

PROPOSED

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO AIRPORT ZONING REGULATIONS; REPEALING SECTIONS 2-144 THROUGH 2-144.8 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); REPEALING SECTIONS 39-359 THROUGH 39-359.10 OF THE CODE; AMENDING SECTION 5-181 OF THE CODE, PROVIDING FOR DEVELOPMENT REVIEW REQUIREMENTS; AMENDING SECTION 5-182.10 OF THE CODE, REQUIRING REVIEW OF PLAT-RELATED APPLICATIONS FOR HAZARDS TO AIR NAVIGATION AND ADOPTING AIRPORT IMAGINARY SURFACES; AMENDING SECTION 5-201 OF THE CODE, ADDING DEFINITIONS; AMENDING SECTION 27-66 OF THE CODE, PROVIDING FOR COMPLIANCE WITH AIRPORT ZONING REGULATIONS PRIOR TO ENVIRONMENTAL REVIEW APPROVAL; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, Chapter 333 of the Florida Statutes requires every political subdivision having an airport hazard area within its territorial limits to adopt, administer, and enforce, under the police power, airport protection zoning regulations for such airport hazard area;

WHEREAS, the Board of County Commissioners of Broward County, Florida ("Board"), desires to amend the Broward County Code of Ordinances to comply with certain statutory amendments;

WHEREAS, the Board finds that the airport zoning regulations adopted hereunder are reasonable, do not impose any requirement or restriction that is not reasonably necessary to effectuate the purposes of Chapter 333, Florida Statutes, and are independently justified in order to promote the public interest in public health, public safety, and general welfare; and

1 WHEREAS, the Board finds that the implementation of this Ordinance, as set forth
2 herein, promotes, protects, and improves the public health, public safety, and general
3 welfare of the residents of Broward County, Florida,
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5 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
6 BROWARD COUNTY, FLORIDA:
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8 Section 1. Sections 2-144 through 2-144.8 of the Broward County Code of
9 Ordinances are hereby repealed in their entirety.
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11 Section 2. Sections 39-359 through 39-359.10 of the Broward County Code of
12 Ordinances are hereby repealed in their entirety.
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14 Section 3. Section 5-181 of the Broward County Code of Ordinances is hereby
15 amended to read as follows:

16 **Sec. 5-181. Development review procedures.**

17 . . .

18 (f) *Required response to Development Review Report.*

19 (1) No later than sixty (60) days after issuance of the Development Review
20 Report, the applicant shall respond, in writing, to the Planning and
21 Development Management Division Director specifying any objections to
22 the Development Review Report, including, but not limited to, BCAD's
23 determination on whether to grant an Obstruction Approval. Any objection
24 to BCAD's determination on whether to grant an Obstruction Approval shall

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1 be treated as a notice to appeal and be heard by the County Commission
2 pursuant to this Section 5-181. If no response is received from the applicant
3 during the sixty (60) day time period, ~~no later than five (5) days after~~
4 ~~expiration of the sixty (60) day time period,~~ the Planning and Development
5 Management Division Director shall, no later than five (5) days after
6 expiration of the sixty (60) day time period, provide notification to the
7 applicant that the application will be presented to the County Commission
8 or the County Administrator, as applicable, pursuant to ~~Sub~~section (2)
9 below.

10 ...

11
12 Section 4. Section 5-182.10 of the Broward County Code of Ordinances is
13 hereby amended to read as follows:

14 **Sec. 5-182.10. Airports.**

- 15 (a) ~~Protection of air navigation~~ Runway Protection Zones.
16 (1) Runway Protection Zone Establishment for Airports. There is hereby
17 created and established a Runway Protection Zone at each end of every
18 active Runway at the Airports. The Runway Protection Zones of the Airports
19 are illustrated in the County's Airport Layout Plan ("ALP"), as amended,
20 which is hereby adopted by reference. Ongoing updates to the ALP are
21 anticipated as conditions change at the Airports. A copy of the ALP is on file
22 and available for inspection at BCAD.

- 23 (2) Acquisition of Runway Protection Zone Property by Governmental Entity.

24 It is recognized that development within ~~airport~~ Runway ~~Protection~~

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1 zZones creates a safety risk to air navigation, to the development within
2 the rRunway pProtection zZones, and to persons using the facilities
3 constructed within the rRunway pProtection zZones. Therefore, if the
4 application includes any property that has been designated within a
5 rRunway pProtection zZone of a governmentally operated airport,
6 including the Runway Protection Zones established for the Airports, the
7 County Commission may defer the application for no more than sixty (60)
8 days (“Deferral Period”) to allow the governmental ~~agency~~ entity operating
9 the airport to decide whether to purchase the property within the rRunway
10 pProtection zZone. If the governmental ~~with jurisdiction over~~ entity
11 operating the airport fails to provide the County Commission with a
12 resolution during the Deferral Period indicating its intent to acquire the
13 rRunway pProtection zZone property ~~within sixty (60) days~~, or where the
14 County Commission is the governmental entity operating the airport, if the
15 County Commission fails to make a decision during the Deferral Period to
16 purchase the rRunway pProtection zZone ~~parcel within sixty (60) days~~
17 property, then the County Commission shall take action on the plat on the
18 next available plat agenda following the expiration of ~~sixty (60) days~~ the
19 Deferral Period. If the governmental ~~with jurisdiction over~~ entity operating
20 the airport decides by resolution to purchase the property, then the County
21 Commission may seek the applicant’s agreement to defer the plat for up
22 to an additional nine (9) months to allow for acquisition (“Additional
23 Deferral Period”);¹ provided that the County Commission may require the
24 governmental entity operating the airport to provide indemnification in the

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1 event that the governmental entity does not acquire the property within
2 ~~nine (9) months~~ the Additional Deferral Period. At any time during this
3 process, the applicant may modify the application to exclude the
4 designated ~~Runway Protection Zone~~ or, upon acquisition, the
5 governmental entity ~~with jurisdiction over~~ operating the airport may remove
6 the ~~Runway Protection Zone~~ property from the plat application. Such a
7 revised application shall be processed as determined necessary
8 consistent with this article by the Planning and Development Management
9 Division Director, and in no event shall such a revision result in the need
10 for the application to requalify for roadway capacity previously allocated at
11 the time the plat was submitted. Any plat that includes a ~~Runway~~
12 ~~Protection Zone~~ shall be required to delineate the ~~Runway Protection~~
13 ~~Zone~~ on the plat, and the plat may include language stating that a
14 delineation of the ~~Runway Protection Zone~~ is provided for informational
15 purposes only.

16 (3) Land Use Compatibility Regulations for Runway Protection Zones of the
17 Airports. The intent of the Runway Protection Zone is to protect people and
18 property on the ground by eliminating incompatible land uses and providing
19 an area that is cleared, graded, and free of surface variations. The following
20 land use compatibility regulations are intended to meet this intent:

21 a. Allowable uses. The following land uses are permissible within the
22 Runway Protection Zones of the Airports, following review and
23 approval by BCAD to assure compatibility with airport operations,
24 and receipt of a favorable determination from the FAA:

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1. Agricultural uses that meet airport design standards;
 2. Irrigation channels that meet the requirements of FAA Advisory Circular 150/5200-33B, "Hazardous Wildlife Attractants on or Near Airports," as amended, and the FAA/USDA manual, "Wildlife Hazard Management at Airports," as amended;
 3. Airport service roads, as long as they are secured to prevent access by the general public and are directly controlled by the County;
 4. Underground facilities, as long as they meet other applicable design criteria, such as the runway safety area (RSA) requirements described in FAA Advisory Circular 150/5300-13A, "Airport Design," as amended;
 5. Unstaffed electronic and visual air navigation aids and facilities, such as equipment for airport facilities, that are considered fixed-by-function in regard to the Runway Protection Zone; and
 6. All County uses on County-owned property.
- b. Prohibited uses. The following land uses are identified as incompatible land uses in the FAA Memorandum, "Interim Guidance on Land Uses Within a Runway Protection Zone" (dated September 2, 2012), as amended, and are therefore prohibited within the Runway Protection Zones of the Airports. The prohibited uses may be permitted, however, provided the FAA issues a

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1 Determination Letter stating that the proposed use has minimized all
2 potential risks and liabilities and, upon review and approval by
3 BCAD, assures compatibility with airport operations:

- 4 1. Buildings and Structures, unless otherwise expressly allowed
5 by Section 5-182.10(a)(3)a, above;
- 6 2. Recreational land uses (examples include, but are not limited
7 to: golf courses, sports fields, amusement parks, other places
8 of public assembly, etc.);
- 9 3. Transportation facilities (examples include, but are not limited
10 to: rail facilities—light or heavy, passenger or freight; public
11 roads/highways; vehicular parking facilities; etc.);
- 12 4. Fuel storage facilities (above and below ground);
- 13 5. Hazardous material storage (above and below ground);
- 14 6. Wastewater treatment facilities; and
- 15 7. Above-ground utility infrastructure (i.e., electrical substations),
16 including any type of solar panel installations.

17 (b) *Notice of potential airport noise impacts.*

18 (1) ~~If the development includes property subject to the notice requirements of~~
19 ~~Federal Aviation Regulations (FAR) Part 77, Subpart B, the development~~
20 ~~must receive a Federal Aviation Administration (FAA) determination that it~~
21 ~~does not constitute a hazard to air navigation or require operational~~
22 ~~modifications to the airport to avoid such a hazard. If the application is for~~
23 ~~plat approval and the Broward County Aviation Department indicates that~~
24 ~~the development is subject to or may be subject to FAR Part 77, Subpart B,~~

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1 a note shall be placed on the plat, prior to recordation, stating that the
2 development shall comply with Section IV D.1.f. of the Broward County
3 Land Use Plan, Chapter 333, Florida Statutes, and, if the plat is in the
4 unincorporated area, with the Broward County Airport Zoning Ordinance
5 relating to hazards to air navigation.

6 (2) If an application for a residential development permit includes land lying within an
7 area that extends five (5) miles in a direct line along the centerline of an existing or
8 proposed runway of any County-owned aAirports and that has a width measuring
9 ~~one-half (1/2) the length of such runway~~, then approval of the application shall be
10 conditioned upon the applicant recording a separate document against all the property
11 within the development, as follows:

12 This serves as notice of potential aircraft overflight and noise impacts on this
13 property, due to its close proximity to a County-owned aAirports, which is being disclosed
14 to all prospective purchasers considering the use of this property for residential purposes.
15 Further information regarding the current and potential impacts of airport operations on
16 the subject property may be obtained from the Broward County Aviation Department,
17 Planning & Environment Division. In addition to the foregoing, consistent with the FAA's
18 "Change in FAA's Noise Mitigation Policy," effective October 1, 1998, the County will only
19 provide noise mitigation for existing "incompatible development" and not for new
20 incompatible development. The determination of "compatible" and "incompatible
21 development" will be based on the County's most current noise compatibility program that
22 has been reviewed and approved by the FAA for the Fort Lauderdale-Hollywood
23 International Airport (Airport). The determination of compatible and incompatible uses is
24 based on the most current FAA-approved Noise Exposure Map and the land use

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1 compatibility information contained in the “Land Use Compatibility With Yearly Day-Night
2 Average Sound Levels” Table found in 14 C.F.R. Appendix A to Part 150.

3 (c) Hazards to air navigation.

4 (1) Purpose and Declaration of Legislative Intent.

5 a. It is hereby found that certain land uses and Obstructions into
6 airspace near the Airports have the potential to be Airport Hazards,
7 endangering the lives and property of users of the Airports and of the
8 occupants of land in the vicinity of the Airports. Airport Hazards can
9 also reduce the size of the area available for the taking off,
10 maneuvering, or landing of aircraft, thus tending to destroy or impair
11 the utility of the Airports and the public investment therein. It is further
12 found that certain activities and uses of land in the immediate vicinity
13 of the Airports, as enumerated in this Section 5-182.10(c) and in
14 Section 333.03(2), Florida Statutes, are not compatible with normal
15 airport operations and may, if not regulated, endanger the lives of the
16 residents of Broward County, adversely affect their health, or
17 otherwise limit the accomplishment of normal activities. Accordingly,
18 it is hereby declared:

19 1. That the creation or establishment of an Airport Hazard and
20 the incompatible use of land in the vicinity of the Airports are
21 public nuisances and injure the community served by the
22 airport in question;

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2. That it is 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;

3. That the prevention of Airport Hazards and incompatible land uses should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation; and

4. 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 the County may raise and expend public funds and acquire land or property interests therein, or air rights thereover.

b. It is the intention of the Board of County Commissioners of Broward County, Florida, as the owner and operator of the Airports, that each local government that has land underlying the Airspace Imaginary Surfaces, by interlocal agreement in accordance with Chapter 333, Florida Statutes, adopt, administer, and enforce the regulations in this Section 5-182.10(c).

c. The regulations contained in this Section 5-182.10(c) shall be interpreted to be consistent with the standards of 14 C.F.R. Part 77, Subpart C, Federal Aviation Administration policies and guidance, and Chapter 333, Florida Statutes.

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1 (2) Obstruction Approvals.

2 a. Applicability.

3 1. No development permit shall be issued for the development,
4 construction, establishment, enlargement, substantial
5 alteration, or repair of a Structure that would exceed the
6 maximum height for the Airspace Imaginary Surface in which
7 it is located, or is proposed to be located, unless Obstruction
8 Approval has been issued by BCAD. The height limitations
9 are established in Section 5-182.10(d), as may be amended.

10 2. No Object of Natural Growth that would exceed the maximum
11 height for the Airspace Imaginary Surface in which it is
12 located, or is proposed to be located, may be planted, allowed
13 to grow, or be replanted unless Obstruction Approval has
14 been issued by BCAD. The height limitations are established
15 in Section 5-182.10(d), as may be amended.

16 b. Application.

17 1. An application for a development permit that contains a
18 Structure or Object of Natural Growth exceeding the
19 maximum height for the Airspace Imaginary Surface must
20 contain all of the following:

21 a) Copies of site plans, building plans, and other
22 documentation submitted to the FAA in conjunction
23 with the Notice of Proposed Construction or Alteration;
24

1 b) A narrative addressing each of the review criteria listed
2 in Section 5-182.10(c)(2)c; and

3 c) Additional information that may be required at the
4 request of the Planning and Development
5 Management Division or BCAD, including site plans,
6 elevation drawings, and other data as may be
7 necessary to enable the Planning and Development
8 Management Division or BCAD to determine whether
9 the proposal complies with the regulations of this
10 Section 5-182.10(c).

11 2. Upon receipt of a complete application, the Planning and
12 Development Management Division shall provide a copy of
13 the application to BCAD. BCAD shall then provide a copy of
14 the application to the Florida Department of Transportation's
15 aviation office by certified mail, return receipt requested, or by
16 a delivery service that provides a receipt evidencing delivery.
17 Cranes, construction equipment, and other temporary
18 Structures in use or in place for a period not to exceed
19 eighteen (18) consecutive months are exempt from the
20 Florida Department of Transportation's review, unless such
21 review is requested by the Florida Department of
22 Transportation.

23 c. Review criteria. BCAD must not grant Obstruction Approval for any
24 Structure or Object of Natural Growth for which the FAA has issued

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1 a Determination of Hazard. In addition, BCAD must not grant
2 Obstruction Approval based solely on the determination by the FAA
3 that the proposed Structure or Object of Natural Growth is not an
4 Airport Hazard. A copy of the FAA's Determination of No Hazard to
5 Air Navigation must be provided to BCAD before BCAD may grant
6 Obstruction Approval. BCAD may only grant Obstruction Approval
7 after finding that the Obstruction would not establish or create an
8 Airport Hazard based on the following criteria, to the extent
9 applicable:

10 1. Comments received from the Florida Department of
11 Transportation regarding the technical consistency with
12 Section 333.025, Florida Statutes, if any.

13 2. A review of the following:

14 a) The safety of persons on the ground and in the air;

15 b) The safe and efficient use of navigable airspace, and
16 any other aeronautical impacts;

17 c) The nature of the terrain and height of existing
18 Structures;

19 d) Federal airways, visual flight rules, flyways and
20 corridors, and instrument approaches as designated by
21 the FAA;

22 e) The cumulative effects on navigable airspace of all
23 existing Structures and all other known proposed
24 Structures in the area;

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1 f) The Obstruction Approval, if granted, would not permit
2 a Nonconforming Use or Structure to become a greater
3 hazard to air navigation than it was when the applicable
4 regulation was adopted that allowed the establishment
5 or creation of the Obstruction, or than it is when the
6 application for an Obstruction Approval is made; and

7 g) The following impacts to the Airports:

8 1) The potential to destroy or impair the utility of
9 the Airports and the public investment therein;

10 2) The character of existing and planned flight
11 operations and developments at the Airports;

12 3) The effect of the Obstruction on the State
13 licensing standards for a public-use airport
14 contained in Chapter 330, Florida Statutes, and
15 rules adopted thereunder; and

16 4) The effect of the construction or alteration of the
17 proposed Obstruction on instrument flight
18 procedures including the Minimum Altitude or
19 the decision height at the Airports.

20 d. BCAD may grant Obstruction Approval subject to such conditions as
21 deemed necessary by BCAD to protect the public health, public
22 safety, and general welfare, including the condition that the proposed
23 Structure or Object of Natural Growth be marked and lighted in
24 accordance with FAA recommendations provided in a Determination

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1 of No Hazard. The owner of the proposed Structure or Object of
2 Natural Growth shall install, operate, and maintain lighting and
3 marking in accordance with Federal Aviation Administration Advisory
4 Circular 70/7460-1K, and amendments thereto, on such Structure or
5 Object of Natural Growth.

6 (3) Land Use Compatibility Regulations.

7 a. Lighting countywide. Countywide, the owner of any Structure over
8 two hundred (200) feet above ground level shall install, operate, and
9 maintain thereon, lighting in accordance with Federal Aviation
10 Administration Advisory Circular 70/7460-1H, and amendments
11 thereto. This lighting may include flashing red beacons, steady
12 burning red obstruction lights, or high-intensity obstruction lights.

13 b. Use Restrictions within three (3) statute miles of any usable Runway
14 of the Airports. In order to prevent the establishment of Airport
15 Hazards, the following land use restrictions shall apply within
16 three (3) statute miles of any usable Runway of the Airports:

17 1. No lights or illumination used in conjunction with streets,
18 parking, signs, or for any other purpose shall be arranged
19 and/or operated in a manner that is misleading or dangerous
20 to aircraft operating in the vicinity of the Airports.

21 2. No use of land shall be permitted to be operated in a manner
22 that is misleading or dangerous to aircraft operating in the
23 vicinity of the Airports.

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- 3. No Structure shall be arranged and/or operated in such a manner that it is misleading or dangerous to aircraft operating in the vicinity of the Airports.
- 4. The following lighting systems, when designed to cast light upward above the horizon toward the runway approach path, are prohibited:
 - a) Searchlights;
 - b) Laser lights;
 - c) Sequenced flashing lights;
 - d) Stroboscopic lights; and
 - e) Any other lighting that produces effects mimicking airport identification lighting, runway end identification lighting, or runway approach lighting, or that would interfere with the vision of pilots or air traffic controllers.
- 5. Uses or operations that would produce smoke, dust, thermal plumes, or water vapor dense enough to interfere with pilot or air traffic controller vision are prohibited. An exemption from this prohibition may be permitted after review by BCAD to assure compatibility with airport operations, following receipt of a favorable opinion from the FAA.
- 6. Uses or operations of any type that produce electronic interference with navigation signals or radio communications between air traffic control and aircraft and vehicles operating within the airport operations area are prohibited.

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1 7. Uses, operations, or structures that would utilize highly
2 reflective materials creating the potential for glare or visual
3 after-images or more severe effects for pilots and air traffic
4 controllers are prohibited. An exemption from this prohibition
5 may be permitted after review by BCAD to assure
6 compatibility with airport operations, following receipt of a
7 favorable opinion from the FAA.

8 c. *Landfills or other Solid Waste Disposal Facilities.* Landfills or other
9 solid waste disposal facilities are prohibited in the following locations:

10 1. Within ten thousand (10,000) feet of any active Runway,
11 taxiway, or aircraft parking apron of the Airports;

12 2. Where location of the landfill or solid waste disposal facility
13 would place the active Runways and/or approach and
14 departure patterns of an airport between the landfill or solid
15 waste disposal facility and bird feeding, water, or roosting
16 areas; or

17 3. Locations outside the above locations, but within the limits of
18 any Airspace Imaginary Surface, if determined by the FAA to
19 be an Airport Hazard.

20 (4) Nonconforming Uses and Structures.

21 a. Except as provided in Section b. below, no provision of this
22 Section 5-182.10(c) shall be construed to require the removal,
23 lowering, or other change or alteration of any Nonconforming Use
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1 or Structure, or otherwise interfere with the continuation of such
2 Nonconforming Use or Structure.

3 b. Whenever BCAD determines that a Nonconforming Use or Structure
4 has been abandoned, or is more than eighty percent (80%) torn
5 down, destroyed, deteriorated, or decayed: (i) no Obstruction
6 Approval shall be granted that would allow said Nonconforming Use
7 or Structure to become an Airport Hazard or otherwise deviate from
8 the regulations adopted hereunder; and (ii) whether or not
9 application is made for an Obstruction Approval under this
10 Section 5-182.10(c), the County may, by appropriate action, compel
11 the owner of the Nonconforming Use or Structure, at the owner's
12 expense, to lower, remove, reconstruct, or equip such
13 Nonconforming Use or Structure as may be necessary to conform to
14 the regulations. If the owner of the Nonconforming Use or Structure
15 shall neglect or refuse to comply with such order for ten (10) calendar
16 days after notice thereof, then, in accordance with Section 333.07,
17 Florida Statutes, as may be amended, the County may, in addition
18 to any other action deemed appropriate, proceed to have the
19 Nonconforming Use or Structure so lowered, removed,
20 reconstructed, or equipped, and assess the cost and expense
21 thereof upon the object or the land on which it is or was located.

22 (5) Administration and Enforcement.

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1 a. It shall be the duty of the County to administer and to enforce the
2 regulations prescribed herein within the Airspace Imaginary Surfaces
3 established pursuant to Section 5-182.10(d).

4 b. Each violation of Chapter 333, Florida Statutes, or of any regulations,
5 orders, or rulings adopted under this Section 5-182.10(c) shall
6 constitute a misdemeanor of the second degree, punishable as
7 provided in Section 775.082 or Section 775.083, Florida Statutes,
8 and each day a violation continues to exist shall constitute a separate
9 offense.

10 c. The County may institute in any court of competent jurisdiction an
11 action to prevent, restrain, correct, or abate any violation of
12 Chapter 333, Florida Statutes, or of regulations adopted under this
13 Section 5-182.10(c) or of any order or ruling made in connection with
14 their administration or enforcement, and the court shall adjudge to
15 the plaintiff such relief, by way of injunction, which may be
16 mandatory, or otherwise, as may be proper under all the facts and
17 circumstances of the case in order to fully effectuate the purposes of
18 Chapter 333, Florida Statutes, and of the regulations adopted and
19 orders and rulings made pursuant thereto and hereto.

20 (6) Judicial Review.

21 Any Person, political subdivision, or joint airport zoning board affected by a
22 decision of the County, the Planning and Development Management
23 Division, or BCAD hereunder may apply for judicial relief pursuant to
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1 Section 333.11, Florida Statutes, or Section 5-203 of the Broward County
2 Code of Ordinances, as such may be amended.

3 (7) *Conflicting Regulations.*

4 In the event of conflict between any of the regulations or limitations
5 prescribed in this Section 5-182.10(c) and any other regulations applicable
6 to the same area, whether the conflict be with respect to the height of
7 Structures or Objects of Natural Growth, the use of land, or any other
8 matter, the more stringent limitation or requirement shall govern and
9 prevail.

10 (d) *Airspace Imaginary Surfaces and height limitations.*

11 (1) In order to carry out the provisions of Section 5-182.10(c), as may be
12 amended, there are hereby created and established certain Airspace
13 Imaginary Surfaces, which include all of the airspace lying beneath the
14 surfaces and intended to be protected from Airport Hazards. The Airspace
15 Imaginary Surfaces are separately established for each of the Airports.

16 a. The regulations established in Section 5-182.10(c) shall be
17 construed to regulate the use of Airport Hazard Areas in the manner
18 necessary to protect the associated airspace from Airport Hazards.

19 b. To determine the height limits set forth in this Section 5-182.10(d),
20 the datum shall be the mean sea level (“MSL”) elevation, unless
21 otherwise specified.

22 c. Fort Lauderdale-Hollywood International Airport and North Perry
23 Airport Airspace Imaginary Surfaces Composite Map. The Airspace
24 Imaginary Surfaces for FLL and HWO, defined in accordance with

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1 14 C.F.R. § 77.19, are illustrated in the Fort Lauderdale-Hollywood
2 International Airport and North Perry Airport Airspace Imaginary
3 Surfaces Composite Map, as amended, which is hereby adopted by
4 reference. The map, which is intended for informational and
5 conceptual planning purposes, demonstrates the maximum height
6 permitted within the Airspace Imaginary Surfaces based on existing
7 conditions at FLL and HWO. Ongoing updates to the map are
8 anticipated as conditions change at FLL and HWO. A copy of the
9 map is on file and available for inspection at BCAD.

10
11 Section 5. Section 5-201 of the Broward County Code of Ordinances is hereby
12 amended to read as follows:

13 **Sec. 5-201. Definitions.**

14 . . .

15 *Affordable housing.* Housing for which monthly rents or monthly mortgage
16 payments (including taxes and insurance) do not exceed 30 percent of an amount
17 representing the percentage (very low = 50%; low = 80%; moderate = 120%) of the
18 median income limits, as published by the U.S. Department of Housing and Urban
19 Development, adjusted for family size for the households. (See definitions below for very
20 low income, low income, and moderate income persons.)

21 *Airport Hazard Area(s).* Any area of land or water upon which an Airport Hazard
22 might be established.

23 *Airport Hazard(s).* An obstruction or obstructions to air navigation that have an
24 adverse effect on any of the following: (i) the safe and efficient use of navigable air

1 space; (ii) the operation of planned or existing air navigation and communication
2 facilities; (iii) a significant volume of air traffic activity; (iv) the public investment in the
3 applicable airport; or (v) the use of such airport by aircraft operators deemed to provide
4 critical air services.

5 *Airports.* Fort Lauderdale-Hollywood International Airport (“FLL”) and North Perry
6 Airport (“HWO”), and all of their facilities, including, but not limited to, passenger
7 terminals, parking structures and associated revenue facilities, aircraft gates, Runways,
8 taxiways, and ancillary airport support development.

9 *Airspace Imaginary Surface(s).* The navigable airspace that is intended to be
10 protected from Airport Hazards, adopted under Section 5-182.10(d) of the Broward
11 County Code of Ordinances, and that includes:

12 (1) Five (5) airspace imaginary surfaces for civil airports established by
13 14 C.F.R. § 77.19: primary surface, horizontal surface, conical surface,
14 approach surface, and transitional surface; and

15 (2) One-engine inoperative (“OEI”) surfaces established by BCAD, designed
16 to provide safe obstacle clearance for aircraft departing the applicable
17 airport after the loss of one (1) engine.

18 . . .

19 *Arterial.* A street having that meaning given in ~~§~~Section 334.03(1), F.S. Florida
20 Statutes (Arterials in Broward County are designated on the Broward County
21 Trafficways Plan.)

22 *Aviation Department; BCAD.* The Broward County Aviation Department, or its
23 successor agency.

24 . . .

1 *Existing urban service area.* Built-up areas where public facilities and services
2 such as sewage treatment systems, roads, schools, and recreation areas are already
3 in place.

4 FAA. Federal Aviation Administration, or its successor agency.

5 . . .

6 *Major driveway.* A driveway ~~which~~ that provides for a maximum average daily trip
7 volume of five thousand (5,000) vehicles and/or a maximum average peak hour volume
8 of five hundred (500) vehicles.

9 Minimum Altitude. This term includes the minimum descent altitude, minimum en
10 route altitude, minimum obstacle clearance altitude, and minimum vectoring altitude, as
11 such terms are defined in FAA Handbook 8083-16B (Instrument Procedures
12 Handbook), as amended.

13 . . .

14 *New construction.* Site preparation for, and construction of, entirely new
15 structures, whether or not the site was previously occupied, or full or extensive
16 (fifty percent (50%) or more) replacement of structures and their components.

17 Nonconforming Uses or Structures. Any Structure, Object of Natural Growth, or
18 use of land existing as of October 19, 2021, that is inconsistent with the regulations of
19 Section 5-182.10(c).

20 . . .

21 *Non-water management area.* Any portion of a development that is not a
22 functional part of the “surface water management system” and is not designed for the
23 normal impoundment, storage, or conveyance of surface water or stormwater.

24 Object of Natural Growth. Any organism of the plant kingdom, including a tree.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscored type are additions.

1 Obstruction Approval(s). An Approval or Approvals issued by BCAD and required
2 in order to develop, construct, plant, replant, establish, enlarge, substantially alter, or
3 repair an Obstruction.

4 Obstruction(s). Any existing or proposed object, terrain, or Structure construction
5 or alteration if it is of greater height than the height allowed in the applicable Airspace

6 Imaginary Surface. The term includes:

7 (1) Any Object of Natural Growth or terrain;

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

10 (3) Alteration of any permanent or temporary existing Structure by a change in
11 the Structure's height, including appurtenances, lateral dimensions, and
12 equipment or materials used in the Structure.

13 OE/AAA Process. FAA's Obstruction Evaluation/Airport Airspace Analysis
14 process undertaken in accordance with 14 C.F.R. § 77.25 *et seq.*

15 . . .

16 Roof. The exterior surface and its supporting structures on the top of a building. A
17 roof protects the building and its contents from the effects of weather. In order to receive
18 impact or concurrency fee credit, buildings with damaged roofs must be considered safe
19 and occupiable by local building officials.

20 Runway Protection Zone(s). Areas at ground level beyond the Runway end
21 intended to enhance the safety and protection of people and property on the ground. The
22 Runway Protection Zones of the Airports are illustrated in the Airport Layout Plan, as
23 amended.

24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Runway(s). Defined rectangular surfaces on an airport prepared or suitable for
2 landing and takeoff of aircraft.

3 . . .

4
5 Section 6. Section 27-66 of the Broward County Code of Ordinances is hereby
6 amended to read as follows:

7 **Sec. 27-66. Environmental review approvals required prior to issuance of a county**
8 **or municipal building permit.**

9 . . .

10 (n) Environmental review approval shall not be issued without evidence that the
11 proposed development is in compliance with Section 5-182.10, Broward County Code of
12 Ordinances, which addresses development near Fort Lauderdale-Hollywood International
13 Airport and North Perry Airport.

14
15 Section 7. Severability.

16 If any portion of this Ordinance is determined by any court to be invalid, the invalid
17 portion will be stricken, and such striking will not affect the validity of the remainder of this
18 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
19 legally applied to any individual, group, entity, property, or circumstance, such
20 determination will not affect the applicability of this Ordinance to any other individual,
21 group, entity, property, or circumstance.

22
23
24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscored type are additions.

1 Section 8. Inclusion in the Broward County Code of Ordinances.

2 It is the intention of the Board of County Commissioners that the provisions of this
3 Ordinance become part of the Broward County Code of Ordinances as of the effective
4 date. The sections of this Ordinance may be renumbered or relettered and the word
5 "ordinance" may be changed to "section," "article," or such other appropriate word or
6 phrase to the extent necessary in order to accomplish such intention.

7
8 Section 9. Effective Date.

9 This Ordinance is effective as of the date provided by law.

10
11 ENACTED

PROPOSED

12 FILED WITH THE DEPARTMENT OF STATE

13 EFFECTIVE

14
15 Approved as to form and legal sufficiency:
16 Andrew J. Meyers, County Attorney

17 By /s/ Alexander J. Williams 11/16/2021
18 Alexander J. Williams (date)
19 Assistant County Attorney

20 By /s/ Maite Azcoitia 11/16/2021
21 Maite Azcoitia (date)
22 Deputy County Attorney

23 AW/ch
24 Airport Zoning Ord.doc
11/16/2021
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