

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 155, "ZONING CODE," OF THE POMPANO BEACH CODE OF ORDINANCES, BY AMENDING SECTION 155.2204., "PLANNING AND ZONING BOARD (P & Z)" TO MODIFY THE POWERS AND DUTIES OF THE BOARD TO REVIEW DEVELOPMENT PERMIT APPLICATIONS REGARDING AIR PARK OBSTRUCTIONS; BY AMENDING SECTION 155.2207., "CITY STAFF," TO INCLUDE AUTHORITY TO REVIEW AND MAKE RECOMMENDATIONS FOR AIR PARK OBSTRUCTIONS; BY AMENDING SECTION 155.2420., "VARIANCE," TO MODIFY VARIANCE PROCEDURES AND REVIEW STANDARDS; BY CREATING SECTION 155.2422 "AIR PARK OBSTRUCTION" TO ESTABLISH PURPOSE, APPLICABILITY, PROCEDURES, APPROVAL REVIEW STANDARDS AND TO PROVIDE FOR APPEAL; BY AMENDING SECTION 155.3707 "AIR PARK OVERLAY (APO) DISTRICT," TO INCLUDE FINDINGS AND PURPOSE, TO CREATE DEFINITIONS, TO DELETE CERTAIN LANGUAGE AND TO ESTABLISH AIR PARK OVERLAY PROTECTION AND LAND USE COMPATIBILITY REGULATIONS TO ENSURE COMPLIANCE WITH CHAPTER 333; FLORIDA STATUTES, WHICH REGULATES AIRPORT ZONING; BY AMENDING SECTION 155.4229., "INDUSTRIAL: WASTE AND RELATED SERVICES USES," TO REQUIRE COMPLIANCE WITH SECTION 155.3707.C.2 FOR LANDFILLS LOCATED WITHIN THE AIR PARK OVERLAY; AND BY AMENDING PART 5, "TERMS AND USES DEFINED," TO ESTABLISH A DEFINITION FOR AIR PARK OBSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, pursuant to Fla. Stat. §333.05 (1), notice has also been given by publication in a paper of general circulation in the City, once a week for two (2) consecutive weeks; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.2204., “Planning and Zoning Board (P & Z),” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended as follows:

155.2204. PLANNING AND ZONING BOARD (P&Z)

...

B. POWERS AND DUTIES

The P&Z shall have the following powers and duties under this Code:

...

1. Decide Applications for Development Permit

To review and decide the following applications for a development permit:

- a. Major Site Plan (Sec. 155.2407); ~~and~~
- b. Major Administrative Adjustment (Sec. 155.2421);
and
- c. Air Park Obstruction (Sec. 155.2422).

SECTION 2. That Section 155.2207., “City Staff,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follow:

155.2207. CITY STAFF

A. DEVELOPMENT SERVICES DIRECTOR

1. Decide Applications on Applications for Development Permit

...

2. Make Recommendations on Applications for Development Permit

To review and make recommendations on the following applications for a development permit:

...

- m. Major Administrative Adjustment (Sec. 155.2421);
- n. Air Park Obstruction (Sec. 155.2422);
- ~~n.o.~~ Development Agreement (Sec. 155.2428);
- ~~o.p.~~ Takings or Vested Right Determination (Sec. 155.2429) [placeholder];
- ~~p.q.~~ Right-of-Way or Easement Dedication Acceptance (Sec. 155.2430); and
- ~~q.r.~~ Right-of-Way of Easement Vacation or Abandonment (Sec. 155.2431).

SECTION 3. That Section 155.2420., “Variance,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follow:

155.2420. VARIANCE

...

C. VARIANCE PROCEDURE

1. Step 1: Pre-Application Conference

...

4. Step 4: Staff Review and Action

Applicable (See Section 155.2304.). The Development Services Director reviews, prepares a staff report, and makes a recommendation on the application. ~~If the application requests a Variance from standards established for the Air Park Overlay (APO) district, the Development Services Director shall refer the application to the Air Park Manager for advice on the aeronautical effects of the proposed variance, and to the Federal Aviation Administration (FAA) for a determination on the proposed variance's effect on the operation of air navigation facilities and the safe, efficient use of navigable air space.~~

...

D. VARIANCE REVIEW STANDARDS

...

1. A Variance application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

...

- ~~2. If the Variance involves standards established for the Air Park Overlay (APO) district, approval of the Variance application shall also require the finding that there is competent substantial evidence in the record that the Variance would not create a hazard to air navigation.~~

- ~~3.~~2. The following factors do not constitute sufficient grounds for approval of a Variance:

...

SECTION 4. That Section 155.2422., “Air Park Obstruction,” of Chapter 155, “Zoning Code,” of the “Code of Ordinances of the City of Pompano Beach is hereby created to read as follow:

155.2422. ~~RESERVED~~ AIR PARK OBSTRUCTION

A. PURPOSE

The purpose of this section is to establish a standard process for reviewing and approving objects or structures that exceed the federal obstruction standards contained in 14 C.F.R. part 77, subpart C including any object of natural growth or terrain; permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or alteration of any permanent or temporary existing structure by a change in the structure’s height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

B. APPLICABILITY

An Air Park Obstruction approved in accordance with the standards in this section is required before approval of a Zoning Compliance Permit for development of any Air Park obstruction.

C. AIR PARK OBSTRUCTION PROCEDURE

Applications for Air Park Obstructions for new buildings shall be submitted concurrently with an application for Planned Development Rezoning or Site Plan, as applicable. All other applications for Air Park Obstructions may be submitted as a stand-alone application.

1. Step 1: Pre-Application Conference

Optional (See Section 155.2301.).

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section 155.2303.).

4. Step 4: Staff Review and Action

Applicable to a recommendation by the Development Services Director following DRC review and comment (See Section 155.2304.). The Development Services Director may waive the requirement for DRC review for applications that do not require Planned Development Rezoning or Site Plan approval.

5. Step 5: Public Hearing Scheduling and Notice

Not Applicable.

6. Step 6: Advisory Body Review and Recommendation

Not Applicable.

7. Step 7: Decision-Making Body Review and Decision

Applicable to a final decision by the P&Z (See Section 155.2307.) and shall be placed on the same P&Z agenda as the concurrent Planned Development Rezoning or Site Plan, if applicable.

D. AIR PARK OBSTRUCTION APPROVAL REVIEW STANDARDS

Following the receipt of a determination by the Federal Aviation Administration (FAA) that the proposed development would not result in an airport hazard, the Planning and Zoning Board may approve an Air Park Obstruction only on a finding that there is competent substantial evidence in the record that the issuance of the development order for Air Park Obstruction would not allow for the establishment or creation of an airport hazard based on the following criteria:

1. Comments received from the Florida Department of Transportation regarding the technical consistency with Florida State Statutes 333.025, as amended.
2. The safety of persons on the ground and in the air.
3. The safe and efficient use of navigable airspace and any other aeronautical impacts.
4. The nature of the terrain and height of existing structures.
5. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.
6. The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area.
7. The development order for Air Park Obstruction, if issued, would not permit a nonconforming obstruction to become a greater hazard to air navigation than it was when the applicable airport protection zoning regulation was adopted which allowed the establishment or creation of the obstruction, or than it is when the application for a permit is made.
8. Approval of a permit is not to be based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard
9. The following impacts to the Pompano Air Park:
 - i. The potential to destroy or impair the utility of the Pompano Air Park and the public investment therein.

- ii. The character of existing and planned flight operations and developments at the Pompano Air Park.
- iii. The effect of the obstruction on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.
- iv. The effect of the construction or alteration of the proposed obstruction on the minimum descent altitude or the decision height at the Pompano Air Park.

E. APPEAL

A party aggrieved by the final decision of the P&Z Board on an application for Air Park Obstruction may appeal the decision to the City Commission in accordance with the procedures and standards in Section 155.2424, Appeal.

F. EFFECT OF APPROVAL

A development order for Air Park Obstruction authorizes the submittal of an application for a Zoning Compliance Permit and any other development permit that may be required before construction or other development approved by the development order.

SECTION 5. That Section 155.3707., “Air Park Overlay (APO) District,” of Chapter 155, “Zoning Code,” of the “Code of Ordinances of the City of Pompano Beach is hereby amended to read as follow:

155.3707. AIR PARK OVERLAY (APO) DISTRICT

A. FINDINGS AND PURPOSE

1. Findings

The City Commission hereby finds:

- a. The city, as owner and operator of the Pompano Beach Air Park, is concerned with the safety and welfare of the traveling public as pilots and passengers of aircraft using runways at the air park;

...

- g. The prevention of these hazards~~and~~, limitation of incompatible land uses, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power of the city.

2. Purpose

It is the purpose of the Air Park Overlay (APO) district to recognize an area adjacent to the runways of the Pompano Beach Air Park in which obstructions and incompatible land uses may pose a hazard to safe air park operations and to apply reasonable regulations that prevent such obstructions and limit such incompatible uses and are consistent with Florida State Statutes Chapter 333, Airport Zoning, and the standards for civilian airports established by the Federal Aviation Administration (FAA). The standards contained herein reflect the character of the flying operations expected to be conducted at the Pompano Beach Air Park, the nature of the terrain within the airport hazard area and runway protection zones, the character of the surrounding neighborhoods, and the impact of any new use, activity, or construction on the Pompano Beach Air Park's operating capability and capacity.

3. Definitions

For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a. Air Park hazard.** An obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities. The term includes use, development or activity which:
 - i. Has been determined by the FAA to pose a hazard to air navigation;
 - ii. Creates electrical interference with radio or navigational equipment used by aircraft, the airfield, or the FAA;
 - iii. Produces smoke, dust, steam, or other airborne substances in such amounts as to

impair pilot visibility, mislead pilots, or otherwise interfere with the safe operation of overhead aircraft;

iv. Produces light emissions—either direct or indirect (reflective)—of such intensity and directed in such directions as to impair pilot visibility or otherwise interfere with the safe operation of overhead aircraft;

v. Causes glare which would interfere with airport operations; or

vi. Attracts birds or other wildlife, thereby creating hazards either on the ground or in the air.

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

i. Any object of natural growth or terrain;

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

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

c. **Structure.** Any object constructed, erected, altered, or installed, including, but not limited to, buildings, towers, smokestacks, utility poles, power generation equipment, and overhead transmission lines.

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

B. AIR PARK ZONES AND HEIGHT LIMITS

...

~~C. PROHIBITED USES, DEVELOPMENT, AND ACTIVITIES~~

~~Notwithstanding any other provisions of this Code, no use, development, or activity may shall occur on land or water within any airport zone (as established in Section 155.3707.B, Air Park Zones and Height Limits) that:~~

- ~~1. Would interfere with the operation of an airborne aircraft, including any use, development, or activity that:~~
 - ~~a. Produces smoke, dust, or other airborne substances in such amounts as to impair pilot visibility, mislead pilots, or otherwise interfere with the safe operation of overhead aircraft;~~
 - ~~b. Produces light emissions—either direct or indirect (reflective)—of such intensity and directed in such directions as to impair pilot visibility or otherwise interfere with the safe operation of overhead aircraft; or~~
 - ~~c. Produces electronic emissions that interfere with navigation signals or radio communications between aircraft and landing control facilities or with the aircraft's navigational or communication equipment.~~
- ~~2. Have a substantial potential to contribute to a major catastrophe as a result of an aircraft crash, including uses that involve high concentrations of people (including schools, hospitals, or other uses involving assemblages of large groups of people) or the storage of explosive material.~~

C. AIR PARK OVERLAY PROTECTION AND LAND USE COMPATIBILITY ZONING REGULATION

1. Air Park Hazards Prohibited

Notwithstanding any other provisions of this Code no airport hazard shall occur on land or water within any airport zone (as established in Section 155.3707.B, Air Park Zones and Height Limits).

2. Development Order for Air Park Obstruction Required.

A property owner proposing to construct, alter, or allow an obstruction within the APO must apply for a Development Order for Air Park Obstruction.

a. Obstruction Marking and Lighting.

A property owner for which a Development Order for Air Park Obstruction has been approved shall be required to install, operate, and maintain thereon, at his or her own expense, marking and lighting in conformance with the specific standards established by the Federal Aviation Administration.

b. Obstruction Construction or Alteration Notification.

A property owner for which a Development Order for Air Park Obstruction has been approved shall submit to the Development Services Director documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and a valid aeronautical study.

3. Locational Restrictions on Residential Uses

New residential construction shall not be permitted within an area affected by the approved Part 150 Noise Study noise contours. The 2016 Pompano Beach Air Park Noise Contour Update Report's Figures 5 and 6 demonstrates that the 2015 and 2020 Noise Contours do not impact any land designated or zoned for residential uses.

4. Locational Restrictions on Educational Uses

a. New educational facilities, with the exception of aviation school facilities, shall not be permitted within an area affected by the approved Part 150 Noise Study noise contours. The 2016 Pompano Beach Air Park Noise Contour Update Report's Figures 5 and 6 demonstrates that the 2015 and 2020 Noise Contours do not impact any land designated or zoned for educational uses.

5. Restrictions for Landfills and Other Uses Which Attract Birds.

a. Restricted Locations. New landfills and other uses which 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 are restricted within the following areas:

- i. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.
- ii. Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.
- iii. Outside the perimeters defined in subsections i. and ii. above, but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. s. 77.19.

b. Bird Management Techniques. Uses subject to the restricted locations in subsection a(iii) may be permitted within the listed locations provided the applicant submits a Bird Management Technique plan which effectively demonstrates techniques and practices which will be used to minimize bird hazards.

6. New incompatible uses, activities, or substantial modifications to existing incompatible uses shall not be permitted within Runway Protection Zones (RPZ). The Airport Property Map dated 3-20-14 on file with the City of Pompano Beach shows the RPZs do not impact any land designated or zoned for residential or educational uses.

D. AIRPORT HAZARD AREAS IN MULTIPLE POLITICAL SUBDIVISIONS

1. Where an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to such airport is located wholly or partly outside the territorial limits of said political subdivision, the political subdivision owning or controlling the airport and the

political subdivision within which the airport hazard area is located, shall either:

- a. By interlocal agreement, in accordance with the provisions of chapter 163, adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question; or
- b. By ordinance or resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested in paragraph (a) in the political subdivision within which such area is located. Each such joint board shall have as members two representatives appointed by each political subdivision participating in its creation and in addition a chair elected by a majority of the members so appointed. However, the airport manager or managers of the affected political subdivisions shall serve on the board in a nonvoting capacity.

SECTION 6. That Article 4: Use Standards, “Industrial Waste-Related Service Uses,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 4: USE STANDARDS

...

155.4229. INDUSTRIAL: WASTE-RELATED SERVICES USES

A. Purpose

...

E. ADDITIONAL STANDARDS FOR OUTDOOR WASTE-RELATED SERVICE USES

A Waste-Related Service Use is considered to be an Outdoor use if all or a portion of the use's operations, including storage and sorting, are located outside of a fully enclosed structure. In addition to the general standards listed in Section 155.4229.D, Outdoor Waste-Related Service Uses shall be required to comply with the following standards:

1. The use shall be located on property with an area of at least one acre;

...

6. The Applicant shall comply with §155.3707.C.2 related to landfills located within the Air Park Overlay.

SECTION 7. That Article 9: Definitions and Interpretation, Part 5, “Terms and Uses Defined,” of Chapter 155, “Zoning Code,” of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 9: DEFINITIONS AND INTERPRETATION

...

PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

...

AIR PARK OBSTRUCTION

A development permit for the construction or alteration of an existing or proposed object, terrain, or structure that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C and which is reviewed and decided by the Planning and Zoning Board in accordance with Section 155.2420, Air Park Obstruction

AIRCRAFT OR AVIATION EQUIPMENT SALES OR RENTAL

The use of land or structures for the display and sale or lease of aircraft or aviation equipment.

...

SECTION 8. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 9. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2017.

PASSED SECOND READING this _____ day of _____, 2017.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/tal:jrm

7/13/17

L:ord/ch155/2017-252