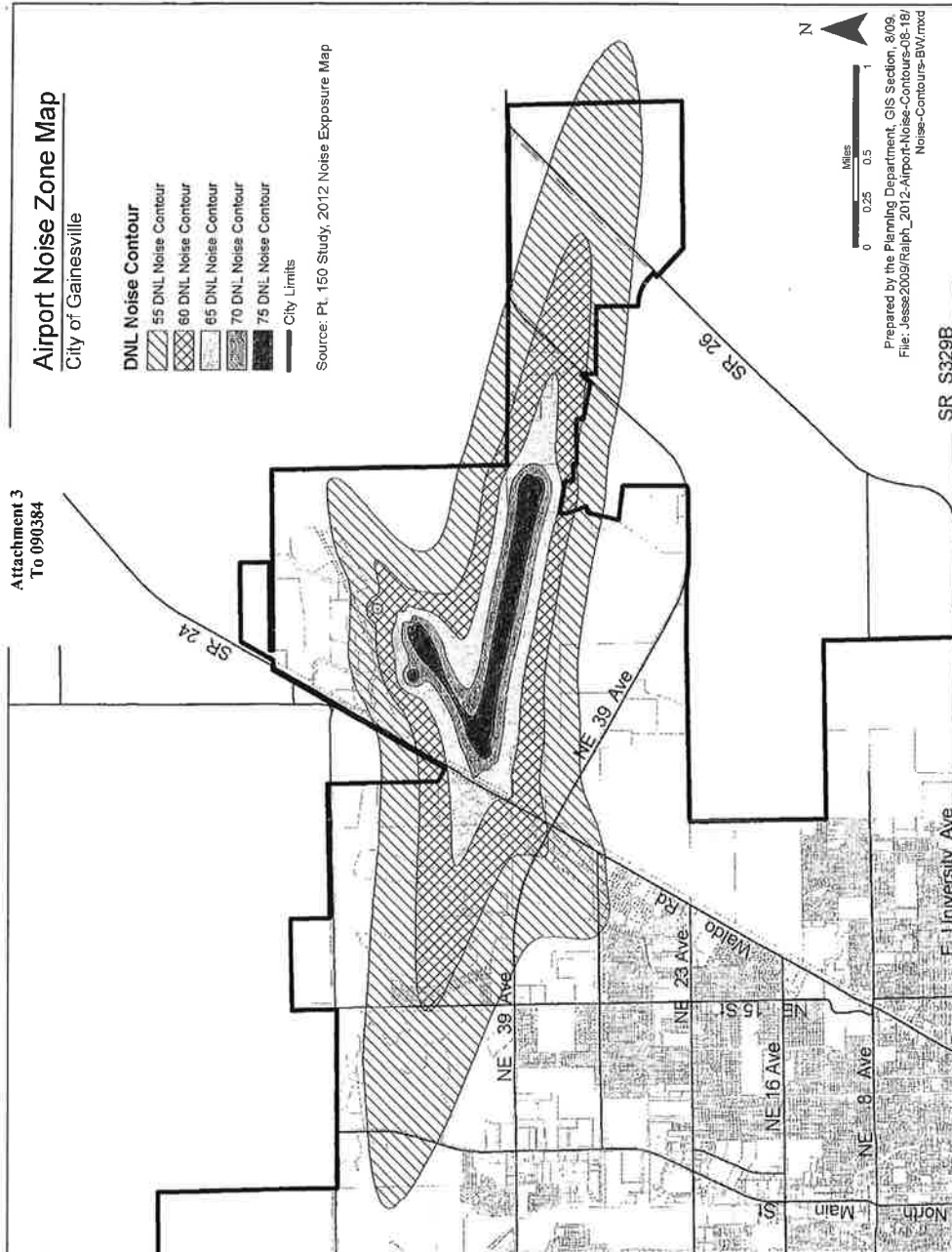


Scale: 1"=500'
 City of Paymes Prairie, LE
 City of University, Florida
 Prepared by the Department of
 Community Development, 309

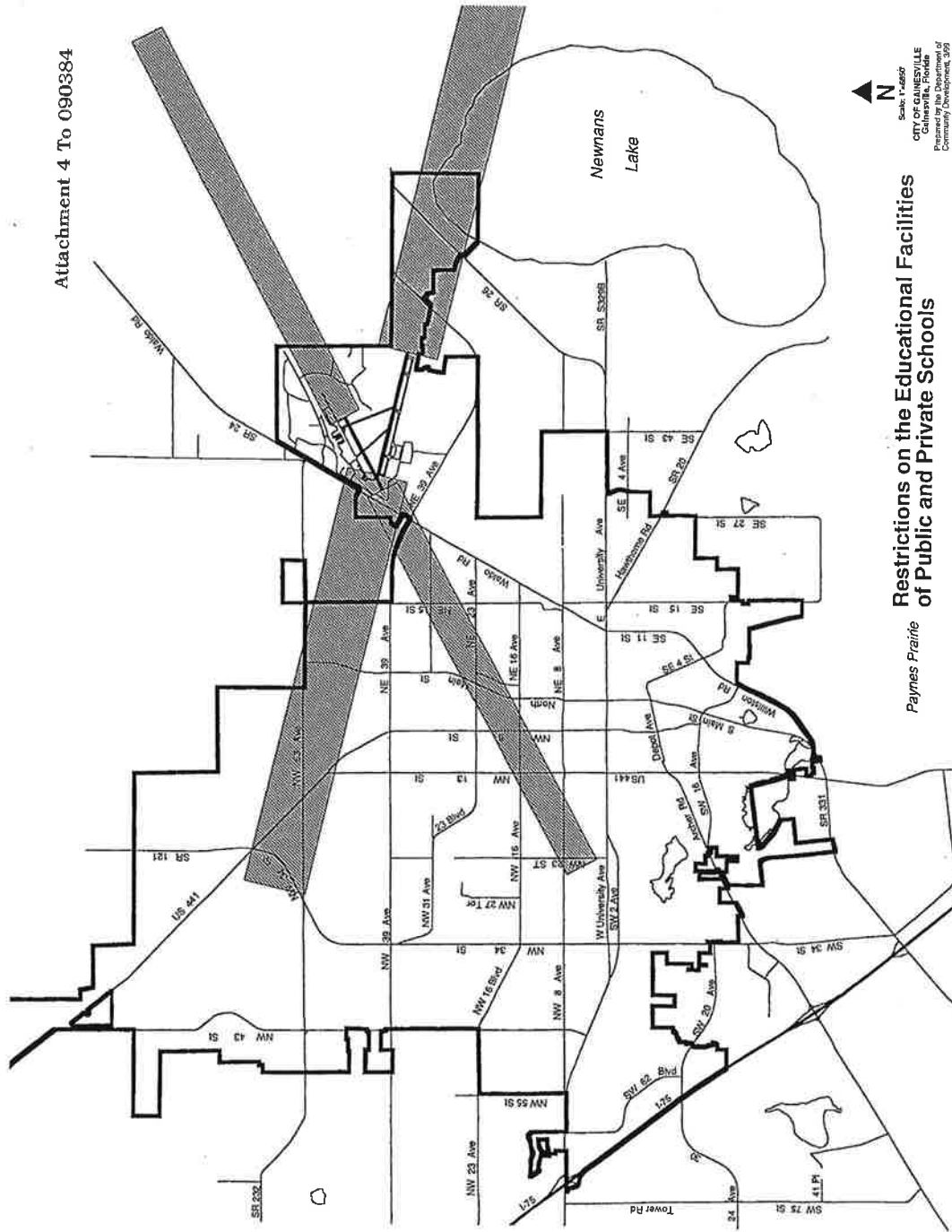
Airport Height Notification Zone
 100:1 Slope Area

Paymes Prairie





Attachment 4 To 090384



Payne's Prairie
Restrictions on the Educational Facilities
of Public and Private Schools

Petition PB-16-186 TCH
January 26, 2017

[Exhibit B-2: Chapter 333 (Airport Zoning), F.S., goes here (insert hard copy)]



APPLICATION—CITY PLAN BOARD—TEXT AMENDMENT
Planning & Development Services

OFFICE USE ONLY

Petition No. PB-16-186 TCH Fee: \$ N/A/Govt
 1st Step Mtg Date: _____ EZ Fee: \$ _____
 Tax Map No. _____ Receipt No. _____
 Account No. 001-660-6680-3401 []
 Account No. 001-660-6680-1124 (Enterprise Zone) []
 Account No. 001-660-6680-1125 (Enterprise Zone Credit) []

Name of Applicant/Agent (Please print or type)

Applicant/Agent Name: City Plan Board
 Applicant/Agent Address: _____
 City: _____
 State: _____ Zip: _____
 Applicant/Agent Phone: (352) 334-5022 Applicant/Agent Fax: _____

Note: It is recommended that anyone intending to file a petition for a text amendment to Chapter 30 of the City of Gainesville Code of Ordinances (Land Development Code) or to the Comprehensive Plan, meet with the Department of Community Development prior to filing the petition, in order to discuss the proposed amendment and petition process. The request will be evaluated as applicable to the particular zoning district or land use category on a citywide basis.

TEXT AMENDMENT

Check applicable request below:

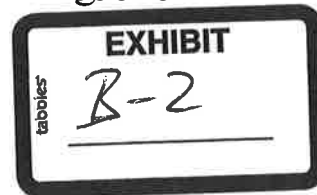
Land Development Code <input checked="" type="checkbox"/>	Comprehensive Plan Text <input type="checkbox"/>	Other <input type="checkbox"/>
Section/Appendix No.: <u>Appendix F - Airport Hazard Zoning Regulations</u>	Element & Goal, Objective or Policy No.:	Specify:
<u>Sec. 30-23 - Definitions</u>		

Proposed text language and/or explanation of reason for request (use additional sheets, if necessary):

Amend Appendix F - Airport Hazard Zoning Regulations for consistency with Chapter 33, Florida Statute, and related definitions in Sec. 30-23

Certified Cashiers Receipt: N/A

Explanation - Various amendments to airport zoning requirements (F.S. 333) were made by the Florida legislature in 2016. Various minor changes are needed to the city's airport hazard zoning regulations, ^{and related definitions} for consistency with the amended statute, and they are to be adopted by July 1, 2017.



Select Year: 2016 Go

The 2016 Florida Statutes

[Title XXV](#)
AVIATION

[Chapter 333](#)
AIRPORT ZONING

[View Entire Chapter](#)

CHAPTER 333 AIRPORT ZONING

- 333.01 Definitions.
- 333.02 Airport hazards and uses of land in airport vicinities contrary to public interest.
- 333.025 Permit required for obstructions.
- 333.03 Requirement to adopt airport zoning regulations.
- 333.04 Comprehensive zoning regulations; most stringent to prevail where conflicts occur.
- 333.05 Procedure for adoption of airport zoning regulations.
- 333.06 Airport zoning regulation requirements.
- 333.07 Local government permitting of airspace obstructions.
- 333.09 Administration of airport protection zoning regulations.
- 333.11 Judicial review.
- 333.12 Acquisition of air rights.
- 333.13 Enforcement and remedies.
- 333.135 Transition provisions.

333.01 Definitions.—As used in this chapter, the term:

- (1) “Aeronautical study” means a Federal Aviation Administration study, conducted in accordance with the standards of 14 C.F.R. part 77, subpart C, and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace.
- (2) “Airport” means any area of land or water designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose.
- (3) “Airport hazard” means an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.
- (4) “Airport hazard area” means any area of land or water upon which an airport hazard might be established.
- (5) “Airport land use compatibility zoning” means airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports.
- (6) “Airport layout plan” means a set of scaled drawings that provides a graphic representation of the existing and future development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the airport.

(7) “Airport master plan” means a comprehensive plan of an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand.

(8) “Airport protection zoning regulations” means airport zoning regulations governing airport hazards.

(9) “Department” means the Department of Transportation as created under s. 20.23.

(10) “Educational facility” means any structure, land, or use that includes a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multitenant building.

(11) “Landfill” has the same meaning as provided in s. 403.703.

(12) “Obstruction” means any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C. The term includes:

(a) Any object of natural growth or terrain;

(b) Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or

(c) Alteration of any permanent or temporary existing structure by a change in the structure’s height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

(13) “Person” means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(14) “Political subdivision” means the local government of any county, municipality, town, village, or other subdivision or agency thereof, or any district or special district, port commission, port authority, or other such agency authorized to establish or operate airports in the state.

(15) “Public-use airport” means an airport, publicly or privately owned, licensed by the state, which is open for use by the public.

(16) “Runway protection zone” means an area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.

(17) “Structure” means any object constructed, erected, altered, or installed, including, but not limited to, buildings, towers, smokestacks, utility poles, power generation equipment, and overhead transmission lines.

(18) “Substantial modification” means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

History.—s. 1, ch. 23079, 1945; s. 2, ch. 75-16; s. 1, ch. 88-356; s. 70, ch. 90-136; s. 84, ch. 91-221; s. 482, ch. 95-148; s. 1, ch. 2016-209; s. 21, ch. 2016-239.

333.02 Airport hazards and uses of land in airport vicinities contrary to public interest.—

(1) It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the taking off, maneuvering, or landing of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. It is further found that certain activities and uses of land in the immediate vicinity of airports as enumerated in s. 333.03(2) are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, adversely affect their health, or otherwise limit the accomplishment of normal activities. Accordingly, it is hereby declared:

- (a) That the creation or establishment of an airport hazard and the incompatible use of land in airport vicinities are public nuisances and injure the community served by the airport in question;
 - (b) That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards and incompatible land uses be prevented; and
 - (c) That this should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.
- (2) It is further declared that the limitation of land uses incompatible with normal airport operations, the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein, or air rights thereover.

History.—s. 2, ch. 23079, 1945; s. 2, ch. 88-356; s. 71, ch. 90-136.

333.025 Permit required for obstructions.—

- (1) A person proposing the construction or alteration of an obstruction must obtain a permit from the department, subject to subsections (2), (3), and (4). However, permits from the department will be required only within an airport hazard area where federal obstruction standards are exceeded and if the proposed construction or alteration is within a 10-nautical-mile radius of the airport reference point, located at the approximate geometric center of all usable runways of a public-use airport or military airport.
- (2) Existing, planned, and proposed facilities on public-use airports contained in an airport master plan, in an airport layout plan submitted to the Federal Aviation Administration, or in comparable military documents shall be protected from airport hazards.
- (3) A permit is not required for existing structures that received construction permits from the Federal Communications Commission for structures exceeding federal obstruction standards before May 20, 1975; a permit is not required for any necessary replacement or repairs to such existing structures if the height and location are unchanged.
- (4) If political subdivisions have, in compliance with this chapter, adopted adequate airport protection zoning regulations, placed such regulations on file with the department's aviation office, and established a permitting process, a permit for the construction or alteration of an obstruction is not required from the department. Upon receipt of a complete permit application, the local government shall provide a copy of the application to the department's aviation office by certified mail, return receipt requested, or by a delivery service that provides a receipt evidencing delivery. To evaluate technical consistency with this subsection, the department shall have a 15-day review period following receipt of the application, which must run concurrently with the local government permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not to exceed 18 consecutive months are exempt from the department's review, unless such review is requested by the department.
- (5) The department shall, within 30 days after receipt of an application for a permit, issue or deny a permit for the construction or alteration of an obstruction. The department shall review permit applications in conformity with s. 120.60.
- (6) In determining whether to issue or deny a permit, the department shall consider:
 - (a) The safety of persons on the ground and in the air.
 - (b) The safe and efficient use of navigable airspace.
 - (c) The nature of the terrain and height of existing structures.

(d) The effect of the construction or alteration of an obstruction on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.

(e) The character of existing and planned flight operations and developments at public-use airports.

(f) Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.

(g) The effect of the construction or alteration of an obstruction on the minimum descent altitude or the decision height at the affected airport.

(h) The cumulative effects on navigable airspace of all existing obstructions and all known proposed obstructions in the area.

(7) When issuing a permit under this section, the department shall require the owner of the obstruction to install, operate, and maintain, at the owner's expense, marking and lighting in conformance with the specific standards established by the Federal Aviation Administration.

(8) The department may not approve a permit for the construction or alteration of an obstruction unless the applicant submits documentation showing both compliance with the federal requirement for notification of proposed construction or alteration and a valid aeronautical study. A permit may not be approved solely on the basis that the Federal Aviation Administration determined that the proposed construction or alteration of an obstruction was not an airport hazard.

(9) The denial of a permit under this section is subject to administrative review pursuant to chapter 120.

History.—s. 3, ch. 75-16; s. 3, ch. 88-356; s. 7, ch. 92-152; s. 2, ch. 2016-209; s. 22, ch. 2016-239.

333.03 Requirement to adopt airport zoning regulations.—

(1)(a) Every political subdivision having an airport hazard area within its territorial limits shall adopt, administer, and enforce, under the police power and in the manner and upon the conditions prescribed in this section, airport protection zoning regulations for such airport hazard area.

(b) If an airport is owned or controlled by a political subdivision and if any other political subdivision has land upon which an obstruction may be constructed or altered which underlies any surface of the airport as provided in 14 C.F.R. part 77, subpart C, the political subdivisions shall either:

1. By interlocal agreement, adopt, administer, and enforce a set of airport protection zoning regulations; or

2. By ordinance, regulation, or resolution duly adopted, create a joint airport protection zoning board that shall adopt, administer, and enforce a set of airport protection zoning regulations. The joint airport protection zoning board shall have as voting members two representatives appointed by each participating political subdivision and a chair elected by a majority of the members so appointed. The airport manager or a representative of each airport in the affected participating political subdivisions shall serve on the board in a nonvoting capacity.

(c) Airport protection zoning regulations adopted under paragraph (a) must, at a minimum, require:

1. A permit for the construction or alteration of any obstruction;

2. Obstruction marking and lighting for obstructions;

3. Documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and a valid aeronautical study submitted by each person applying for a permit;

4. Consideration of the criteria in s. 333.025(6), when determining whether to issue or deny a permit; and

5. That approval of a permit not be based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.

(d) The department shall be available to provide assistance to political subdivisions regarding federal obstruction standards.

(2) In the manner provided in subsection (1), political subdivisions shall adopt, administer, and enforce airport land use compatibility zoning regulations. Airport land use compatibility zoning regulations shall, at a minimum, address the following:

(a) The prohibition of new landfills and the restriction of existing landfills within the following areas:

1. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.

2. Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.

3. Outside the perimeters defined in subparagraphs 1. and 2., but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. s. 77.19. Case-by-case review of such landfills is advised.

(b) Where any landfill is located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.

(c) Where an airport authority or other governing body operating a public-use airport has conducted a noise study in accordance with 14 C.F.R. part 150, or where a public-use airport owner has established noise contours pursuant to another public study approved by the Federal Aviation Administration, the prohibition of incompatible uses, as established in the noise study in 14 C.F.R. part 150, Appendix A or as a part of an alternative Federal Aviation Administration-approved public study, within the noise contours established by any of these studies, except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques described in the study.

(d) Where an airport authority or other governing body operating a public-use airport has not conducted a noise study, the prohibition of residential construction and any educational facility, with the exception of aviation school facilities, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

(e) The restriction of new incompatible uses, activities, or substantial modifications to existing incompatible uses within runway protection zones.

(3) Political subdivisions shall provide a copy of all airport protection zoning regulations and airport land use compatibility zoning regulations, and any related amendments, to the department's aviation office within 30 days after adoption.

(4) Subsection (2) may not be construed to require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of any educational facility or site in existence on July 1, 1993.

(5) This section does not prohibit an airport authority, a political subdivision or its administrative agency, or any other governing body operating a public-use airport from establishing airport zoning regulations more restrictive than prescribed in this section in order to protect the health, safety, and welfare of the public in the air and on the ground.

History.—s. 3, ch. 23079, 1945; s. 4, ch. 75-16; s. 4, ch. 88-356; s. 72, ch. 90-136; s. 8, ch. 92-152; s. 10, ch. 93-164; s. 1, ch. 94-201; s. 958, ch. 95-148; s. 971, ch. 2002-387; s. 3, ch. 2016-209; s. 23, ch. 2016-239.

333.04 Comprehensive zoning regulations; most stringent to prevail where conflicts occur.—

(1) **INCORPORATION.**—In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive plan or policy regulating, among other things, the height of buildings, structures, and

natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive plan or policy, and be administered and enforced in connection therewith.

(2) CONFLICT.—In the event of conflict between any airport zoning regulations adopted under this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or vegetation, the use of land, or any other matter, and whether such regulations were adopted by the political subdivision that adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

History.—s. 4, ch. 23079, 1945; s. 4, ch. 2016-209; s. 24, ch. 2016-239.

333.05 Procedure for adoption of airport zoning regulations.—

(1) NOTICE AND HEARING.—Airport zoning regulations may not be adopted, amended, or repealed under this chapter except by action of the legislative body of the political subdivision or affected subdivisions, or the joint board provided in s. 333.03(1)(b)2. by the political subdivisions therein provided and set forth, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the hearing shall be published at least once a week for 2 consecutive weeks in a newspaper of general circulation in the political subdivision or subdivisions where the airport zoning regulations are to be adopted, amended, or repealed.

(2) AIRPORT ZONING COMMISSION.—Before the initial zoning of any airport area under this chapter, the political subdivision or joint airport zoning board that is to adopt, administer, and enforce the regulations must appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board may not hold its public hearings or take any action until it has received the final report of such commission, and at least 15 days shall elapse between the receipt of the final report of the commission and the hearing to be held by the latter board. If a planning commission, an airport commission, or a comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

History.—s. 5, ch. 23079, 1945; s. 74, ch. 90-136; s. 23, ch. 90-279; s. 39, ch. 95-143; s. 5, ch. 2016-209; s. 25, ch. 2016-239.

333.06 Airport zoning regulation requirements.—

(1) REASONABLENESS.—All airport zoning regulations adopted under this chapter shall be reasonable and may not impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area and runway protection zones, the character of the neighborhood, the uses to which the property to be zoned is put and adaptable, and the impact of any new use, activity, or construction on the airport's operating capability and capacity.

(2) INDEPENDENT JUSTIFICATION.—The purpose of all airport zoning regulations adopted under this chapter is to provide both airspace protection and land uses compatible with airport operations. Each aspect of this purpose requires independent justification in order to promote the public interest in safety, health, and general welfare. Specifically, construction in a runway protection zone which does not exceed airspace height restrictions is not conclusive that such use, activity, or construction is compatible with airport operations.

(3) **NONCONFORMING USES.**—An airport protection zoning regulation adopted under this chapter may not require the removal, lowering, or other change or alteration of any obstruction not conforming to the regulation when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in s. 333.07(1) and (3).

(4) **ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED LOCAL GOVERNMENTS.**—An airport master plan shall be prepared by each public-use airport licensed by the department under chapter 330. The authorized entity having responsibility for governing the operation of the airport, when either requesting from or submitting to a state or federal governmental agency with funding or approval jurisdiction a “finding of no significant impact,” an environmental assessment, a site-selection study, an airport master plan, or any amendment to an airport master plan, shall submit simultaneously a copy of said request, submittal, assessment, study, plan, or amendments by certified mail to all affected local governments. As used in this subsection, the term “affected local government” is defined as any municipality or county having jurisdiction over the airport and any municipality or county located within 2 miles of the boundaries of the land subject to the airport master plan.

History.—s. 6, ch. 23079, 1945; s. 75, ch. 90-136; s. 76, ch. 2002-20; s. 6, ch. 2016-209; s. 26, ch. 2016-239.

333.07 Local government permitting of airspace obstructions.—

(1) PERMITS.—

(a) A person proposing to construct, alter, or allow an airport obstruction in an airport hazard area in violation of the airport protection zoning regulations adopted under this chapter must apply for a permit. A permit may not be issued if it would allow the establishment or creation of an airport hazard or if it would permit a nonconforming obstruction to become a greater hazard to air navigation than it was when the applicable airport protection zoning regulation was adopted which allowed the establishment or creation of the obstruction, or than it is when the application for a permit is made.

(b) If the political subdivision or its administrative agency determines that a nonconforming obstruction has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, a permit may not be granted if it would allow the obstruction to exceed the applicable height limit or otherwise deviate from the airport protection zoning regulations. Whether or not an application is made for a permit under this subsection, the owner of the nonconforming obstruction may be required, at his or her own expense, to lower, remove, reconstruct, alter, or equip such obstruction as may be necessary to conform to the current airport protection zoning regulations. If the owner of the nonconforming obstruction neglects or refuses to comply with such requirement for 10 days after notice, the administrative agency may report the violation to the political subdivision involved, which subdivision, through its appropriate agency, may proceed to have the obstruction so lowered, removed, reconstructed, altered, or equipped and assess the cost and expense thereof upon the owner of the obstruction or the land whereon it is or was located.

(2) **CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.**—In determining whether to issue or deny a permit, the political subdivision or its administrative agency must consider the following, as applicable:

- (a) The safety of persons on the ground and in the air.
- (b) The safe and efficient use of navigable airspace.
- (c) The nature of the terrain and height of existing structures.
- (d) The effect of the construction or alteration on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.
- (e) The character of existing and planned flight operations and developments at public-use airports.

- (f) Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.
 - (g) The effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport.
 - (h) The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area.
 - (i) Additional requirements adopted by the political subdivision or administrative agency pertinent to evaluation and protection of airspace and airport operations.
- (3) **OBSTRUCTION MARKING AND LIGHTING.**—In issuing a permit under this section, the political subdivision or its administrative agency shall require the owner of the obstruction to install, operate, and maintain thereon, at his or her own expense, marking and lighting in conformance with the specific standards established by the Federal Aviation Administration.

History.—s. 7, ch. 23079, 1945; s. 5, ch. 88-356; s. 76, ch. 90-136; s. 483, ch. 95-148; s. 33, ch. 2016-10; s. 7, ch. 2016-209; s. 28, ch. 2016-239.

333.09 Administration of airport protection zoning regulations.—

(1) **ADMINISTRATION.**—All airport protection zoning regulations adopted under this chapter shall provide for the administration and enforcement of such regulations by the political subdivision or its administrative agency. The duties of any administrative agency designated pursuant to this chapter must include that of hearing and deciding all permits under s. 333.07, as they pertain to such agency, and all other matters under this chapter applying to said agency.

(2) **LOCAL GOVERNMENT PROCESS.—**

(a) A political subdivision required to adopt airport zoning regulations under this chapter shall provide a process to:

1. Issue or deny permits consistent with s. 333.07.
2. Provide the department with a copy of a complete application consistent with s. 333.025(4).
3. Enforce the issuance or denial of a permit or other determination made by the administrative agency with respect to airport zoning regulations.

(b) If a zoning board or permitting body already exists within a political subdivision, the zoning board or permitting body may implement the airport zoning regulation permitting and appeals processes.

(3) **APPEALS.—**

(a) A person, a political subdivision or its administrative agency, or a joint airport zoning board that contends a decision made by a political subdivision or its administrative agency is an improper application of airport zoning regulations may use the process established for an appeal.

(b) All appeals taken under this section must be taken within a reasonable time, as provided by the political subdivision or its administrative agency, by filing with the entity from which the appeal is taken a notice of appeal specifying the grounds for appeal.

(c) An appeal shall stay all proceedings in the underlying action appealed from, unless the entity from which the appeal is taken certifies pursuant to the rules for appeal that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings may not be stayed except by order of the political subdivision or its administrative agency on notice to the entity from which the appeal is taken and for good cause shown.

(d) The political subdivision or its administrative agency shall set a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney.

(e) The political subdivision or its administrative agency may, in conformity with this chapter, affirm, reverse, or modify the decision on the permit or other determination from which the appeal is taken.

History.—s. 9, ch. 23079, 1945; s. 8, ch. 2016-209; s. 30, ch. 2016-239.

333.11 Judicial review.—

(1) Any person, political subdivision, or joint airport zoning board affected by a decision of a political subdivision or its administrative agency may apply for judicial relief to the circuit court in the judicial circuit where the political subdivision is located within 30 days after rendition of the decision. Review shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure.

(2) The court has exclusive jurisdiction to affirm, reverse, or modify the decision on the permit or other determination from which the appeal is taken and, if appropriate, to order further proceedings by the political subdivision or its administrative agency. The findings of fact by the political subdivision or its administrative agency, if supported by substantial evidence, shall be accepted by the court as conclusive, and an objection to a decision of the political subdivision or its administrative agency may not be considered by the court unless such objection was raised in the underlying proceeding.

(3) If airport zoning regulations adopted under this chapter are held by a court to interfere with the use and enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the State Constitution or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land, or such regulations as are not involved in the particular decision.

(4) A judicial appeal to any court may not be permitted under this section until the appellant has exhausted all of its remedies through application for local government permits, exceptions, and appeals.

History.—s. 11, ch. 23079, 1945; s. 43, ch. 63-512; s. 7, ch. 88-356; s. 485, ch. 95-148; s. 9, ch. 2016-209; s. 32, ch. 2016-239.

333.12 Acquisition of air rights.—If a nonconforming obstruction is determined to be an airport hazard and the owner will not remove, lower, or otherwise eliminate it; the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this chapter; or it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming obstruction is located, or the political subdivision owning or operating the airport or being served by it, may acquire, by purchase, grant, or condemnation in the manner provided by chapter 73, such property, air right, avigation easement, or other estate, portion, or interest in the property or nonconforming obstruction or such interest in the air above such property, in question, as may be necessary to effectuate the purposes of this chapter, and in so doing, if by condemnation, to have the right to take immediate possession of the property, interest in property, air right, or other right sought to be condemned, at the time, and in the manner and form, and as authorized by chapter 74. In the case of the purchase of any property, easement, or estate or interest therein or the acquisition of the same by the power of eminent domain, the political subdivision making such purchase or exercising such power shall, in addition to the damages for the taking, injury, or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility that is required to be moved to a new location.

History.—s. 12, ch. 23079, 1945; s. 10, ch. 2016-209; s. 33, ch. 2016-239.

333.13 Enforcement and remedies.—

(1) Each violation of this chapter or of any airport zoning regulations, orders, or rulings adopted or made pursuant to this chapter shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and each day a violation continues to exist shall constitute a separate offense.

(2) In addition, the political subdivision or agency adopting the airport zoning regulations under this chapter may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this chapter or of airport zoning regulations adopted under this chapter or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction, which may be mandatory, or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of this chapter and of the regulations adopted and orders and rulings made pursuant thereto.

(3) The department may institute a civil action for injunctive relief in the appropriate circuit court to prevent violation of any provision of this chapter.

History.—s. 13, ch. 23079, 1945; s. 232, ch. 71-136; s. 5, ch. 75-16; s. 11, ch. 2016-209; s. 34, ch. 2016-239.

333.135 Transition provisions.—

(1) Any airport zoning regulation in effect on July 1, 2016, which includes provisions in conflict with this chapter shall be amended to conform to the requirements of this chapter by July 1, 2017.

(2) Any political subdivision having an airport within its territorial limits which has not adopted airport zoning regulations shall, by July 1, 2017, adopt airport zoning regulations consistent with this chapter.

(3) For those political subdivisions that have not yet adopted airport zoning regulations pursuant to this chapter, the department shall administer the permitting process as provided in s. 333.025.

History.—s. 12, ch. 2016-209; s. 35, ch. 2016-239.