

CALHOUN COUNTY AIRPORT ORDINANCE

An Ordinance to be entitled

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF CERTAIN STRUCTURES AND OBJECTS OF NATURAL GROWTH AND OTHERWISE REGULATING THE USE OF LAND IN THE VICINITY OF THE CALHOUN COUNTY AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; ESTABLISHING AND IMPOSING PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

(1) TITLE.

This ordinance shall be known as the Calhoun County Airport Ordinance.

(2) PURPOSE AND INTENT.

The purpose of this airport ordinance is to provide both airspace protection and land use compatibility with airport operations in Calhoun County. This ordinance, through establishment of airport overlay zones and corresponding regulations, provides for independent review of development proposals in order to promote the public interest in safety, health, and general welfare in Calhoun County as well as to ensure that all publicly licensed airports in Calhoun County can effectively function. Therefore, the Calhoun County Board of County Commissioners deems it necessary to regulate the height of structures and objects of natural growth within or near the traffic patterns of airports and within impacted areas and runway clear zone areas.

There is hereby adopted and established the official airport regulations pursuant to the authority conferred on the Board of County Commissioners of Calhoun County, Florida, consistent with Chapters 163 and 333, Florida Statutes.

(3) DEFINITIONS.

AIRPORT, LICENSED PUBLIC USE - an area of land or water designed and set aside for the landing and taking off of aircraft, utilized or to be utilized in the interest of the public for such purpose and validly licensed by the State in the Public Airport category. The only publicly licensed airport in Calhoun County is the County Airport, Oren Clements Field.

AIRPORT HEIGHT LIMITATION ZONE -

Subzone A. The area surrounding each Licensed Public Use Airport extending outward 20,000 feet from the ends and each side of all active runways, and

Subzone B. That area within the unincorporated area of the County not within Airport Height Notification Subzone A.

AIRPORT NOISE IMPACT ZONE - An area contiguous to a publicly licensed airport measuring one-half (1/2) the length of the longest active runway on either side of and at the end of each active runway centerline. For land use control purposes, this boundary shall be considered to be consistent with the

FILED
SEP 30 AM 10:29
CLERK OF STATE
TALLAHASSEE, FLORIDA

65 to 70 Ldn zone determined by an official Part 150 Noise Study.

AIRPORT HAZARD - Any structure or object of natural growth or use of land which would exceed the federal obstruction standards as contained in 14 CFR Parts 71.21, 77.23, 77.25, 77.28, and 77.29 and which obstructs the airspace required for flight of aircraft in taking off, maneuvering or landing at an airport or is otherwise hazardous to taking-off, maneuvering or landing of aircraft, and is unpermitted, or for which a variance has not been granted.

AIRPORT RUNWAY CLEAR ZONE - An area at ground level which begins at the end of a primary surface (as defined in 14 CFR Part 77) and extends with the width of each approach surface (as defined in 14 CFR part 77) to terminate directly below each approach surface slope at the point, or points, where the slope reaches a height of 50 feet above the elevation of the runway or 50 feet above the terrain at the outer extremity of the clear zone, whichever distance is shorter.

EASEMENT, AVIATION - A right of use over property whereby an airport proprietor may operator over real property of another.

ELEVATION, AIRPORT - The highest point of the airport's usable landing, take-off, or taxiing of aircraft.

Ldn - a day/night 24 hour average sound level, in decibels, obtained after addition of 10 decibels to sound levels occurring during the night time period from 10 PM to 7 AM.

NOISE LEVEL REDUCTION (NLR) - (also known as Sound Level Reduction (SLR)) Reduction in sound level decibels between two designated locations or rooms for a stated frequency or band.

OBSTRUCTION - Any existing or proposed manmade object or object of natural growth or terrain that violates the standards contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29.

ROOMS, OCCUPIED - Rooms within enclosed structures which are or may reasonably be expected to be used for human activities which involve speech communication; sleeping; eating; listening to live, recorded or broadcast music or speech; or the regular use of telephones.

RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length.

(4) AIRPORT ZONES OF INFLUENCE.

Calhoun County hereby adopts three (3) airport overlay zones. These zones are established to regulate development in proximity to the licensed public use airport located within Calhoun County and known as the Calhoun County Airport, Oren Clements Field. The location of these zones of influence is hereby established by this Ordinance. All development applications for land within these zones of influence shall comply with the airport zoning regulations set forth herein. Following are the three airport overlay zones:

- Airport Height Notification Zone (Subzone A and Subzone B);
- Airport Runway Clear Zone; and
- Airport Noise Impact Zone.

Where a zone of influence overlays a portion of a property, only that portion within the zone shall be affected by the zone regulations. Furthermore, in relation to applying runway clear zone and noise impact zone requirements, use regulations shall apply to the structure or facilities constituting the use and shall not generally apply to accessory open space, landscape and buffering, stormwater management, or driveway and parking uses.

(a) Airport Height Notification Zone and Regulations.

1. Establishment of Zone. The Airport Height Notification zone is hereby established as an overlay zone. This zone is established to regulate the height of structures and

natural vegetation for areas in proximity to the licensed public use airport located within Calhoun County. The Airport Height Notification Zones consists of two subzones, defined as follows:

- Subzone A. The area surrounding the Calhoun County Airport extending outward 20,000 feet from the ends and each side of all active runways.
- Subzone B. That area within the unincorporated area of the County not within Airport Height Notification Subzone A.

2. Height Notification Regulations. All development proposals for land within the height notification zone, that exceed the heights in either zone A or B, shall be forwarded to the Federal Aviation Administration (FAA) to be reviewed for conformance with the Obstructions Standards detailed in Title 14, Code of Federal Regulations, Part 77 Subpart C. (14 CFR Part 77).

- a. A proposed development shall be determined to be a "potential airport obstruction" if the proposed development would result in a structure or natural vegetation having a height greater than an imaginary surface extending outward and upward from the ends and sides of a publically licensed airport active runway at a slope of 1 foot vertical to 100 feet horizontal outward to 20,000 feet for Subzone A or 200 feet above ground level for Subzone B. Applicants of any development proposal determined by the County to result in a structure(s) that constitutes a "potential airport obstruction" shall be issued a Notice of Potential Airport Obstruction during the development proposal review process by the community development director or his designee.
 - i. No proposal for development will be approved for construction and no permit for construction will be issued for any proposal to construct any structure which is determined by the County to be a "potential airport obstruction" unless a County Airport Construction Permit is granted or unless a County Airport Obstruction Variance is granted.
- b. Any proposed development which is not determined to be a "potential airport obstruction" is exempt from any airport height notification zone permitting regulations contained herein.

3. Airport Construction Permit Procedures and Criteria for Approval. Any applicant affected by a Notice of Potential Obstruction may apply to the community development director for an Airport Construction Permit.

- a. Procedures for Obtaining an Airport Construction Permit.
 - i. Applicants shall submit to the County Building Inspector completed Airport Construction Permit application form (as provided by the County) and a copy of the notice of proposed construction form submitted to the FAA for the project. Permit requests may be considered by the inspector concurrent with development plan approval consideration.
 - ii. Prior to permit requests being considered for approval, applicants shall submit to the Building Inspector the final Determination issued by the FAA based on its review of the applicant's Notice of Proposed Construction submitted in accordance with 14 CFR Part 77.

b. Criteria for Granting an Airport Construction Permit.

- i. Where the FAA has reviewed the proposed development and determined its construction would not exceed an Obstruction Standard of 14 CFR Part 77, the building inspector shall grant an Airport Construction Permit for the proposed development provided that a condition is attached to the permit approval to ensure that the approved structure(s) is marked and lighted prior to the issuance of a Certificate of Occupancy (C.O.) if so required by Chapter 14-60, in accordance with the standards of Rules of the Department of Transportation and Federal Aviation Administration Advisory Circular 70/7460-1, as amended.
- ii. Where the FAA has reviewed a proposed development and determined that the proposed development exceeds the Obstruction Standards of 14 CFR Part 77, no Airport Construction Permit may be approved, and a County Airport Obstruction Variance (see regulations below) must be obtained by the applicant for the proposed development to proceed.

c. Appeals.

Actions of the building inspector relating to granting or denying an Airport Construction Permit may be appealed within 15 days of the decision rendered. Appeals shall be heard by the Board of County Commissioners and may be filed by the applicant, staff, or any person aggrieved or taxpayer affected or governing body of a political subdivision or FDOT. All appeals shall be filed, reviewed, and heard in a manner consistent with sections 333.08 and 333.10 of the Florida Statutes.

4. Airport Obstruction Variance Procedures and Criteria.

a. Procedures for Obtaining an Airport Obstruction Variance.

- i. Applicants shall submit to the Building Inspector a completed Airport Construction Variance application form, as provided by the County. Variance requests shall be considered by the Board of County Commissioners. The request may be approved, approved with conditions, or denied.
- ii. Prior to variance requests being scheduled for consideration by the Board of County Commissioners, the applicant shall submit to the Building Inspector the following:
 - A copy of the notice of proposed construction form submitted to the FAA;
 - A final Determination issued by the FAA based on its review of the applicant's Notice of Proposed Construction submitted in accordance with 14 CFR Part 77;
 - A valid aeronautical evaluation (may consist of the evaluation performed by the FAA);
 - Comments from the FDOT or evidence that the FDOT has made

no comments during its required 45 day comment time frame. Said evidence shall include a return receipt showing that the FDOT comment time frame has been exceeded.

b. Criteria for Granting an Airport Obstruction Variance

Where the FAA has reviewed the proposed development and determined its construction would exceed an Obstruction Standard of 14 CFR Part 77, the Board of County Commissioners may grant an Airport Obstruction Variance for a proposed development. Such a variance may be granted if the Board determines that a literal enforcement of the regulations would result in practical difficulty or unnecessary hardship and where the relief granted would not be contrary to the public interest (i.e. the development can be accommodated in navigable airspace without adverse impact to the County's public use airports or aviation operations) but would do substantial justice and be in accordance with the spirit of chapter 333, Florida Statutes, and provided that:

- i. A condition is attached to the variance approval to require that the approved structure(s) is marked and lighted to indicate to aircraft pilots the presence of an obstruction in accordance with the standards of FAA Advisory Circular Number 70/7460-1H., as it may be amended. Where such marking or lighting is required, such requirement shall be satisfied prior to the issuance of a Certificate of Occupancy (C.O.) for the affected structure.
- ii. The FAA aeronautical evaluations submitted are valid.
- iii. Consideration is given to:
 1. The nature of the terrain and height of existing structures.
 2. Public and private interests and investments.
 3. The character of flying operations and planned development of airports.
 4. FAA designated federal airways.
 5. Whether construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.
 6. Technological advances.
 7. The safety of persons on the ground and in the air.
 8. Land use density.
 9. The safe and efficient use of navigable airspace.
 10. The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

11. FAA determinations and results of aeronautical studies conducted by or for the FAA.
12. FDOT comments and recommendations, including FDOT findings relating to FS 333.025(1) standards and guidelines.
13. Comments and recommendations from local airport authorities.
14. Other testimony and findings of aviation operations and safety experts.

(b) Airport Runway Clear Zone and Regulations.

1. Zone Establishment. There is hereby created and established as an overlay zone a runway clear zone for areas at each end of every active runway at the Calhoun County Airport. Within a runway clear zone, certain uses are restricted or prohibited to reduce incompatibilities with normal airport operations and danger to public health.
2. Runway Clear Zone Regulations.
 - a. The following types of uses shall be prohibited within the runway clear zone:
 - i. Educational centers (including all types of primary and secondary schools, pre-schools, child care facilities).
 - ii. Hospitals, medical inpatient treatment facilities, nursing/convalescent home facilities.
 - iii. Places of Worship.
 - b. Allowable Uses. Any use which is not prohibited in a runway clear zone as determined in a. above, is allowable within the runway clear zone, subject to compliance with applicable noise impact zone and zoning district regulations.
 - c. Appeals. Determinations by the Building Inspector, relating to use interpretations involving section "a." above, may be appealed to the Board of County Commissioners. Appeal to the Board may be filed by an applicant or any person aggrieved or taxpayer affected or governing body of a political subdivision or FDOT. All such appeals to the Board shall be filed, reviewed, and heard in a manner consistent with sections 333.08 and 333.10 of the Florida Statutes.

(c) Airport Noise Impact Zone and Regulations.

1. Zone Establishment. There is hereby created and established as an overlay zone an airport noise impact zone for areas surrounding the publicly licensed airport. The noise zone is an area in which uses are restricted and special construction standards are to be used to minimize the impact of airport generated noise routinely produced by continuation of normal airport operations. The airport noise impact zone is defined as follows:

An area contiguous to the Calhoun County Airport measuring one-half (½) the length of the longest active runway on either side of and at the end of each active runway centerline. For land use control purposes, this boundary shall be considered to be consistent with the 65 to 70 ldn zone determined by an official Part 150 Noise Study.

Notwithstanding other provisions of this section, should any publicly licensed airport conduct an official 14 CFR Part 150 study, the boundaries of that airport's noise impact zone shall be modified to comply with the official noise study.

2. Noise Impact Zone Land Use Regulations.

Provisions of this section shall apply to construction, alteration, moving, repair and use of any building or structure within the Noise Impact Zone.

a. Permitted Uses. The following uses shall be permitted within the established noise overlay zone, unless prohibited by overflight zone regulations:

- i. Governmental Services
- ii. Transportation
- iii. Off-Street Parking
- iv. Offices, business and professional
- v. Wholesale and retail building materials, hardware and farm equipment
- vi. Retail trade - general
- vii. Utilities, Heavy or Limited
- viii. Communications
- ix. Manufacturing - general
- x. Photographic and optical services
- xi. Mining and fishing, resource production and extraction
- xii. Nature exhibits and zoos
- xiii. Amusement parks, resorts and camps
- xiv. Golf courses, riding stables and water recreation
- xv. Agricultural operations
- xvi. Similar Uses.

b. Restricted Uses and Criteria. The following uses shall be permitted within the established noise overlay zone, (unless prohibited by overflight zone regulations) only if the proposed development complies with the applicable criteria described below:

- i. Child Care, Transient Lodgings, Educational Centers, Residential and similar uses.
Developers of proposed child care facilities, transient lodgings, educational centers and residential uses (other than mobile homes) shall verify to the County in writing that proposed buildings are designed to achieve an outdoor to indoor noise level reduction (NLR) of at least 25 decibels. (Normal residential construction can be expected to provide an NLR of 20-25 decibels).
- ii. Hospitals, Homes for the Aged, Places of Worship, Auditoriums, Concert Halls and similar uses. Hospitals, homes for the aged, places of worship, auditoriums and concert halls shall verify to the County in writing that proposed buildings are designed to achieve an outdoor to indoor noise level reduction (NLR) of at least 25 decibels.
- iii. Outdoor Sports Arenas, Spectator Sports and similar uses. Outdoor sports arenas and spectator sports facilities must be constructed with special sound reinforcement systems consistent with building code regulations.

In lieu of providing written verification that a proposed building is designed for

an NLR of 25 decibels (as stated in i, ii, and iii above), a developer may execute and record an avigation easement as provided in Section(4)(c)2.e. below.

- c. Prohibited Uses. Uses which are not specified in Section 911.17(4)(c)2.a. and b. as permitted or restricted are prohibited within the noise overlay zone.
- d. Appeals. Determinations by the Building Inspector, relating to use interpretations involving sections "a." or "b." or "c." above, may be appealed to the Board of County Commissioners. Appeal may be made to the Board by an applicant, any aggrieved person, taxpayer affected, governing body of a political subdivision, or FDOT. All such appeals to the Board shall be filed, reviewed, and heard in a manner consistent with sections 333.08 and 333.10 of the Florida Statutes.
- e. Avigation Easements. An avigation easement is a legal document that grants to the owner/operator of a nearby airport a right to continue to operate the airport in a manner similar to current operations, despite potential nuisance effects upon uses that are being established in close proximity to the airport. Applicants choosing to provide an avigation easement shall execute said easement to the appropriate airport authority. The easement shall be in a form acceptable to the County attorney's office and shall be executed in a recordable form by the property owner:

-prior to release of a development site plan,

-prior to or via recording of a final plat, or

-prior to issuance of a building permit, as applicable.

The property owner shall record the easement and provide a copy of same to the County.

(d) Special Requirements Applicable Throughout the Unincorporated Area of the County.

Notwithstanding any other provision of this section, no use may be made of land or water within the unincorporated area of the County in such a manner as to interfere with operation of an airborne aircraft using a publicly licensed airport. The following special requirements shall apply to proposed developments:

- 1. Solid Waste Disposal Sites shall be reviewed in accordance with the State of Florida Department of Environmental Regulation (DER) Rule Chapter 72-701, which requires the following:
 - a. No Solid Waste Disposal Sites shall be permitted to be located as follows:
 - i. within 10,000 feet of any publicly licensed airport active runway used or planned to be used by turbine powered aircraft, or
 - ii. within 5,000 feet of any publicly licensed airport active runway used only by piston type aircraft, or
 - iii. so that it places the active runways and/or approach and departure

patterns of an airport between the solid waste disposal site and bird feeding, water or roosting areas, or

- iv. locations outside the above locations but still within the limits of any airport overlay zone(s) if determined by the FAA to pose a hazard.

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

(e) Nonconforming Uses.

The regulations prescribed herein shall not be construed to require the removal, lowering, or other change to or alteration of any structure or natural vegetation not conforming to the regulations as of the effective date of this ordinance, or to otherwise interfere with continuance of any nonconforming use except as provided in 333.07(1) and (3). However, no pre-existing nonconforming structure, natural vegetation, or use shall be replaced, rebuilt, altered, or allowed to grow higher, or to be replanted, so as to constitute an increase in the degree of nonconformity with these regulations (911.17). Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, where the construction or alteration was begun prior to the effective date of this ordinance and is completed within one year thereafter.

(f) Penalties.

Each violation of this ordinance or of any regulation, order, or ruling promulgated herein shall constitute a misdemeanor of the second degree and shall be punishable by a fine of not more than \$500 dollars or imprisonment for not more than 60 days, or both; and each day a violation continues shall constitute a separate offense.

(5) REPEAL OF CONFLICTING PROVISIONS

All previous ordinances, resolutions, or motions of the Board of County Commissioners of Calhoun County, Florida which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict. All Special Acts of the legislature applying only to the unincorporated portion of Calhoun County and which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

(6) SEVERABILITY

If any section, part of a sentence, paragraph, phrase or word of this ordinance is for any reason held to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this ordinance without such unconstitutional, invalid or inoperative part.

(7) EFFECTIVE DATE

The provisions of this ordinance shall become effective upon final passage as provided by law..

Approved and adopted by the Board of County Commissioners of Calhoun County, Florida on this
21ST day of SEPTEMBER, 1999.

BOARD OF COUNTY COMMISSIONERS
OF CALHOUN COUNTY

By *Duane Capps*
DUANE CAPPS, Chairman

ATTEST BY: *Willie D. Wise*
Willie D. Wise, Clerk

CERTIFIED A TRUE COPY

Janice Holley, Jr.

WILLIE D. WISE
CLERK CIRCUIT COURT
CALHOUN COUNTY, FLORIDA