

By Senator Simpson

18-01090-16

20161508\_\_

1                   A bill to be entitled  
2           An act relating to airport zoning; amending s. 333.01,  
3           F.S.; defining and redefining terms; amending s.  
4           333.025, F.S.; revising the requirements relating to  
5           permits required for obstructions; requiring certain  
6           existing, planned, and proposed facilities to be  
7           protected from airport hazards; requiring the local  
8           government to provide a copy of a complete permit  
9           application to the Department of Transportation's  
10          aviation office, subject to certain requirements;  
11          requiring the department to have a specified review  
12          period following receipt of such application;  
13          providing exemptions from such review under certain  
14          circumstances; revising the circumstances under which  
15          the department issues or denies a permit; revising the  
16          department's requirements before a permit is issued;  
17          revising the circumstances under which the department  
18          is prohibited from approving a permit; providing that  
19          the denial of a permit is subject to administrative  
20          review; amending s. 333.03, F.S.; conforming  
21          provisions to changes made by the act; revising the  
22          circumstances under which a political subdivision  
23          owning or controlling an airport and another political  
24          subdivision adopt, administer, and enforce airport  
25          protection zoning regulations or create a joint  
26          airport protection zoning board; revising the  
27          provisions relating to airport protection zoning  
28          regulations and joint airport protection zoning  
29          boards; requiring the department to be available to  
30          provide assistance to political subdivisions regarding  
31          federal obstruction standards; deleting provisions  
32          relating to certain duties of the department; revising

18-01090-16

20161508\_\_

33 provisions relating to airport land use compatibility  
34 zoning regulations; revising construction; providing  
35 applicability; amending s. 333.04, F.S.; authorizing  
36 certain airport zoning regulations to be incorporated  
37 in and made a part of comprehensive plans and  
38 policies, rather than a part of comprehensive zoning  
39 regulations, under certain circumstances; revising  
40 requirements relating to applicability; amending s.  
41 333.05, F.S.; revising procedures for adoption of  
42 airport zoning regulations; amending s. 333.06, F.S.;  
43 revising airport zoning regulation requirements;  
44 repealing s. 333.065, F.S., relating to guidelines  
45 regarding land use near airports; amending s. 333.07,  
46 F.S.; revising requirements relating to local  
47 government permitting of airspace obstructions;  
48 requiring a person proposing to construct, alter, or  
49 allow an airport obstruction to apply for a permit  
50 under certain circumstances; revising the  
51 circumstances under which a permit is prohibited from  
52 being issued; revising the circumstances under which  
53 the owner of a nonconforming structure is required to  
54 alter such structure to conform to the current airport  
55 protection zoning regulations; deleting provisions  
56 relating to variances from zoning regulations;  
57 requiring a political subdivision or its  
58 administrative agency to consider specified criteria  
59 in determining whether to issue or deny a permit;  
60 revising the requirements for marking and lighting in  
61 conformance with certain standards; repealing s.

18-01090-16

20161508\_\_

62 333.08, F.S., relating to appeals of decisions  
63 concerning airport zoning regulations; amending s.  
64 333.09, F.S.; revising the requirements relating to  
65 the administration of airport protection zoning  
66 regulations; requiring all airport protection zoning  
67 regulations to provide for the administration and  
68 enforcement of such regulations by the political  
69 subdivision or its administrative agency; requiring a  
70 political subdivision adopting airport zoning  
71 regulations to provide a permitting process, subject  
72 to certain requirements; requiring a zoning board or  
73 permitting body to implement the airport zoning  
74 regulation permitting and appeals process if such  
75 board or body already exists within a political  
76 subdivision; authorizing a person, a political  
77 subdivision or its administrative agency, or a  
78 specified joint zoning board to use the process  
79 established for an appeal, subject to certain  
80 requirements; repealing s. 333.10, F.S., relating to  
81 boards of adjustment provided for by airport zoning  
82 regulations; amending s. 333.11, F.S.; revising the  
83 requirements relating to judicial review; amending s.  
84 333.12, F.S.; revising requirements relating to the  
85 acquisition of air rights; amending s. 333.13, F.S.;  
86 conforming provisions to changes made by the act;  
87 creating s. 333.135, F.S.; requiring conflicting  
88 airport zoning regulations in effect on a specified  
89 date to be amended to conform to certain requirements;  
90 requiring certain political subdivisions to adopt

18-01090-16

20161508\_\_

91 certain airport zoning regulations by a specified  
92 date; requiring the department to administer a  
93 specified permitting process for certain political  
94 subdivisions; repealing s. 333.14, F.S., relating to a  
95 short title; providing an effective date.

96

97 Be It Enacted by the Legislature of the State of Florida:

98

99 Section 1. Section 333.01, Florida Statutes, is amended to  
100 read:

101 333.01 Definitions.—As used in ~~For the purpose of~~ this  
102 chapter, the term following words, terms, and phrases shall have  
103 the meanings herein given, unless otherwise specifically  
104 defined, or unless another intention clearly appears, or the  
105 context otherwise requires:

106 (1) "Aeronautical study" means a Federal Aviation  
107 Administration study, conducted in accordance with the standards  
108 of 14 C.F.R. part 77, subpart C, and Federal Aviation  
109 Administration policy and guidance, on the effect of proposed  
110 construction or alteration upon the operation of air navigation  
111 facilities and the safe and efficient use of navigable airspace.

112 ~~(1) "Aeronautics" means transportation by aircraft; the~~  
113 ~~operation, construction, repair, or maintenance of aircraft,~~  
114 ~~aircraft power plants and accessories, including the repair,~~  
115 ~~packing, and maintenance of parachutes; the design,~~  
116 ~~establishment, construction, extension, operation, improvement,~~  
117 ~~repair, or maintenance of airports, restricted landing areas, or~~  
118 ~~other air navigation facilities, and air instruction.~~

119 (2) "Airport" means any area of land or water designed and

18-01090-16

20161508\_\_

120 set aside for the landing and taking off of aircraft and used  
121 ~~utilized~~ or to be used ~~utilized~~ in the interest of the public  
122 for such purpose.

123 (3) "Airport hazard" means an obstruction to air navigation  
124 which affects the safe and efficient use of navigable airspace  
125 or the operation of planned or existing air navigation and  
126 communication facilities ~~any structure or tree or use of land~~  
127 ~~which would exceed the federal obstruction standards as~~  
128 ~~contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29~~  
129 ~~and which obstructs the airspace required for the flight of~~  
130 ~~aircraft in taking off, maneuvering, or landing or is otherwise~~  
131 ~~hazardous to such taking off, maneuvering, or landing of~~  
132 ~~aircraft and for which no person has previously obtained a~~  
133 ~~permit or variance pursuant to s. 333.025 or s. 333.07.~~

134 (4) "Airport hazard area" means any area of land or water  
135 upon which an airport hazard might be established ~~if not~~  
136 ~~prevented as provided in this chapter.~~

137 (5) "Airport land use compatibility zoning" means airport  
138 zoning regulations governing ~~restricting~~ the use of land on,  
139 adjacent to, or in the immediate vicinity of airports ~~in the~~  
140 ~~manner enumerated in s. 333.03(2) to activities and purposes~~  
141 ~~compatible with the continuation of normal airport operations~~  
142 ~~including landing and takeoff of aircraft in order to promote~~  
143 ~~public health, safety, and general welfare.~~

144 (6) "Airport layout plan" means a set of scaled drawings  
145 that provide a graphic representation of the existing and future  
146 development plan for the airport and demonstrate the  
147 preservation and continuity of safety, utility, and efficiency  
148 of the airport ~~detailed, scale engineering drawing, including~~

18-01090-16

20161508\_\_

149 ~~pertinent dimensions, of an airport's current and planned~~  
150 ~~facilities, their locations, and runway usage.~~

151 (7) "Airport master plan" means a comprehensive plan of an  
152 airport which typically describes current and future plans for  
153 airport development designed to support existing and future  
154 aviation demand.

155 (8) "Airport protection zoning regulations" means airport  
156 zoning regulations governing airport hazards.

157 (9) "Department" means the Department of Transportation as  
158 created under s. 20.23.

159 (10) "Educational facility" means any structure, land, or  
160 use that includes a public or private kindergarten through 12th  
161 grade school, charter school, magnet school, college campus, or  
162 university campus. The term does not include space used for  
163 educational purposes within a multi-tenant building.

164 (11) "Landfill" has the same meaning as provided in s.  
165 403.703.

166 (12) ~~(7)~~ "Obstruction" means any existing or proposed  
167 ~~manmade object or object, of natural growth or terrain, or~~  
168 ~~structure construction or alteration~~ that exceeds ~~violates~~ the  
169 ~~federal obstruction~~ standards contained in 14 C.F.R. part 77,  
170 ~~subpart C ss. 77.21, 77.23, 77.25, 77.28, and 77.29.~~ The term  
171 includes:

172 (a) Any object of natural growth or terrain;

173 (b) Permanent or temporary construction or alteration,  
174 including equipment or materials used and any permanent or  
175 temporary apparatus; or

176 (c) Alteration of any permanent or temporary existing  
177 structure by a change in the structure's height, including

18-01090-16

20161508\_\_

178 appurtenances, lateral dimensions, and equipment or materials  
179 used in the structure.

180 (13)-(8) "Person" means any individual, firm, copartnership,  
181 corporation, company, association, joint-stock association, or  
182 body politic, and includes any trustee, receiver, assignee, or  
183 other similar representative thereof.

184 (14)-(9) "Political subdivision" means the local government  
185 of any county, municipality city, town, village, or other  
186 subdivision or agency thereof, or any district or special  
187 district, port commission, port authority, or other such agency  
188 authorized to establish or operate airports in the state.

189 (15) "Public-use airport" means an airport, publicly or  
190 privately owned, licensed by the state, which is open for use by  
191 the public.

192 (16)-(10) "Runway protection clear zone" means an area at  
193 ground level beyond the runway end to enhance the safety and  
194 protection of people and property on the ground a ~~runway clear~~  
195 zone as defined in 14 C.F.R. s. 151.9(b).

196 (17)-(11) "Structure" means any object, ~~constructed,~~  
197 erected, altered, or installed ~~by humans,~~ including, but not  
198 limited to ~~without limitation thereof,~~ buildings, towers,  
199 smokestacks, utility poles, power generation equipment, and  
200 overhead transmission lines.

201 (18) "Substantial modification" means any repair,  
202 reconstruction, rehabilitation, or improvement of a structure  
203 when the actual cost of the repair, reconstruction,  
204 rehabilitation, or improvement of the structure equals or  
205 exceeds 50 percent of the market value of the structure.

206 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~

18-01090-16

20161508\_\_

207 Section 2. Section 333.025, Florida Statutes, is amended to  
208 read:

209 333.025 Permit required for obstructions ~~structures~~  
210 ~~exceeding federal obstruction standards.~~

211 (1) A person proposing the construction or alteration ~~In~~  
212 ~~order to prevent the erection of an obstruction must obtain a~~  
213 permit from the department ~~structures dangerous to air~~  
214 ~~navigation, subject to the provisions of subsections (2), (3),~~  
215 ~~and (4), each person shall secure from the Department of~~  
216 ~~Transportation a permit for the erection, alteration, or~~  
217 ~~modification of any structure the result of which would exceed~~  
218 ~~the federal obstruction standards as contained in 14 C.F.R. ss.~~  
219 ~~77.21, 77.23, 77.25, 77.28, and 77.29. However, permits from the~~  
220 ~~department of Transportation will be required only within an~~  
221 ~~airport hazard area where federal~~ obstruction ~~standards are~~  
222 ~~exceeded and if the proposed construction~~ or alteration ~~is~~  
223 ~~within a 10-nautical-mile radius of the~~ airport reference point,  
224 located at the approximate geometric ~~geographical~~ center of all  
225 usable runways of a public-use airport or a publicly owned or  
226 operated airport, a military airport, or an airport licensed by  
227 the state for public use.

228 (2) Existing, planned, and proposed ~~Affected airports will~~  
229 ~~be considered as having these facilities~~ on public-use airports  
230 contained in an ~~which are shown on the~~ airport master plan, in  
231 ~~or an airport layout plan submitted to the Federal Aviation~~  
232 ~~Administration, Airport District Office or in~~ comparable  
233 military documents shall, and will be so protected from airport  
234 hazards. Planned or proposed public-use airports which are the  
235 ~~subject of a notice or proposal submitted to the Federal~~

18-01090-16

20161508\_\_

236 ~~Aviation Administration or to the Department of Transportation~~  
237 ~~shall also be protected.~~

238 (3) A permit is not required for existing structures that  
239 ~~requirements of subsection (1) shall not apply to projects which~~  
240 received construction permits from the Federal Communications  
241 Commission for structures exceeding federal obstruction  
242 standards before ~~prior to~~ May 20, 1975, ~~provided such structures~~  
243 ~~now exist; a permit is not required for~~ nor shall it apply to  
244 ~~previously approved structures now existing, or any necessary~~  
245 replacement or repairs to such existing structures if, so long  
246 ~~as~~ the height and location are ~~is~~ unchanged.

247 (4) If ~~When~~ political subdivisions have, in compliance with  
248 this chapter, adopted adequate airport airspace protection  
249 zoning regulations, placed in compliance with s. 333.03, and  
250 such regulations ~~are~~ on file with the department's aviation  
251 office, and established a permitting process ~~Department of~~  
252 ~~Transportation,~~ a permit for the construction or alteration of  
253 an obstruction is ~~such structure shall not be~~ required from the  
254 ~~department of Transportation.~~ Upon receipt of a complete permit  
255 application, the local government shall provide a copy of the  
256 application to the department's aviation office by certified  
257 mail, return receipt requested, or by a delivery service that  
258 provides a receipt evidencing delivery. To evaluate technical  
259 consistency with this subsection, the department shall have a  
260 15-day review period following receipt of the application, which  
261 must run concurrently with the local government permitting  
262 process. Cranes, construction equipment, and other temporary  
263 structures in use or in place for a period not to exceed 18  
264 consecutive months are exempt from the department's review,

18-01090-16

20161508\_\_

265 unless such review is requested by the department.

266 (5) The department ~~of Transportation~~ shall, within 30 days  
267 after ~~of the~~ receipt of an application for a permit, issue or  
268 deny a permit for the construction or erection, alteration, ~~or~~  
269 ~~modification~~ of an obstruction ~~any structure the result of which~~  
270 ~~would exceed federal obstruction standards as contained in 14~~  
271 ~~C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29.~~ The department  
272 shall review permit applications in conformity with s. 120.60.

273 (6) In determining whether to issue or deny a permit, the  
274 department shall consider:

275 (a) The safety of persons on the ground and in the air.

276 (b) The safe and efficient use of navigable airspace.

277 (c) ~~(a)~~ The nature of the terrain and height of existing  
278 structures.

279 ~~(b) Public and private interests and investments.~~

280 (d) The effect of the construction or alteration of an  
281 obstruction on the state licensing standards for a public-use  
282 airport contained in chapter 330 and rules adopted thereunder.

283 (e) ~~(e)~~ The character of existing and planned flight ~~flying~~  
284 operations and ~~planned~~ developments at public-use ~~of~~ airports.

285 (f) ~~(d)~~ Federal airways, visual flight rules, flyways and  
286 corridors, and instrument approaches as designated by the  
287 Federal Aviation Administration.

288 (g) ~~(e)~~ The effect of ~~Whether~~ the construction or alteration  
289 of an obstruction on ~~the proposed structure would cause an~~  
290 ~~increase in~~ the minimum descent altitude or the decision height  
291 at the affected airport.

292 ~~(f) Technological advances.~~

293 ~~(g) The safety of persons on the ground and in the air.~~

18-01090-16

20161508\_\_

294 ~~(h) Land use density.~~  
295 ~~(i) The safe and efficient use of navigable airspace.~~  
296 (h)(j) The cumulative effects on navigable airspace of all  
297 existing obstructions structures, ~~proposed structures identified~~  
298 ~~in the applicable jurisdictions' comprehensive plans~~, and all  
299 ~~other~~ known proposed obstructions structures in the area.

300 (7) When issuing a permit under this section, the  
301 department ~~of Transportation~~ shall, ~~as a specific condition of~~  
302 ~~such permit~~, require the owner obstruction marking and lighting  
303 of the obstruction to install, operate, and maintain, at the  
304 owner's expense, marking and lighting in conformance with the  
305 specific standards established by the Federal Aviation  
306 Administration permitted structure as provided in s.  
307 333.07(3)(b).

308 (8) The department may ~~of Transportation~~ shall not approve  
309 a permit for the construction or alteration erection of an  
310 obstruction a structure unless the applicant submits ~~both~~  
311 documentation showing both compliance with the federal  
312 requirement for notification of proposed construction or  
313 alteration and a valid aeronautical study. ~~A evaluation, and no~~  
314 permit may not ~~shall~~ be approved solely on the basis that the  
315 Federal Aviation Administration determined that the such  
316 proposed construction or alteration of an obstruction was not an  
317 airport hazard structure will not exceed federal obstruction  
318 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,  
319 77.28, or 77.29, or any other federal aviation regulation.

320 (9) The denial of a permit under this section is subject to  
321 administrative review pursuant to chapter 120.

322 Section 3. Section 333.03, Florida Statutes, is amended to

18-01090-16

20161508\_\_

323 read:

324 333.03 Requirement ~~Power~~ to adopt airport protection zoning  
325 regulations.-326 (1) (a) ~~In order to prevent the creation or establishment of~~  
327 ~~airport hazards,~~ Every political subdivision having an airport  
328 hazard area within its territorial limits shall, ~~by October 1,~~  
329 ~~1977,~~ adopt, administer, and enforce, under the police power and  
330 in the manner and upon the conditions ~~hereinafter~~ hereinafter prescribed in  
331 this section, airport protection zoning regulations for such  
332 airport hazard area.333 (b) If ~~where~~ an airport is owned or controlled by a  
334 political subdivision and any other political subdivision has  
335 land underlying any of the surfaces of the airport and upon  
336 which an obstruction may be constructed or altered under 14  
337 C.F.R. part 77, subpart C, the political subdivisions airport  
338 ~~hazard area appertaining to such airport is located wholly or~~  
339 ~~partly outside the territorial limits of said political~~  
340 ~~subdivision, the political subdivision owning or controlling the~~  
341 ~~airport and the political subdivision within which the airport~~  
342 ~~hazard area is located,~~ shall either:343 1. By interlocal agreement, ~~in accordance with the~~  
344 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set  
345 of airport protection zoning regulations ~~applicable to the~~  
346 ~~airport hazard area in question; or~~347 2. By ordinance, regulation, or resolution duly adopted,  
348 create a joint airport protection zoning board that, ~~which board~~  
349 ~~shall have the same power to~~ adopt, administer, and enforce a  
350 set of airport protection zoning regulations ~~applicable to the~~  
351 ~~airport hazard area in question as that vested in paragraph (a)~~

18-01090-16

20161508\_\_

352 ~~in the political subdivision within which such area is located.~~  
353 The ~~Each such~~ joint airport protection zoning board shall have  
354 as voting members two representatives appointed by each  
355 participating political subdivision ~~participating in its~~  
356 ~~creation~~ and ~~in addition~~ a chair elected by a majority of the  
357 members so appointed. ~~However,~~ The airport manager or a  
358 representative of each airport in ~~managers of~~ the affected  
359 participating political subdivisions shall serve on the board in  
360 a nonvoting capacity.

361 (c) Airport protection zoning regulations adopted under  
362 paragraph (a) must shall, at ~~as~~ a minimum, require:

363 1. A permit variance for the construction or erection,  
364 ~~alteration, or modification~~ of any obstruction structure which  
365 ~~would cause the structure to exceed the federal obstruction~~  
366 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~  
367 ~~77.28, and 77.29;~~

368 2. Obstruction marking and lighting for obstructions  
369 ~~structures as specified in s. 333.07(3);~~

370 3. Documentation showing compliance with the federal  
371 requirement for notification of proposed construction or  
372 alteration of structures and a valid aeronautical study  
373 ~~evaluation~~ submitted by each person applying for a permit  
374 ~~variance;~~

375 4. Consideration of the criteria in s. 333.025(6), when  
376 determining whether to issue or deny a permit variance; and

377 5. That approval of a permit not be based ~~no variance shall~~  
378 ~~be approved~~ solely on the determination by the Federal Aviation  
379 Administration ~~basis~~ that the such proposed structure is not an  
380 airport hazard ~~will not exceed federal obstruction standards as~~

18-01090-16

20161508\_\_

381 ~~contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29,~~  
382 ~~or any other federal aviation regulation.~~

383 (d) The department shall be available to provide assistance  
384 to political subdivisions regarding federal obstruction  
385 standards shall issue copies of the federal obstruction  
386 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~  
387 ~~77.28, and 77.29 to each political subdivision having airport~~  
388 ~~hazard areas and, in cooperation with political subdivisions,~~  
389 ~~shall issue appropriate airport zoning maps depicting within~~  
390 ~~each county the maximum allowable height of any structure or~~  
391 ~~tree. Material distributed pursuant to this subsection shall be~~  
392 ~~at no cost to authorized recipients.~~

393 (2) In the manner provided in subsection (1), political  
394 subdivisions shall adopt, administer, and enforce interim  
395 airport land use compatibility zoning regulations shall be  
396 ~~adopted. Airport land use compatibility zoning~~ When political  
397 ~~subdivisions have adopted land development regulations shall, at~~  
398 a minimum, in accordance with the provisions of chapter 163  
399 ~~which address the use of land in the manner consistent with the~~  
400 ~~provisions herein, adoption of airport land use compatibility~~  
401 ~~regulations pursuant to this subsection shall not be required.~~  
402 ~~Interim airport land use compatibility zoning regulations shall~~  
403 ~~consider the following:~~

404 (a) The prohibition of new landfills and the restriction of  
405 existing landfills ~~Whether sanitary landfills are located within~~  
406 ~~the following areas:~~

407 1. Within 10,000 feet from the nearest point of any runway  
408 used or planned to be used by turbine turbojet or turboprop  
409 aircraft.

18-01090-16

20161508\_\_

410           2. Within 5,000 feet from the nearest point of any runway  
411 used ~~only~~ by only nonturbine piston-type aircraft.

412           3. Outside the perimeters defined in subparagraphs 1. and  
413 2., but still within the lateral limits of the civil airport  
414 imaginary surfaces defined in 14 C.F.R. s. 77.19 ~~part 77.25~~.  
415 Case-by-case review of such landfills is advised.

416           (b) Where ~~Whether~~ any landfill is located and constructed  
417 in a manner ~~so~~ that ~~it~~ attracts or sustains hazardous bird  
418 movements from feeding, water, or roosting areas into, or  
419 across, the runways or approach and departure patterns of  
420 aircraft. The landfill operator must ~~political subdivision shall~~  
421 ~~request from the airport authority or other governing body~~  
422 ~~operating the airport a report on such bird feeding or roosting~~  
423 ~~areas that at the time of the request are known to the airport.~~  
424 ~~In preparing its report, the authority, or other governing body,~~  
425 ~~shall consider whether the landfill will~~ incorporate bird  
426 management techniques or other practices to minimize bird  
427 hazards to airborne aircraft. ~~The airport authority or other~~  
428 ~~governing body shall respond to the political subdivision no~~  
429 ~~later than 30 days after receipt of such request.~~

430           (c) Where an airport authority or other governing body  
431 operating a ~~publicly owned,~~ public-use airport has conducted a  
432 noise study in accordance with ~~the provisions of~~ 14 C.F.R. part  
433 150, or where a public-use airport owner has established noise  
434 contours pursuant to another public study approved by the  
435 Federal Aviation Administration, the prohibition of incompatible  
436 uses, as established in the noise study in 14 C.F.R. part 150,  
437 Appendix A or as a part of an alternative Federal Aviation  
438 Administration-approved public study, within the noise contours

18-01090-16

20161508\_\_

439 established by any of these studies, except if such uses are  
440 specifically contemplated by such study with appropriate  
441 mitigation or similar techniques described in the study ~~neither~~  
442 ~~residential construction nor any educational facility as defined~~  
443 ~~in chapter 1013, with the exception of aviation school~~  
444 ~~facilities, shall be permitted within the area contiguous to the~~  
445 ~~airport defined by an outer noise contour that is considered~~  
446 ~~incompatible with that type of construction by 14 C.F.R. part~~  
447 ~~150, Appendix A or an equivalent noise level as established by~~  
448 ~~other types of noise studies.~~

449 (d) Where an airport authority or other governing body  
450 operating a ~~publicly owned,~~ public-use airport has not conducted  
451 a noise study, the prohibition of ~~neither~~ residential  
452 construction and ~~nor~~ any educational facility ~~as defined in~~  
453 ~~chapter 1013, with the exception of aviation school facilities,~~  
454 ~~shall be permitted~~ within an area contiguous to the airport  
455 measuring one-half the length of the longest runway on either  
456 side of and at the end of each runway centerline.

457 (e) (3) The restriction of ~~In the manner provided in~~  
458 ~~subsection (1), airport zoning regulations shall be adopted~~  
459 ~~which restrict~~ new incompatible uses, activities, or substantial  
460 modifications to existing incompatible uses ~~construction~~ within  
461 runway protection clear zones, ~~including uses, activities, or~~  
462 ~~construction in runway clear zones which are incompatible with~~  
463 ~~normal airport operations or endanger public health, safety, and~~  
464 ~~welfare by resulting in congregations of people, emissions of~~  
465 ~~light or smoke, or attraction of birds. Such regulations shall~~  
466 ~~prohibit the construction of an educational facility of a public~~  
467 ~~or private school at either end of a runway of a publicly owned,~~

18-01090-16

20161508\_\_

468 ~~public use airport within an area which extends 5 miles in a~~  
469 ~~direct line along the centerline of the runway, and which has a~~  
470 ~~width measuring one-half the length of the runway. Exceptions~~  
471 ~~approving construction of an educational facility within the~~  
472 ~~delineated area shall only be granted when the political~~  
473 ~~subdivision administering the zoning regulations makes specific~~  
474 ~~findings detailing how the public policy reasons for allowing~~  
475 ~~the construction outweigh health and safety concerns prohibiting~~  
476 ~~such a location.~~

477 ~~(4) The procedures outlined in subsections (1), (2), and~~  
478 ~~(3) for the adoption of such regulations are supplemental to any~~  
479 ~~existing procedures utilized by political subdivisions in the~~  
480 ~~adoption of such regulations.~~

481 ~~(3)(5) Political subdivisions shall provide The Department~~  
482 ~~of Transportation shall provide technical assistance to any~~  
483 ~~political subdivision requesting assistance in the preparation~~  
484 ~~of an airport zoning code. a copy of all local airport~~  
485 ~~protection zoning codes, rules, and regulations and airport land~~  
486 ~~use compatibility zoning regulations, and any related amendments~~  
487 ~~and proposed and granted variances thereto, to shall be filed~~  
488 ~~with the department's aviation office within 30 days after~~  
489 ~~adoption department.~~

490 ~~(4)(6) Nothing in Subsection (2) may not or subsection (3)~~  
491 ~~shall be construed to require the removal, alteration, sound~~  
492 ~~conditioning, or other change, or to interfere with the~~  
493 ~~continued use or adjacent expansion of any educational facility~~  
494 ~~structure or site in existence on July 1, 1993, or be construed~~  
495 ~~to prohibit the construction of any new structure for which a~~  
496 ~~site has been determined as provided in former s. 235.19, as of~~

18-01090-16

20161508\_\_

497 ~~July 1, 1993.~~

498 (5) This section does not prohibit an airport authority, a  
499 political subdivision or its administrative agency, or any other  
500 governing body operating a public-use airport from establishing  
501 airport zoning regulations more restrictive than prescribed in  
502 this section in order to protect the health, safety, and welfare  
503 of the public in the air and on the ground.

504 Section 4. Section 333.04, Florida Statutes, is amended to  
505 read:

506 333.04 Comprehensive zoning regulations; most stringent to  
507 prevail where conflicts occur.-

508 (1) INCORPORATION.-In the event that a political  
509 subdivision has adopted, or hereafter adopts, a comprehensive  
510 plan or policy ~~zoning ordinance~~ regulating, among other things,  
511 the height of buildings, structures, and natural objects, and  
512 uses of property, any airport zoning regulations applicable to  
513 the same area or portion thereof may be incorporated in and made  
514 a part of such comprehensive plan or policy ~~zoning regulations~~,  
515 and be administered and enforced in connection therewith.

516 (2) CONFLICT.-In the event of conflict between any airport  
517 zoning regulations adopted under this chapter and any other  
518 regulations applicable to the same area, whether the conflict be  
519 with respect to the height of structures or vegetation ~~trees~~,  
520 the use of land, or any other matter, and whether such  
521 regulations were adopted by the political subdivision that ~~which~~  
522 adopted the airport zoning regulations or by some other  
523 political subdivision, the more stringent limitation or  
524 requirement shall govern and prevail.

525 Section 5. Section 333.05, Florida Statutes, is amended to

18-01090-16

20161508\_\_

526 read:

527 333.05 Procedure for adoption of airport zoning  
528 regulations.-

529 (1) NOTICE AND HEARING.-~~No~~ Airport zoning regulations may  
530 not shall be adopted, amended, or repealed ~~changed~~ under this  
531 chapter except by action of the legislative body of the  
532 political subdivision or affected subdivisions ~~in question~~, or  
533 the joint board provided in s. 333.03(1)(b)2. ~~s. 333.03(1)(b)~~ by  
534 the political subdivisions ~~bodies~~ therein provided and set  
535 forth, after a public hearing in relation thereto, at which  
536 parties in interest and citizens shall have an opportunity to be  
537 heard. Notice of the hearing shall be published at least once a  
538 week for 2 consecutive weeks in a newspaper ~~an official paper,~~  
539 ~~or a paper~~ of general circulation, ~~in the political subdivision~~  
540 or subdivisions where ~~in which are located~~ the airport zoning  
541 regulations are ~~areas~~ to be adopted, amended, or repealed ~~zoned~~.

542 (2) AIRPORT ZONING COMMISSION.-Before ~~Prior to~~ the initial  
543 zoning of any airport area under this chapter, the political  
544 subdivision or joint airport zoning board that ~~which~~ is to  
545 adopt, administer, and enforce the regulations must ~~shall~~  
546 appoint a commission, to be known as the airport zoning  
547 commission, to recommend the boundaries of the various zones to  
548 be established and the regulations to be adopted therefor. Such  
549 commission shall make a preliminary report and hold public  
550 hearings thereon before submitting its final report, and the  
551 legislative body of the political subdivision or the joint  
552 airport zoning board may ~~shall~~ not hold its public hearings or  
553 take any action until it has received the final report of such  
554 commission, and at least 15 days shall elapse between the

18-01090-16

20161508\_\_

555 receipt of the final report of the commission and the hearing to  
556 be held by the latter board. ~~If Where~~ a planning city plan  
557 commission, an airport commission, or a comprehensive zoning  
558 commission already exists, it may be appointed as the airport  
559 zoning commission.

560 Section 6. Section 333.06, Florida Statutes, is amended to  
561 read:

562 333.06 Airport zoning regulation requirements.—

563 (1) REASONABLENESS.—All airport zoning regulations adopted  
564 under this chapter shall be reasonable and may not ~~none shall~~  
565 impose any requirement or restriction which is not reasonably  
566 necessary to effectuate the purposes of this chapter. In  
567 determining what regulations it may adopt, each political  
568 subdivision and joint airport zoning board shall consider, among  
569 other things, the character of the flying operations expected to  
570 be conducted at the airport, the nature of the terrain within  
571 the airport hazard area and runway protection ~~clear~~ zones, the  
572 character of the neighborhood, the uses to which the property to  
573 be zoned is put and adaptable, and the impact of any new use,  
574 activity, or construction on the airport's operating capability  
575 and capacity.

576 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport  
577 zoning regulations adopted under this chapter is to provide both  
578 airspace protection and land uses ~~use~~ compatible with airport  
579 operations. Each aspect of this purpose requires independent  
580 justification in order to promote the public interest in safety,  
581 health, and general welfare. Specifically, construction in a  
582 runway protection ~~clear~~ zone which does not exceed airspace  
583 height restrictions is not conclusive ~~evidence per se~~ that such

18-01090-16

20161508\_\_

584 use, activity, or construction is compatible with airport  
585 operations.

586 (3) NONCONFORMING USES.—An ~~no~~ airport protection zoning  
587 regulation ~~regulations~~ adopted under this chapter may not shall  
588 require the removal, lowering, or other change or alteration of  
589 any obstruction ~~structure or tree~~ not conforming to the  
590 regulation ~~regulations~~ when adopted or amended, or otherwise  
591 interfere with the continuance of any nonconforming use, except  
592 as provided in s. 333.07(1) and (3).

593 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED  
594 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by  
595 each public-use ~~publicly owned and operated~~ airport licensed by  
596 the department of ~~Transportation~~ under chapter 330. The  
597 authorized entity having responsibility for governing the  
598 operation of the airport, when either requesting from or  
599 submitting to a state or federal governmental agency with  
600 funding or approval jurisdiction a “finding of no significant  
601 impact,” an environmental assessment, a site-selection study, an  
602 airport master plan, or any amendment to an airport master plan,  
603 shall submit simultaneously a copy of said request, submittal,  
604 assessment, study, plan, or amendments by certified mail to all  
605 affected local governments. As used in ~~For the purposes of~~ this  
606 subsection, the term “affected local government” is defined as  
607 any municipality ~~city~~ or county having jurisdiction over the  
608 airport and any municipality ~~city~~ or county located within 2  
609 miles of the boundaries of the land subject to the airport  
610 master plan.

611 Section 7. Section 333.065, Florida Statutes, is repealed.

612 Section 8. Section 333.07, Florida Statutes, is amended to

18-01090-16

20161508\_\_

613 read:

614 333.07 Local government permitting of airspace obstructions  
615 ~~Permits and variances.-~~

616 (1) PERMITS.-

617 (a) A person proposing to construct, alter, or allow an  
618 airport obstruction in an airport hazard area in violation of  
619 the airport protection zoning regulations adopted under this  
620 chapter must apply for a permit. A ~~Any airport zoning~~  
621 ~~regulations adopted under this chapter may require that a permit~~  
622 ~~be obtained before any new structure or use may be constructed~~  
623 ~~or established and before any existing use or structure may be~~  
624 ~~substantially changed or substantially altered or repaired. In~~  
625 ~~any event, however, all such regulations shall provide that~~  
626 ~~before any nonconforming structure or tree may be replaced,~~  
627 ~~substantially altered or repaired, rebuilt, allowed to grow~~  
628 ~~higher, or replanted, a permit must be secured from the~~  
629 ~~administrative agency authorized to administer and enforce the~~  
630 ~~regulations, authorizing such replacement, change, or repair. No~~  
631 ~~permit~~ may not shall be issued if it granted that would allow  
632 the establishment or creation of an airport hazard or if it  
633 would permit a nonconforming obstruction ~~structure or tree or~~  
634 ~~nonconforming use to be made or become higher or to become a~~  
635 greater hazard to air navigation than it was when the applicable  
636 airport protection zoning regulation was adopted which allowed  
637 the establishment or creation of the obstruction, or than it is  
638 when the application for a permit is made.

639 (b) If ~~Whenever~~ the political subdivision or its  
640 administrative agency determines that a nonconforming  
641 obstruction ~~use or nonconforming structure or tree~~ has been

18-01090-16

20161508\_\_

642 abandoned or is more than 80 percent torn down, destroyed,  
643 deteriorated, or decayed, a no permit may not shall be granted  
644 if it that would allow the obstruction ~~said structure or tree~~ to  
645 exceed the applicable height limit or otherwise deviate from the  
646 airport protection zoning regulations. ~~and,~~ Whether or not an  
647 application is made for a permit under this subsection ~~or not,~~  
648 ~~the said agency may by appropriate action, compel~~ the owner of  
649 the nonconforming obstruction may be required ~~structure or tree,~~  
650 at his or her own expense, to lower, remove, reconstruct, alter,  
651 or equip such obstruction ~~object~~ as may be necessary to conform  
652 to the current airport protection zoning regulations. If the  
653 owner of the nonconforming obstruction neglects or refuses  
654 ~~structure or tree shall neglect or refuse~~ to comply with such  
655 requirement ~~order~~ for 10 days after notice ~~thereof,~~ the  
656 administrative ~~said~~ agency may report the violation to the  
657 political subdivision involved ~~therein,~~ which subdivision,  
658 through its appropriate agency, may proceed to have the  
659 obstruction ~~object~~ so lowered, removed, reconstructed, altered,  
660 or equipped, ~~and assess the cost and expense thereof upon the~~  
661 owner of the obstruction ~~object~~ or the land whereon it is or was  
662 located, ~~and, unless such an assessment is paid within 90 days~~  
663 ~~from the service of notice thereof on the owner or the owner's~~  
664 ~~agent, of such object or land, the sum shall be a lien on said~~  
665 ~~land, and shall bear interest thereafter at the rate of 6~~  
666 ~~percent per annum until paid, and shall be collected in the same~~  
667 ~~manner as taxes on real property are collected by said political~~  
668 ~~subdivision, or, at the option of said political subdivision,~~  
669 ~~said lien may be enforced in the manner provided for enforcement~~  
670 ~~of liens by chapter 85.~~

18-01090-16

20161508\_\_

671 ~~(c) Except as provided herein, applications for permits~~  
672 ~~shall be granted, provided the matter applied for meets the~~  
673 ~~provisions of this chapter and the regulations adopted and in~~  
674 ~~force hereunder.~~

675 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.—In  
676 determining whether to issue or deny a permit, the political  
677 subdivision or its administrative agency must consider the  
678 following, as applicable:

679 (a) The safety of persons on the ground and in the air.

680 (b) The safe and efficient use of navigable airspace.

681 (c) The nature of the terrain and height of existing  
682 structures.

683 (d) The effect of the construction or alteration on the  
684 state licensing standards for a public-use airport contained in  
685 chapter 330 and rules adopted thereunder.

686 (e) The character of existing and planned flight operations  
687 and developments at public-use airports.

688 (f) Federal airways, visual flight rules, flyways and  
689 corridors, and instrument approaches as designated by the  
690 Federal Aviation Administration.

691 (g) The effect of the construction or alteration of the  
692 proposed structure on the minimum descent altitude or the  
693 decision height at the affected airport.

694 (h) The cumulative effects on navigable airspace of all  
695 existing structures and all other known proposed structures in  
696 the area.

697 (i) Additional requirements adopted by the political  
698 subdivision or administrative agency pertinent to evaluation and  
699 protection of airspace and airport operations.

18-01090-16

20161508\_\_

700       ~~(2) VARIANCES.—~~

701       ~~(a) Any person desiring to erect any structure, increase~~  
702 ~~the height of any structure, permit the growth of any tree, or~~  
703 ~~otherwise use his or her property in violation of the airport~~  
704 ~~zoning regulations adopted under this chapter or any land~~  
705 ~~development regulation adopted pursuant to the provisions of~~  
706 ~~chapter 163 pertaining to airport land use compatibility, may~~  
707 ~~apply to the board of adjustment for a variance from the zoning~~  
708 ~~regulations in question. At the time of filing the application,~~  
709 ~~the applicant shall forward to the department by certified mail,~~  
710 ~~return receipt requested, a copy of the application. The~~  
711 ~~department shall have 45 days from receipt of the application to~~  
712 ~~comment and to provide its comments or waiver of that right to~~  
713 ~~the applicant and the board of adjustment. The department shall~~  
714 ~~include its explanation for any objections stated in its~~  
715 ~~comments. If the department fails to provide its comments within~~  
716 ~~45 days of receipt of the application, its right to comment is~~  
717 ~~waived. The board of adjustment may proceed with its~~  
718 ~~consideration of the application only upon the receipt of the~~  
719 ~~department's comments or waiver of that right as demonstrated by~~  
720 ~~the filing of a copy of the return receipt with the board.~~  
721 ~~Noncompliance with this section shall be grounds to appeal~~  
722 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~  
723 ~~to s. 333.11. Such variances may only be allowed where a literal~~  
724 ~~application or enforcement of the regulations would result in~~  
725 ~~practical difficulty or unnecessary hardship and where the~~  
726 ~~relief granted would not be contrary to the public interest but~~  
727 ~~would do substantial justice and be in accordance with the~~  
728 ~~spirit of the regulations and this chapter. However, any~~

18-01090-16

20161508\_\_

729 ~~variance may be allowed subject to any reasonable conditions~~  
730 ~~that the board of adjustment may deem necessary to effectuate~~  
731 ~~the purposes of this chapter.~~

732 ~~(b) The Department of Transportation shall have the~~  
733 ~~authority to appeal any variance granted under this chapter~~  
734 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~  
735 ~~to s. 333.11.~~

736 (3) OBSTRUCTION MARKING AND LIGHTING.-

737 ~~(a) In issuing a granting any permit or variance under this~~  
738 ~~section, the political subdivision or its administrative agency~~  
739 ~~or board of adjustment shall require the owner of the~~  
740 ~~obstruction structure or tree in question to install, operate,~~  
741 ~~and maintain thereon, at his or her own expense, ~~such~~ marking~~  
742 ~~and lighting in conformance with the specific standards~~  
743 ~~established by the Federal Aviation Administration as may be~~  
744 ~~necessary to indicate to aircraft pilots the presence of an~~  
745 ~~obstruction.~~

746 ~~(b) Such marking and lighting shall conform to the specific~~  
747 ~~standards established by rule by the Department of~~  
748 ~~Transportation.~~

749 ~~(c) Existing structures not in compliance on October 1,~~  
750 ~~1988, shall be required to comply whenever the existing marking~~  
751 ~~requires refurbishment, whenever the existing lighting requires~~  
752 ~~replacement, or within 5 years of October 1, 1988, whichever~~  
753 ~~occurs first.~~

754 Section 9. Section 333.08, Florida Statutes, is repealed.

755 Section 10. Section 333.09, Florida Statutes, is amended to  
756 read:

757 333.09 Administration of airport protection zoning

18-01090-16

20161508\_\_

758 regulations.-

759 (1) ADMINISTRATION.-All airport protection zoning  
 760 regulations adopted under this chapter shall provide for the  
 761 administration and enforcement of such regulations by the  
 762 political subdivision or its administrative agency ~~an~~  
 763 ~~administrative agency which may be an agency created by such~~  
 764 ~~regulations or any official, board, or other existing agency of~~  
 765 ~~the political subdivision adopting the regulations or of one of~~  
 766 ~~the political subdivisions which participated in the creation of~~  
 767 ~~the joint airport zoning board adopting the regulations, if~~  
 768 ~~satisfactory to that political subdivision, but in no case shall~~  
 769 ~~such administrative agency be or include any member of the board~~  
 770 ~~of adjustment. The duties of any administrative agency~~  
 771 ~~designated pursuant to this chapter~~ must ~~shall~~ include that of  
 772 hearing and deciding all permits under s. 333.07 ~~s. 333.07(1)~~,  
 773 ~~deciding all matters under s. 333.07(3)~~, as they pertain to such  
 774 agency, and all other matters under this chapter applying to  
 775 said agency, ~~but such agency shall not have or exercise any of~~  
 776 ~~the powers herein delegated to the board of adjustment.~~

777 (2) LOCAL GOVERNMENT PROCESS.-

778 (a) A political subdivision required to adopt airport  
 779 zoning regulations under this chapter shall provide a process  
 780 to:

781 1. Issue or deny permits consistent with s. 333.07.

782 2. Provide the department with a copy of a complete  
 783 application consistent with s. 333.025(4).

784 3. Enforce the issuance or denial of a permit or other  
 785 determination made by the administrative agency with respect to  
 786 airport zoning regulations.

18-01090-16

20161508\_\_

787       (b) If a zoning board or permitting body already exists  
788 within a political subdivision, the zoning board or permitting  
789 body may implement the airport zoning regulation permitting and  
790 appeals processes.

791       (3) APPEALS.—

792       (a) A person, a political subdivision or its administrative  
793 agency, or a joint airport zoning board that contends a decision  
794 made by a political subdivision or its administrative agency is  
795 an improper application of airport zoning regulations may use  
796 the process established for an appeal.

797       (b) All appeals taken under this section must be taken  
798 within a reasonable time, as provided by the political  
799 subdivision or its administrative agency, by filing with the  
800 entity from which the appeal is taken a notice of appeal  
801 specifying the grounds for appeal.

802       (c) An appeal shall stay all proceedings in the underlying  
803 action appealed from, unless the entity from which the appeal is  
804 taken certifies pursuant to the rules for appeal that by reason  
805 of the facts stated in the certificate a stay would, in its  
806 opinion, cause imminent peril to life or property. In such  
807 cases, proceedings may not be stayed except by order of the  
808 political subdivision or its administrative agency on notice to  
809 the entity from which the appeal is taken and for good cause  
810 shown.

811       (d) The political subdivision or its administrative agency  
812 shall set a reasonable time for the hearing of appeals, give  
813 public notice and due notice to the parties in interest, and  
814 decide the same within a reasonable time. Upon the hearing, any  
815 party may appear in person, by agent, or by attorney.

18-01090-16

20161508\_\_

816 (e) The political subdivision or its administrative agency  
817 may, in conformity with this chapter, affirm, reverse, or modify  
818 the decision on the permit or other determination from which the  
819 appeal is taken.

820 Section 11. Section 333.10, Florida Statutes, is repealed.

821 Section 12. Section 333.11, Florida Statutes, is amended to  
822 read:

823 333.11 Judicial review.—

824 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~  
825 ~~decision of a board of adjustment, or any governing body of a~~  
826 ~~political subdivision, or the Department of Transportation or~~  
827 ~~any joint airport zoning board~~ affected by a decision of a  
828 political subdivision, ~~or its of any administrative agency~~  
829 ~~hereunder,~~ may apply for judicial relief to the circuit court in  
830 the judicial circuit where the political subdivision ~~board of~~  
831 ~~adjustment~~ is located within 30 days after rendition of the  
832 decision ~~by the board of adjustment~~. Review shall be by petition  
833 for writ of certiorari, which shall be governed by the Florida  
834 Rules of Appellate Procedure.

835 ~~(2) Upon presentation of such petition to the court, it may~~  
836 ~~allow a writ of certiorari, directed to the board of adjustment,~~  
837 ~~to review such decision of the board. The allowance of the writ~~  
838 ~~shall not stay the proceedings upon the decision appealed from,~~  
839 ~~but the court may, on application, on notice to the board, on~~  
840 ~~due hearing and due cause shown, grant a restraining order.~~

841 ~~(3) The board of adjustment shall not be required to return~~  
842 ~~the original papers acted upon by it, but it shall be sufficient~~  
843 ~~to return certified or sworn copies thereof or of such portions~~  
844 ~~thereof as may be called for by the writ. The return shall~~

18-01090-16

20161508\_\_

845 ~~concisely set forth such other facts as may be pertinent and~~  
846 ~~material to show the grounds of the decision appealed from and~~  
847 ~~shall be verified.~~

848 ~~(2)(4)~~ The court has ~~shall have~~ exclusive jurisdiction to  
849 affirm, reverse, or modify, ~~or set aside~~ the decision on the  
850 permit or other determination from which the appeal is taken  
851 ~~brought up for review, in whole or in part, and, if appropriate~~  
852 ~~need be, to order further proceedings by the~~ political  
853 subdivision or its administrative agency board of adjustment.  
854 The findings of fact by the political subdivision or its  
855 administrative agency board, if supported by substantial  
856 evidence, shall be accepted by the court as conclusive, and an  
857 ~~ne~~ objection to a decision of the political subdivision or its  
858 administrative agency may not ~~board shall~~ be considered by the  
859 court unless such objection was raised in the underlying  
860 proceeding ~~shall have been urged before the board, or, if it was~~  
861 ~~not so urged, unless there were reasonable grounds for failure~~  
862 ~~to do so.~~

863 ~~(3)(5)~~ If ~~In any case in which~~ airport zoning regulations  
864 adopted under this chapter, ~~although generally reasonable,~~ are  
865 held by a court to interfere with the use and enjoyment of a  
866 particular structure or parcel of land to such an extent, or to  
867 be so onerous in their application to such a structure or parcel  
868 of land, as to constitute a taking or deprivation of that  
869 property in violation of the State Constitution or the  
870 Constitution of the United States, such holding shall not affect  
871 the application of such regulations to other structures and  
872 parcels of land, or such regulations as are not involved in the  
873 particular decision.

18-01090-16

20161508\_\_

874        ~~(4)(6) A judicial~~ No appeal to any court may not ~~shall~~ be  
 875 ~~or is~~ permitted under this section until the appellant has  
 876 exhausted all of its remedies through application for local  
 877 government permits, exceptions, and appeals, ~~to any courts, as~~  
 878 ~~herein provided, save and except an appeal from a decision of~~  
 879 ~~the board of adjustment, the appeal herein provided being from~~  
 880 ~~such final decision of such board only, the appellant being~~  
 881 ~~hereby required to exhaust his or her remedies hereunder of~~  
 882 ~~application for permits, exceptions and variances, and appeal to~~  
 883 ~~the board of adjustment, and gaining a determination by said~~  
 884 ~~board, before being permitted to appeal to the court hereunder.~~

885        Section 13. Section 333.12, Florida Statutes, is amended to  
 886 read:

887        333.12 Acquisition of air rights. ~~-If In any case which: it~~  
 888 ~~is desired to remove, lower or otherwise terminate a~~  
 889 nonconforming obstruction is determined to be an airport hazard  
 890 and the owner will not remove, lower, or otherwise eliminate it  
 891 ~~structure or use; or~~ the approach protection necessary cannot,  
 892 because of constitutional limitations, be provided by airport  
 893 zoning regulations under this chapter; or it appears advisable  
 894 that the necessary approach protection be provided by  
 895 acquisition of property rights rather than by airport zoning  
 896 regulations, the political subdivision within which the property  
 897 or nonconforming obstruction ~~use~~ is located, or the political  
 898 subdivision owning or operating the airport or being served by  
 899 it, may acquire, by purchase, grant, or condemnation in the  
 900 manner provided by chapter 73, such property, air right,  
 901 avigation ~~navigation~~ easement, or other estate, portion, or  
 902 interest in the property or nonconforming obstruction ~~structure~~

18-01090-16

20161508\_\_

903 ~~or use~~ or such interest in the air above such property, ~~tree,~~  
904 ~~structure, or use,~~ in question, as may be necessary to  
905 effectuate the purposes of this chapter, and in so doing, if by  
906 condemnation, to have the right to take immediate possession of  
907 the property, interest in property, air right, or other right  
908 sought to be condemned, at the time, and in the manner and form,  
909 and as authorized by chapter 74. In the case of the purchase of  
910 any property, ~~or any~~ easement, or estate or interest therein or  
911 the acquisition of the same by the power of eminent domain, the  
912 political subdivision making such purchase or exercising such  
913 power shall, in addition to the damages for the taking, injury,  
914 or destruction of property, also pay the cost of the removal and  
915 relocation of any structure or any public utility that ~~which~~ is  
916 required to be moved to a new location.

917 Section 14. Section 333.13, Florida Statutes, is amended to  
918 read:

919 333.13 Enforcement and remedies.—

920 (1) Each violation of this chapter or of any airport zoning  
921 regulations, orders, or rulings ~~promulgated~~ or made  
922 pursuant to this chapter shall constitute a misdemeanor of the  
923 second degree, punishable as provided in s. 775.082 or s.  
924 775.083, and each day a violation continues to exist shall  
925 constitute a separate offense.

926 (2) In addition, the political subdivision or agency  
927 adopting the airport zoning regulations under this chapter may  
928 institute in any court of competent jurisdiction an action to  
929 prevent, restrain, correct, or abate any violation of this  
930 chapter or of airport zoning regulations adopted under this  
931 chapter or of any order or ruling made in connection with their

18-01090-16

20161508\_\_

932 administration or enforcement, and the court shall adjudge to  
933 the plaintiff such relief, by way of injunction, ~~(which may be~~  
934 ~~mandatory,)~~ or otherwise, as may be proper under all the facts  
935 and circumstances of the case in order to fully effectuate the  
936 purposes of this chapter and of the regulations adopted and  
937 orders and rulings made pursuant thereto.

938 (3) The department ~~of Transportation~~ may institute a civil  
939 action for injunctive relief in the appropriate circuit court to  
940 prevent violation of any provision of this chapter.

941 Section 15. Section 333.135, Florida Statutes, is created  
942 to read:

943 333.135 Transition provisions.—

944 (1) Any airport zoning regulation in effect on July 1,  
945 2016, which includes provisions in conflict with this chapter  
946 shall be amended to conform to the requirements of this chapter  
947 by July 1, 2017.

948 (2) Any political subdivision having an airport within its  
949 territorial limits which has not adopted airport zoning  
950 regulations shall, by July 1, 2017, adopt airport zoning  
951 regulations consistent with this chapter.

952 (3) For those political subdivisions that have not yet  
953 adopted airport zoning regulations pursuant to this chapter, the  
954 department shall administer the permitting process as provided  
955 in s. 333.025.

956 Section 16. Section 333.14, Florida Statutes, is repealed.

957 Section 17. This act shall take effect July 1, 2016.