

LEGISLATIVE #

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ORDINANCE NO. 160676

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) to update Airport Hazard Zoning Regulations; by deleting definitions from Section 30-23 – *Definitions*; by amending Appendix F – *Airport Hazard Zoning Regulations*; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, notice was given as required by law that the text of the Code of Ordinances of the City of Gainesville, Florida, be amended; and

WHEREAS, the City Plan Board, which acts as the local planning agency pursuant to Section 163.3174, Florida Statutes, held a public hearing on January 26, 2017, and voted to recommend that the City Commission approve this ordinance; and

WHEREAS, in accordance with Section 333.05, Florida Statutes, notice has been given at least once a week for two consecutive weeks in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings in the City Hall Auditorium located on the first floor of City Hall in the City of Gainesville; and

WHEREAS, public hearings were held pursuant to the notice described above at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

SECTION 1. Section 30-23(c) of the Land Development Code is amended to delete the following definitions. Except as amended herein, the remainder of Section 30-23 remains in full force and effect.

Sec. 30- 23(c). Definitions.

- 1 ~~Aircraft means any motor vehicle or contrivance now known, or hereafter invented, used or~~
2 ~~designed for navigation of or flight in the air.~~
- 3 ~~Airport means the Gainesville Regional Airport.~~
- 4 ~~Airport authority means the Gainesville Alachua County Regional Airport Authority.~~
- 5 ~~Airport elevation means the highest point of an airport's usable landing area measured in feet~~
6 ~~from mean sea level.~~
- 7 ~~Airport obstruction means any structure or tree or use of land which would exceed the federal~~
8 ~~obstruction standards as contained in 14 CFR 77.21, 77.23, 77.25, 77.28 and 77.29 and which~~
9 ~~obstructs the airspace required for flight of aircraft in taking off, maneuvering or landing at an~~
10 ~~airport; or, regardless of height, may otherwise be hazardous to or interfere with the taking off,~~
11 ~~maneuvering or landing of aircraft.~~
- 12 ~~Approach, transitional, horizontal and conical zones means zones that apply to the area under~~
13 ~~the approach, transitional, horizontal and conical surfaces defined in Part 77 of the Federal~~
14 ~~Aviation Regulations (FAR).~~
- 15 ~~Minimum descent altitude (MDA) means the lowest AMSL altitude to which descent is~~
16 ~~authorized on final approach or during circling to land maneuvering in execution of a standard~~
17 ~~instrument approach procedure where electronic glide slope is not provided.~~
- 18 ~~Minimum obstruction clearance altitude (MOCA) means the lowest published altitude between~~
19 ~~radio fixes on federal voice omni range (VOR) airways.~~
- 20 ~~Minimum vectoring altitude (MVA) means the lowest above mean sea level (AMSL) altitude at~~
21 ~~which aircraft operating on instrument flight rules (IFR) will be vectored by a radar controller,~~
22 ~~except when otherwise authorized for radar approaches, departures or missed approaches.~~
- 23 ~~Nonconforming use, airport means any preexisting structure, object of natural growth, or use of~~
24 ~~land which is inconsistent with the provisions of this chapter or an amendment thereto.~~
- 25 ~~Nonprecision instrument runway means a runway having an existing instrument approach~~
26 ~~procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation~~
27 ~~equipment, for which a straight in nonprecision instrument approach procedure has been~~
28 ~~approved or planned, and for which no precision approach facilities are planned or indicated on a~~
29 ~~Federal Aviation Administration (FAA) planning document or military service's military airport~~
30 ~~planning document.~~
- 31 ~~Precision instrument runway means a runway having an existing instrument approach procedure~~
32 ~~utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a~~
33 ~~runway for which a precision approach system is planned and is so indicated on an FAA-~~
34 ~~approved airport layout plan, a military service's approved military airport layout plan, or any~~
35 ~~other FAA planning document or military service's military airport planning document.~~
- 36 ~~Primary surface means a surface longitudinally centered on a runway extending 200 feet beyond~~
37 ~~each end of that runway's prepared surface. The width of the primary surface of a runway will be~~
38 ~~that width prescribed in FAR Part 77 for the most precise approach existing or planned for either~~
39 ~~end of that runway. The elevation of any point on the primary surface is the same as the~~
40 ~~elevation of the nearest point on the runway centerline.~~

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

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

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

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

11

12 **SECTION 2.** Appendix F of the Land Development Code is amended as follows. Except as
13 amended herein, the remainder of Appendix F remains in full force and effect.

14

15 **APPENDIX F. - AIRPORT HAZARD ZONING REGULATIONS**

16 **I. – Purpose and Administration.**

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

- 20 1. The maximum safety of residents and property within the areas surrounding the airport;
- 21 2. The maximum safety of aircraft arriving at and departing from the Gainesville Regional
- 22 Airport and all public-use airports;
- 23 3. The full utility of the public-use airport;
- 24 4. Compatible development standards for land uses within the prescribed Airport Zones of
- 25 Influence associated with the normal operation of the airport;
- 26 5. Building/structure height standards for use within the Airport Zones of Influence and
- 27 other zones prescribed in the Federal Aviation Regulations ~~through the use of variance~~
- 28 ~~procedures in cases of justifiable hardship;~~ and
- 29 6. Proper enforcement of these regulations in compliance with state and federal laws in a
- 30 manner which provides the greatest degree of safety, comfort, and well-being to both the
- 31 users of the airport facility and the property owners within the vicinity of the airport.

32 B. Findings. The regulations set forth herein are adopted pursuant to the authority conferred by
33 Chapter 333~~Section 333.03~~, Florida Statutes. It is hereby found that an airport hazard
34 endangers the lives and property of users of the airport and of occupants of land in its vicinity
35 and also, if of the obstruction type, reduces~~has the potential for being hazardous to aircraft~~
36 ~~operations as well as to persons and property on the ground in the vicinity of the hazard. A~~
37 ~~hazard may affect land use in its vicinity and may reduce~~ the size of areas available for the
38 taking off, maneuvering, or landing of aircraft, thus tending to impair or destroy the utility of

1 the airport and the public investment therein. ~~In addition, it is~~ It is further found that certain
 2 activities and uses of land in the immediate vicinity of airports, as enumerated in Section
 3 333.03(2), Florida Statutes, are not compatible with normal airport operations, and may, if
 4 not regulated, endanger the lives of the participants, adversely affect their health, or
 5 otherwise limit the accomplishment of normal activities. ~~negatively impact airport~~
 6 ~~operations, as well as endanger the safety of residents and their property, adversely affect the~~
 7 ~~health of residents, or otherwise limit the accomplishment of the residents normal activities.~~
 8 ~~It is hereby found that excessive aircraft noise may be an annoyance or may be objectionable~~
 9 ~~to residents in the city.~~ Accordingly, it is declared that:

- 10 1. The creation ~~creating~~ or establishment of an airport hazard ~~that which~~ reduces the size of
 11 the areas available for such operations, or which inhibits the safe and efficient use of
 12 airspace or the airport, creates a public nuisance and injury to the city ~~and no variance by~~
 13 ~~the city shall be granted to authorize any such obstruction;~~
- 14 2. It is therefore necessary in the interest of the public health, safety and welfare that the
 15 creation of airport hazards and incompatible use of land within the airport overlay district
 16 or the airport noise zones be prevented;
- 17 3. The creation ~~creating~~ or establishment of anything affecting the safety of aircraft or pilots
 18 or passengers, or which inhibits the safe operation of aircraft operating to or from the
 19 airport shall be prevented;
- 20 4. The prevention of these hazards and incompatible land uses is desirable and that this
 21 should be accomplished, to the extent legally possible, by exercise of the police power,
 22 without compensation, in accordance with Chapter 333, Florida Statutes; and
- 23 5. The prevention of the creation of airport hazards and incompatible land uses, and the
 24 elimination, removal, alteration, mitigation or marking and lighting of existing airport
 25 ~~obstructions~~ hazards, are public purposes for which the political subdivision may raise
 26 and expend public funds and acquire land or interests in land or air rights thereover.

27 C. Administration. All airport zoning regulations shall be administered and enforced by the City
 28 Manager or designee. Per Section 333.04, Florida Statutes, in the event of conflict between
 29 the airport zoning regulations adopted herein and any other regulations applicable to the
 30 same area, whether the conflict be with respect to the height of structures or vegetation, the
 31 use of land, or any other matter, and whether such regulations were adopted by the City or by
 32 some other political subdivision having jurisdiction, the more stringent limitation or
 33 requirement shall govern and prevail.

34
 35 **I. II. - Definitions and Administration.**

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

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

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

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

5 ~~Airport means those~~ any areas of land or water designed or set aside for the landing and taking-
 6 off of aircraft ~~utilized, or to be utilized,~~ and used or to be used in the interest of the public for
 7 such purpose, ~~and validly licensed by the State of Florida Department of Transportation (FDOT)~~
 8 as a "Public Airport" known as the Gainesville Regional Airport.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 *Educational facility* means any structure, land, or use that includes a public or private
 16 kindergarten through 12th grade school, charter school, magnet school, college campus, or
 17 university campus. The term does not include space used for educational purposes within a
 18 multitenant building.

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

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

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

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

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

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

36 *Nonprecision instrument runway* means any runway having an existing instrument approach
 37 procedure utilizing air navigation facilities with only horizontal guidance, or area-type
 38 navigation equipment, for which a straight-in nonprecision instrument approach procedure has
 39 been approved or planned, or for which no precision approach facilities are planned.

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

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

4 A. Any object of natural growth or terrain;

5 B. Permanent or temporary construction or alteration, including equipment or materials used
 6 and any permanent or temporary apparatus; or

7 C. Alteration of any permanent or temporary existing structure by a change in the structure's
 8 height, including appurtenances, lateral dimensions, and equipment or materials used in the
 9 structure.

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

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

14 *Other-than-utility runway* means any existing or planned runway that is constructed for, and
 15 intended to [be] used by, all types of aircraft, including those having gross weights greater than
 16 12,500 pounds.

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

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

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

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

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

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

38 *Runway end elevation* means the elevation at each runway end centerline, expressed in "feet
 39 Above Mean Sea Level (AMSL)," as shown on the approved airport layout plan of the

1 Gainesville Regional Airport. For each airport runway, the runway end elevation is that value
2 reported by the Florida Department of Transportation for each respective runway.

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

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

9 *Statute mile* means a distance of 5,280 feet.

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

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

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

20 *Visual runway* means ~~any~~ a runway intended solely for the operation of aircraft using visual
21 approach procedures ~~and for which with~~ no straight-in instrument approach procedure ~~exists, or~~
22 ~~is planned, and is so indicated on the approved airport layout plan of the Gainesville Regional~~
23 ~~Airport and no instrument designation indicated on an FAA airport layout plan, or by any~~
24 planning document submitted to the FAA by competent authority.

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

27 **H. III. – Airport Zones of Influence.**

28 The City of Gainesville hereby adopts three airport zones of influence. ~~These zones are~~
29 ~~established to regulate land development in relation to the Gainesville Regional Airport as~~
30 ~~licensed for public use. The location of these airport zones of influence, and their associated~~
31 ~~regulations restrictions on the use of land within said zones, are hereby established by these~~
32 ~~regulations to protect the public safety and interest and ensure conformance with Code of Federal~~
33 ~~Regulations 14 CFR Part 77 and Florida Statutes Chapter 333. The boundaries of said zones, and~~
34 ~~their associated regulations restrictions on the use of land within said zones, shall be changed~~
35 ~~only through the amendment of these regulations may only be amended by the Ceity~~
36 ~~Ceommission of the City of Gainesville. Any application for land development within these~~
37 ~~airport zones of influence shall comply with these regulations, any applicable state or federal~~
38 ~~regulations, and any applicable requirements of the land development regulations of the City of~~
39 ~~Gainesville. The airport zones of influence established in these regulations include the:~~

40 ~~the~~ Airport Height Notification Zone;

1 ~~the~~ Airport Runway Clear Zone; and
2 ~~the~~ Airport Noise Zone.

3 A. *Airport Height Notification Zone ~~and~~ Regulations.*

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

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

12 b. *Airport Height Notification Subzone 2:* The area within the city limits not within
13 Airport Height Notification Subzone 1.

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

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

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

27 2. *Airport Height Notification Zone Regulations.*

28 a. Airport Obstruction Permit required. Any person proposing to construct, alter, or
29 allow an airport obstruction within an Airport Height Notification Zone or who
30 receives a Notice of Potential Airport Obstruction as described in this section shall
31 apply for an Airport Obstruction Permit.

32 i. Airport hazard. A permit may not be issued if it would allow the establishment or
33 creation of an airport hazard.

34 ii. Nonconforming obstruction. A permit may not be issued if it would permit a
35 nonconforming obstruction to become a greater hazard to air navigation than it
36 was when the applicable airport zoning regulation was adopted that allowed the
37 establishment or creation of the obstruction, or than it is when the application for
38 a permit is made. All development proposals for land lying within an Airport
39 Height Notification Zone shall be reviewed for conformance with the federal

1 ~~obstruction standards contained in Title 14 of the Code of Federal Regulations~~
 2 ~~(CFR), Part 77, for civil airports.~~

3 b. Notice of Potential Airport Obstruction. During the city's development review
 4 process, the City Manager or designee shall issue a Notice of Potential Airport
 5 Obstruction to all applicants for development that the City Manager or designee
 6 determines includes a "potential airport obstruction" and such applicants shall apply
 7 for an Airport Obstruction Permit. For purposes of this section, development
 8 proposals shall be considered a "potential airport obstruction" if it would result in the
 9 construction or alteration of a structure or object of natural growth having a height
 10 that would exceed:

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

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

15 c. Permit procedures.

16 i. An Airport Obstruction Permit applicant shall submit a completed application, as
 17 provided by the City, together with documentation showing both compliance with
 18 the federal requirement for notification of proposed construction or alteration and
 19 a valid aeronautical study.

20 ii. Prior to any such permit request being scheduled for consideration by the City
 21 Manager or designee, the applicant shall submit a copy of the final written
 22 determination, as issued by the Federal Aviation Administration (FAA) based on
 23 its review of the applicant's Notice of Proposed Construction or Alteration, in
 24 accordance with the provisions of 14 CFR Part 77.

25 iii. Upon receipt of a complete application, the City shall provide a copy of the
 26 application to the Florida Department of Transportation's aviation office by
 27 certified mail, return receipt requested.

28 d. Permit criteria.

29 i. No airport obstruction. If the FAA has reviewed a proposed development and
 30 determined it would not exceed any federal obstruction standard contained in 14
 31 CFR Part 77, the City Manager or designee shall grant an Airport Obstruction
 32 Permit for the proposed development.

33 ii. Airport obstruction is an airport hazard. If the FAA has reviewed a proposed
 34 development and determined that it includes an airport obstruction that constitutes
 35 an airport hazard, then no Airport Obstruction Permit shall be granted by the City
 36 Manager or designee.

37 iii. Airport obstruction is not an airport hazard. If the FAA has reviewed a proposed
 38 land development and determined that it includes an airport obstruction that is not
 39 an airport hazard, then the City Manager or designee shall not grant a permit
 40 based solely on such FAA determination but shall grant or deny an Airport

Obstruction Permit after considering the following criteria in accordance with Section 333.07, Florida Statutes:

- 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 Chapter 330, Florida Statutes, and rules adopted thereunder.
- 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.
- 9) Any comments received from the Florida Department of Transportation.

e. Permit conditions. Any permit granted under this section shall include conditions that require the owner of the obstruction to install, operate, and maintain, at the owner's expense, marking, lighting and/or flagging as required by 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.

~~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.~~

~~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~~

1 The Board of Adjustment grants an Airport Obstruction Variance, if applicable.

2 Any land development proposal that has been determined to include no "potential
3 airport obstruction" is exempt from any Airport Height Notification Zone
4 permitting and variance requirements contained herein.

5 ~~3. Airport Obstruction Permit Procedures and Criteria for Approval. Any applicant~~
6 ~~receiving a Notice of Potential Airport Obstruction may apply to the Planning Division~~
7 ~~for an Airport Obstruction Permit.~~

8 ~~a. Procedures for Obtaining an Airport Obstruction Permit.~~

9 ~~i. The applicant shall submit a completed Airport Obstruction Permit application, as~~
10 ~~provided by City, and shall provide documentation that the required Notice of~~
11 ~~Proposed Construction or Alteration has been filed with the Federal Aviation~~
12 ~~Administration (FAA). The city manager or designee may consider permit~~
13 ~~requests concurrent with the development plan approval consideration.~~

14 ~~ii. Prior to any such permit request being scheduled for consideration by the city~~
15 ~~manager or designee, the applicant shall submit a copy of the final written~~
16 ~~Determination, as issued by the FAA based on its review of the applicant's Notice~~
17 ~~of Proposed Construction or Alteration, in accordance with the provisions of 14~~
18 ~~CFR Part 77.~~

19 ~~b. Criteria for Granting an Airport Obstruction Permit.~~

20 ~~i. If the FAA has reviewed a proposed land development and determined it would~~
21 ~~not exceed any federal obstruction standard contained in 14 CFR Part 77, the city~~
22 ~~manager or designee shall grant an Airport Obstruction Permit for the proposed~~
23 ~~development. The permit shall include conditions to ensure the installation,~~
24 ~~operation, and maintenance of appropriate obstruction marking, lighting, and/or~~
25 ~~flagging, if such obstruction marking, lighting, and/or flagging is required by~~
26 ~~either Chapter 333, Florida Statutes, Chapter 14-60, Florida Administrative Code,~~
27 ~~or by the FAA in its written Determination. No Airport Obstruction Permit shall~~
28 ~~be issued after the expiration date indicated on the FAA's written Determination.~~
29 ~~Each Airport Obstruction Permit issued shall specify a reasonable expiration date~~
30 ~~as a condition.~~

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

37 ~~4. Airport Obstruction Variance Procedures and Criteria for Approval.~~

38 ~~a. Procedures for Obtaining an Airport Obstruction Variance.~~

39 ~~i. The applicant shall submit to the Planning Division a completed Airport~~
40 ~~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 may approve, deny or approve the application with conditions.~~

~~ii. Prior to the variance request being scheduled for consideration by the Board of Adjustment, 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 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 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 may prescribe appropriate conditions, requirements and safeguards in conformity with these regulations and the intent hereof, including avigation 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 (aka Runway Protection Zone) and Regulations.*~~

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

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

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

- 15 a. 1,000 feet for utility/visual runways,
 16 b. 1,700 feet for nonprecision instrument/other-than-utility runways, and
 17 c. 2,500 feet for precision instrument runways.

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

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

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

29 a. *Prohibited uses.* The following types of land uses shall be prohibited within the
 30 established Airport Runway Clear Zone:

- 31 i. educational facilities (including all types of schools, pre-schools, and child-care
 32 facilities);
 33 ii. hospitals, medical and health-related facilities;
 34 iii. places of religious assembly;
 35 iv. hotels and motels (including transient lodging, recreational vehicle and mobile
 36 home parks); and
 37 v. other similar land uses wherein or whereabouts persons are ~~concentrated or~~
 38 assembled;

- 1 b. *Allowable uses.* Any use that is not prohibited in an Airport Runway Clear Zone as
 2 determined above, is allowable within such zone, subject to compliance with
 3 applicable Airport Noise and Height Notification Zone and zoning district
 4 regulations.

5 C. *Airport Noise Zone ~~and Regulations.~~*

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

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

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

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

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

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

- 31 2. *Airport Noise Zone ~~Land Use~~ Regulations.* The provisions of this section shall apply to
 32 the construction, expansion, alteration, moving, repair, replacement, use, and changes of
 33 use or occupancy of any occupied structure located within any Airport Noise Zone
 34 defined by these regulations and to any structure that is moved into or within any Airport
 35 Noise Zone, and those proposed to be constructed within any Airport Noise Zone.

36 a. *Existing Structures.* Structures located within any Airport Noise Zone at the time of
 37 the adoption of these regulations to which additions, expansions, alterations, repairs,
 38 replacement, and changes of use or occupancy are made shall comply with the
 39 requirements of these regulations, with the following exceptions:

- 1 Structures for which the cost of such additions, expansions, alterations, or repairs
 2 made within any five-year period does not exceed 50 percent of the value of such
 3 structures.
- 4 b. *Moved Structures.* Structures moved into or within any Airport Noise Zone defined
 5 by these regulations shall comply with requirements of these regulations before
 6 permanent occupancy is permitted.
- 7 c. *New Structures.* New structures proposed within any Airport Noise Zone defined by
 8 these regulations shall comply with the requirements of these regulations before
 9 permanent occupancy is permitted.
- 10 d. *Regulated Uses within the Airport Noise Zone.*

11 **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.

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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 ~~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:

- i. prior to release of a development site plan,
- ii. prior to recording of a lot split, minor subdivision or final plat, or
- iii. 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.

III. IV. - 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:

- 1. within 10,000 feet of the nearest point of any runway used or planned to be used by turbine ~~powered~~ aircraft;

- 1 2. within 5,000 feet of the nearest point of any runway used or planned to be used only by
- 2 non-turbine ~~conventional piston engine powered~~ aircraft;
- 3 3. within the lateral limits of the airport imaginary surfaces defined in 14 CFR Part 77.~~25~~19;
- 4 or
- 5 4. in locations where the passage of a significant volume of bird traffic originating from or
- 6 destined to bird feeding, watering, or roosting areas is induced across any Primary
- 7 Surface or Approach Surface, as defined in 14 CFR Part 77.~~25~~19, of the airport.

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

- 11 1. produce electronic interference with navigation signals or radio communications of any
- 12 airborne aircraft or aircraft operations at the airport;
- 13 2. utilize high energy beam devices that interfere with aircraft operations at the airport, and
- 14 for which such energy transmission is not fully contained within a structure, or absorbing
- 15 or masking vessel; or
- 16 3. utilize lights or illumination arranged or operated in such manner that either misleads or
- 17 obscures the vision of pilots during take-off and landing stages of aircraft operations at
- 18 the airport.

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

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

- 25 1. *Educational Facilities Restricted.* The construction of any educational facility of a public
- 26 or private school, with the exception of aviation school facilities, is prohibited within an
- 27 area that extends five miles out from either end of any runway, along the extended
- 28 runway centerline, and which has a width measuring one-half the length of the longest
- 29 runway of the Gainesville Regional Airport. The Restrictions on the Educational
- 30 Facilities of Public and Private Schools map is attached as Attachment 4 and is adopted
- 31 and made a part of these regulations as if set forth fully herein. When future Restrictions
- 32 on the Educational Facilities of Public and Private Schools maps are prepared, the City
- 33 shall consider revisions to the boundary of the Restrictions on the Educational Facilities
- 34 of Public and Private Schools and to these regulations. Any such revisions shall not be
- 35 operative or effective for purposes of these regulations, until adopted by ordinance of the
- 36 City.
- 37 2. *Existing Educational Facilities.* These restrictions shall not be construed to require the
- 38 removal, alteration, sound conditioning, or other change, or to interfere with the
- 39 continued use or adjacent expansion of any non-conforming educational structure or site,
- 40 or be construed to prohibit the construction of any new structure for which a site has been
- 41 determined as provided in Section 1013.36, Florida Statutes.

- 1 3. *Exceptions.* Exceptions approving construction of an educational facility within the
- 2 delineated area(s) shall only be granted when the ~~Board of Adjustment~~ Development
- 3 Review Board makes specific findings detailing how public policy reasons for allowing
- 4 the construction outweigh health and safety concerns prohibiting such a location.

- 5 4. *Criteria for Granting Exceptions.* The ~~Board of Adjustment~~ Development Review Board
- 6 shall consider, at a minimum, the following criteria in determining whether or not to
- 7 grant exceptions approving construction of educational facilities within the delineated
- 8 area(s):

- 9 a. Physical attributes of the proposed site, including the nature of the terrain and
- 10 topography, and the density of planned/existing land uses;
- 11 b. Situation of the proposed site relative to other geographic features, either natural or
- 12 man-made, and other planned/existing land uses and activities;
- 13 c. Public and private interests and investments;
- 14 d. Safety of persons on the ground and in the air;
- 15 e. Any other applicable airport zoning restrictions;
- 16 f. Availability of alternate sites;
- 17 g. Any unique attributes of the proposed site;
- 18 h. Planned approach type of the runway: either precision instrument, nonprecision
- 19 instrument, or visual;
- 20 i. Type(s) of aircraft using the runway, including the number and type of engine(s) used
- 21 by, and gross weight of, aircraft; and
- 22 j. Inbound approach or outbound departure bearing relative to the extended runway
- 23 centerline.

24 **IV. V. - Determination of Boundaries.**

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

26 apply:

- 27 A. Where boundaries are shown to follow streets or alleys, the centerline of such streets or
- 28 alleys shall be the airport zone boundary;
- 29 B. Where boundaries are shown to enter or cross platted lots, property lines of the lots shall be
- 30 the airport zone boundary;
- 31 C. Notwithstanding the above, where boundaries are shown on any platted lot, provisions of the
- 32 more restrictive airport zone that crosses the platted lot shall apply to the entire platted lot;
- 33 D. Where boundaries are shown to enter or cross unsubdivided property of less than five acres
- 34 in area, property lines of the unsubdivided parcel shall be the airport zone boundary;
- 35 E. Notwithstanding the above, where boundaries are shown on unsubdivided property of less
- 36 than five acres in area, provisions of the more restrictive airport zone that crosses the
- 37 unsubdivided parcel shall apply to the entire unsubdivided parcel; and

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

5 ~~V.~~ VI. – Nonconformities Nonconforming Uses.

6 No use of land, structure, development or object of natural growth is allowable in any airport
 7 zone of influence unless it conforms to the specific limitations set forth in these regulations. The
 8 general nonconformity provisions in the Land Development Code shall apply to nonconformities
 9 with the airport zoning regulations to the extent they are not in conflict with this section. If there
 10 is a conflict between the nonconformity provisions of this section and the general provisions of
 11 the Land Development Code, the provisions of this section shall govern.

12 Except as otherwise stated in this section, any legal nonconformity that was allowable or
 13 permitted by the airport zoning regulations in existence at the time of its establishment shall be
 14 allowed to continue, and nothing herein shall be construed to require the removal, lowering,
 15 change or alteration, or otherwise interfere with the continuance of any legal nonconformity.
 16 However, legal nonconformities shall not be allowed to exceed the height of said object at the
 17 time it was established as a legal nonconformity or to otherwise become a greater hazard to air
 18 navigation than it was at the time it was established as a legal nonconformity, unless an Airport
 19 Obstruction Permit is issued by the City Manager or designee in accordance with these airport
 20 zoning regulations.

21 A. If the City Manager or designee determines that a nonconforming obstruction has been
 22 abandoned or is more than 80% torn down, destroyed, deteriorated, or decayed, then the
 23 following shall apply:

24 1. An Airport Obstruction Permit may not be granted if it would allow the obstruction to
 25 exceed the applicable height limit or otherwise deviate from the airport zoning
 26 regulations in place at the time of permit application; and

27 2. The City Manager or designee may require the owner of the nonconforming obstruction,
 28 at his or her own expense, to lower, remove, reconstruct, alter, or equip such obstruction
 29 as may be necessary to conform to the current airport zoning regulations. If the owner of
 30 the nonconforming obstruction neglects or refuses to comply with such requirement for
 31 10 calendar days after notice, the City may proceed to have the obstruction so lowered,
 32 removed, reconstructed, altered, or equipped and assess the cost and expense thereof
 33 upon the owner of the obstruction or the land whereon it is or was located.

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

1 ~~The provisions of Section 333.07, Florida Statutes, and Section 30-346 of the land development~~
2 ~~regulations (to the extent not in conflict or inconsistent with section 333. 07, Florida Statutes)~~
3 ~~also apply to non-conformities.~~

4 **VI. VII. - Future Uses.**

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

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

13 **VII. - Appeals.**

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

23 **VIII. - Judicial Review.**

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

26 **IX. VIII. - Conflicting Regulations.**

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

34 **X. - Severability.**

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

39 **XI. IX. - Penalties.**

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

9
 10 **SECTION 3.** It is the intent of the City Commission that the provisions of Section 1 and
 11 Section 2 of this ordinance shall become and be made a part of the Code of Ordinances of the
 12 City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be
 13 renumbered or relettered in order to accomplish such intent.

14 **SECTION 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance or
 15 the application hereof to any person or circumstance is held invalid or unconstitutional, such
 16 finding shall not affect the other provisions or applications of this ordinance that can be given
 17 effect without the invalid or unconstitutional provision or application, and to this end the
 18 provisions of this ordinance are declared severable.

19 **SECTION 5.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
 20 conflict hereby repealed.

21 **SECTION 6.** This ordinance shall become effective immediately upon adoption.

22
 23 **PASSED AND ADOPTED** this _____ day of _____, 2017.

24
 25
 26
 27 _____
 28 LAUREN POE
 29 MAYOR
 30

1 Attest:

Approved as to form and legality:

2

3

4

5 _____
KURT M. LANNON
6 CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

7

8 This ordinance passed on first reading this ____ day of _____, 2017.

9

10 This ordinance passed on second reading this ____ day of _____, 2017.