



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION
123 West Indiana Avenue, DeLand, FL 32720
(386) 736-5959

PUBLIC HEARING: November 14, 2017 - Planning and Land Development Regulation Commission (PLDRC)

SUBJECT: Proposed Ordinance 2018-01 amending Chapter 72, Section 72-296, Airport Protection Overlay Zone, of the Volusia County Zoning Code, revising definitions, prohibited uses, and non-conforming uses

APPLICANT: Volusia County

STAFF: Michael E. Disher, AICP, Planner III

On May 15, 2017, the county council approved Ordinance 2017-06 establishing the Airport Protection Overlay Zone and land use compatibility regulations pursuant to F.S. Ch. 333. This overlay zoning classification now applies to unincorporated property in the vicinity of seven public-use airports in Volusia County, along with the ASR-9 radar site. The regulations in section 72-296 of the zoning code are intended to provide reasonable protections for airport operations and aircraft, to minimize the exposure of adjacent properties to airport hazards and noise, to prohibit incompatible land uses and structures around airports, and to provide for coordination between municipalities and the county.

Through the process of implementing and applying these new requirements day to day, staff has become aware of three necessary clarifications:

1. Under subsection (b), amend the definition of "Public-use airport" to apply to all airports open to the public, not just those publicly owned and maintained; and second, to include the Bob Lee Flight Strip (1J6). This airfield is located at 4111 Airport Road, north of DeLand. Although privately owned, it is open to the public and must therefore be included in the protection overlay, as required by statute. It is partially located within the overlay zone around the DeLand Municipal Airport. However, the overlay zone must fully encompass the entire protected airspace around each airport, as defined by the FAA. A map of the overlay zone around the Bob Lee Flight Strip is attached.
2. Under subsection (d)(1), Prohibited uses, clarify the location where new single-family homes are not allowed. F.S. 333 requires that new residential development, schools, hospitals, and other uses that assemble large groups of people shall be prohibited in the Runway Protection Zone (RPZ). The RPZ is the trapezoid-shaped area on the ground at the end of each runway, where the majority of airplane crashes occur. However, the county's adopted ordinance goes further by *also* prohibiting new single-family homes in a radius equal to half the distance of the longest runway. This additional distance is not required by statute except in limited

cases where an Airport Noise Compatibility Study has not been conducted, and in those cases is intended to limit noise-sensitive uses, not potential crashes. The unnecessary regulation has the potential to render vacant residentially zoned properties unbuildable. The proposed revision will correct these unintended consequences, while maintaining its correct application to noise-sensitive land uses.

3. The proposed amendment to subsection (h), Nonconforming uses, corrects a cross-reference to subsection (e), Permitting.

Staff Recommendation: Find the proposed ordinance consistent with the comprehensive plan and forward to the county council for final action with a recommendation of approval.

Attachments:

- Ordinance 2018-01
- Bob Lee Flight Strip map

ORDINANCE 2018-01

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA, BY AMENDING CHAPTER 72, ARTICLE II, ZONING, AIRPORT PROTECTION OVERLAY ZONE REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

SECTION I. Chapter 72, Article II, Section 72-296 of the Code of Ordinances of Volusia County, is amended to read as follows:

Sec. 72-296. Airport protection overlay zone.

* * * *

- (b) *Definitions.* In addition to the definitions contained in Section 72-2, the following terms shall have the following meanings:

* * * *

- (14) *Public-use airport.* An airport, ~~publicly owned and maintained~~, licensed by the state, which is open for use by the public. For the purposes of this section, the ~~public-use publicly owned and maintained~~ airports are: [Bob Lee Flight Strip \(1J6\)](#); Daytona Beach International Airport (DAB), DeLand Municipal Airport – Sidney H. Taylor Field (DED), New Smyrna Municipal Airport (EVB), Ormond Beach Municipal Airport (OMN), Pierson Municipal Airport (2J8), Orlando-Sanford International Airport (SFB), and Massey Ranch Airpark (X50).

* * * *

- (d) *Airport land use restrictions.* Notwithstanding any other provision of this chapter, no use may be made of land or water within any zones established by this section in such a manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) *Prohibited uses.* Notwithstanding the uses permitted in the underlying zoning classifications as provided in section 72-241, the following uses are prohibited within any runway protection zone:

Community residential homes
Group homes
Hospitals
Multifamily standard or manufactured modular dwellings
Schools, public, parochial or private

Single-family standard or manufactured modular dwellings

Storage of explosive material

Uses that assemble large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

~~New residential construction shall be further prohibited within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.~~

* * * *

- (h) *Nonconforming uses.* This section may not require the removal, lowering, or other change or alteration of any obstruction not conforming to the regulation when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in subsection (e)(4) above.

SECTION II. SEVERABILITY - Should any word, phrase, sentence, subsection or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION III: CONFLICTING ORDINANCES - All ordinances, or part thereof, in conflict herewith are, to the extent of such conflict, repealed.

SECTION IV: EFFECTIVE DATE – A certified copy of this Ordinance shall be filed with the Department of State by the County Manager within ten (10) days after enactment by the County Council and this Ordinance shall take effect upon filing with the Department of State.

ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS 18TH DAY OF JANUARY, 2018.

ATTEST:

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

James T. Dinneen, County Manager

Ed Kelley, County Chair



1 inch = 0.65 miles

