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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3184, F.S.; clarifying statutory language;
4 amending s. 380.06, F.S.; providing that a proposed
5 development that is consistent with certain
6 comprehensive plans is not required to undergo review
7 pursuant to the state coordinated review process;
8 providing applicability; amending s. 333.01, F.S.;
9 defining and redefining terms; amending s. 333.025,
10 F.S.; revising the requirements relating to permits
11 required for obstructions; requiring certain existing,
12 planned, and proposed facilities to be protected from
13 airport hazards; requiring the local government to
14 provide a copy of a complete permit application to the
15 Department of Transportation's aviation office,
16 subject to certain requirements; requiring the
17 department to have a specified review period following
18 receipt of such application; providing exemptions from
19 such review under certain circumstances; revising the
20 circumstances under which the department issues or
21 denies a permit; revising the department's
22 requirements before a permit is issued; revising the
23 circumstances under which the department is prohibited
24 from approving a permit; providing that the denial of
25 a permit is subject to administrative review; amending
26 s. 333.03, F.S.; conforming provisions to changes made
27 by the act; revising the circumstances under which a
28 political subdivision owning or controlling an airport
29 and another political subdivision adopt, administer,

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and enforce airport protection zoning regulations or
create a joint airport protection zoning board;
revising the provisions relating to airport protection
zoning regulations and joint airport protection zoning
boards; requiring the department to be available to
provide assistance to political subdivisions regarding
federal obstruction standards; deleting provisions
relating to certain duties of the department; revising
provisions relating to airport land use compatibility
zoning regulations; revising construction; providing
applicability; amending s. 333.04, F.S.; authorizing
certain airport zoning regulations to be incorporated
in and made a part of comprehensive plans and
policies, rather than a part of comprehensive zoning
regulations, under certain circumstances; revising
requirements relating to applicability; amending s.
333.05, F.S.; revising procedures for adoption of
airport zoning regulations; amending s. 333.06, F.S.;
revising airport zoning regulation requirements;
repealing s. 333.065, F.S., relating to guidelines
regarding land use near airports; amending s. 333.07,
F.S.; revising requirements relating to local
government permitting of airspace obstructions;
requiring a person proposing to construct, alter, or
allow an airport obstruction to apply for a permit
under certain circumstances; revising the
circumstances under which a permit is prohibited from
being issued; revising the circumstances under which
the owner of a nonconforming structure is required to

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alter such structure to conform to the current airport protection zoning regulations; deleting provisions relating to variances from zoning regulations; requiring a political subdivision or its administrative agency to consider specified criteria in determining whether to issue or deny a permit; revising the requirements for marking and lighting in conformance with certain standards; repealing s. 333.08, F.S., relating to appeals of decisions concerning airport zoning regulations; amending s. 333.09, F.S.; revising the requirements relating to the administration of airport protection zoning regulations; requiring all airport protection zoning regulations to provide for the administration and enforcement of such regulations by the political subdivision or its administrative agency; requiring a political subdivision adopting airport zoning regulations to provide a permitting process, subject to certain requirements; requiring a zoning board or permitting body to implement the airport zoning regulation permitting and appeals process if such board or body already exists within a political subdivision; authorizing a person, a political subdivision or its administrative agency, or a specified joint zoning board to use the process established for an appeal, subject to certain requirements; repealing s. 333.10, F.S., relating to boards of adjustment provided for by airport zoning regulations; amending s. 333.11, F.S.; revising the

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88 requirements relating to judicial review; amending s.
89 333.12, F.S.; revising requirements relating to the
90 acquisition of air rights; amending s. 333.13, F.S.;
91 conforming provisions to changes made by the act;
92 creating s. 333.135, F.S.; requiring conflicting
93 airport zoning regulations in effect on a specified
94 date to be amended to conform to certain requirements;
95 requiring certain political subdivisions to adopt
96 certain airport zoning regulations by a specified
97 date; requiring the department to administer a
98 specified permitting process for certain political
99 subdivisions; repealing s. 333.14, F.S., relating to a
100 short title; providing an effective date.

101

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

103

104 Section 1. Paragraph (c) of subsection (2) of section
105 163.3184, Florida Statutes, is amended to read:

106 163.3184 Process for adoption of comprehensive plan or plan
107 amendment.—

108 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

109 (c) Plan amendments that are in an area of critical state
110 concern designated pursuant to s. 380.05; propose a rural land
111 stewardship area pursuant to s. 163.3248; propose a sector plan
112 pursuant to s. 163.3245 or an amendment to an adopted sector
113 plan; update a comprehensive plan based on an evaluation and
114 appraisal pursuant to s. 163.3191; propose a development that is
115 subject to the state coordinated review process qualifies as a
116 development of regional impact pursuant to s. 380.06(30) s.

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117 ~~380.06~~; or are new plans for newly incorporated municipalities
118 adopted pursuant to s. 163.3167 shall follow the state
119 coordinated review process in subsection (4).

120 Section 2. Subsection (30) of section 380.06, Florida
121 Statutes, is amended to read:

122 380.06 Developments of regional impact.—

123 (30) NEW PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development
124 otherwise subject to the review requirements of this section
125 shall be approved by a local government pursuant to s.
126 163.3184(4) in lieu of proceeding in accordance with this
127 section. However, if the proposed development is consistent with
128 the comprehensive plan as provided in s. 163.3194(3)(b), the
129 development is not required to undergo review pursuant to s.
130 163.3184(4) or this section. This subsection does not apply to
131 amendments to a development order governing an existing
132 development of regional impact.

133 Section 3. Section 333.01, Florida Statutes, is amended to
134 read:

135 333.01 Definitions.—As used in ~~For the purpose of~~ this
136 chapter, the ~~term following words, terms, and phrases shall have~~
137 ~~the meanings herein given, unless otherwise specifically~~
138 ~~defined, or unless another intention clearly appears, or the~~
139 ~~context otherwise requires:~~

140 (1) "Aeronautical study" means a Federal Aviation
141 Administration study, conducted in accordance with the standards
142 of 14 C.F.R. part 77, subpart C, and Federal Aviation
143 Administration policy and guidance, on the effect of proposed
144 construction or alteration upon the operation of air navigation
145 facilities and the safe and efficient use of navigable airspace.

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146 (1) "Aeronautics" means transportation by aircraft; the
147 operation, construction, repair, or maintenance of aircraft,
148 aircraft power plants and accessories, including the repair,
149 packing, and maintenance of parachutes; the design,
150 establishment, construction, extension, operation, improvement,
151 repair, or maintenance of airports, restricted landing areas, or
152 other air navigation facilities, and air instruction.

153 (2) "Airport" means any area of land or water designed and
154 set aside for the landing and taking off of aircraft and used
155 utilized or to be used utilized in the interest of the public
156 for such purpose.

157 (3) "Airport hazard" means an obstruction to air navigation
158 which affects the safe and efficient use of navigable airspace
159 or the operation of planned or existing air navigation and
160 communication facilities any structure or tree or use of land
161 which would exceed the federal obstruction standards as
162 contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29
163 and which obstructs the airspace required for the flight of
164 aircraft in taking off, maneuvering, or landing or is otherwise
165 hazardous to such taking off, maneuvering, or landing of
166 aircraft and for which no person has previously obtained a
167 permit or variance pursuant to s. 333.025 or s. 333.07.

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

171 (5) "Airport land use compatibility zoning" means airport
172 zoning regulations governing restricting the use of land on,
173 adjacent to, or in the immediate vicinity of airports in the
174 manner enumerated in s. 333.03(2) to activities and purposes

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175 compatible with the continuation of normal airport operations
176 including landing and takeoff of aircraft in order to promote
177 public health, safety, and general welfare.

178 (6) "Airport layout plan" means a set of scaled drawings
179 that provide a graphic representation of the existing and future
180 development plan for the airport and demonstrate the
181 preservation and continuity of safety, utility, and efficiency
182 of the airport detailed, scale engineering drawing, including
183 pertinent dimensions, of an airport's current and planned
184 facilities, their locations, and runway usage.

185 (7) "Airport master plan" means a comprehensive plan of an
186 airport which typically describes current and future plans for
187 airport development designed to support existing and future
188 aviation demand.

189 (8) "Airport protection zoning regulations" means airport
190 zoning regulations governing airport hazards.

191 (9) "Department" means the Department of Transportation as
192 created under s. 20.23.

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

198 (11) "Landfill" has the same meaning as provided in s.
199 403.703.

200 (12) ~~(7)~~ "Obstruction" means any existing or proposed
201 ~~manmade object or object, of natural growth or terrain, or~~
202 ~~structure construction or alteration that exceeds violates the~~
203 ~~federal obstruction standards contained in 14 C.F.R. part 77,~~

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204 subpart C ss. 77.21, 77.23, 77.25, 77.28, and 77.29. The term
205 includes:

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

207 (b) Permanent or temporary construction or alteration,

208 including equipment or materials used and any permanent or
209 temporary apparatus; or

210 (c) Alteration of any permanent or temporary existing
211 structure by a change in the structure's height, including
212 appurtenances, lateral dimensions, and equipment or materials
213 used in the structure.

214 (13) (8) "Person" means any individual, firm, copartnership,
215 corporation, company, association, joint-stock association, or
216 body politic, and includes any trustee, receiver, assignee, or
217 other similar representative thereof.

218 (14) (9) "Political subdivision" means the local government
219 of any county, municipality city, town, village, or other
220 subdivision or agency thereof, or any district or special
221 district, port commission, port authority, or other such agency
222 authorized to establish or operate airports in the state.

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

226 (16) (10) "Runway protection clear zone" means an area at
227 ground level beyond the runway end to enhance the safety and
228 protection of people and property on the ground a runway clear
229 zone as defined in 14 C.F.R. s. 151.9(b).

230 (17) (11) "Structure" means any object, constructed,
231 erected, altered, or installed by humans, including, but not
232 limited to without limitation thereof, buildings, towers,

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233 smokestacks, utility poles, power generation equipment, and
234 overhead transmission lines.

235 (18) "Substantial modification" means any repair,
236 reconstruction, rehabilitation, or improvement of a structure
237 when the actual cost of the repair, reconstruction,
238 rehabilitation, or improvement of the structure equals or
239 exceeds 50 percent of the market value of the structure.

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

241 Section 4. Section 333.025, Florida Statutes, is amended to
242 read:

243 333.025 Permit required for obstructions structures
244 ~~exceeding federal obstruction standards~~.—

245 (1) A person proposing the construction or alteration ~~in~~
246 ~~order to prevent the erection of an obstruction must obtain a~~
247 ~~permit from the department structures dangerous to air~~
248 ~~navigation, subject to the provisions of subsections (2), (3),~~
249 ~~and (4), each person shall secure from the Department of~~
250 ~~Transportation a permit for the erection, alteration, or~~
251 ~~modification of any structure the result of which would exceed~~
252 ~~the federal obstruction standards as contained in 14 C.F.R. ss.~~
253 ~~77.21, 77.23, 77.25, 77.28, and 77.29.~~ However, permits from the
254 ~~department of Transportation~~ will be required only within an
255 airport hazard area where federal obstruction standards are
256 exceeded and if the proposed construction or alteration is
257 within a 10-nautical-mile radius of the airport reference point,
258 located at the approximate geometric geographical center of all
259 usable runways of a public-use airport or a publicly owned or
260 operated airport, a military airport, or an airport licensed by
261 the state for public use.

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262 (2) Existing, planned, and proposed Affected airports will
263 be considered as having those facilities on public-use airports
264 contained in an which are shown on the airport master plan, in
265 or an airport layout plan submitted to the Federal Aviation
266 Administration, Airport District Office or in comparable
267 military documents shall, and will be so protected from airport
268 hazards. Planned or proposed public-use airports which are the
269 subject of a notice or proposal submitted to the Federal
270 Aviation Administration or to the Department of Transportation
271 shall also be protected.

272 (3) A permit is not required for existing structures that
273 requirements of subsection (1) shall not apply to projects which
274 received construction permits from the Federal Communications
275 Commission for structures exceeding federal obstruction
276 standards before prior to May 20, 1975, provided such structures
277 now exist; a permit is not required for nor shall it apply to
278 previously approved structures now existing, or any necessary
279 replacement or repairs to such existing structures if, so long
280 as the height and location are is unchanged.

281 (4) If When political subdivisions have, in compliance with
282 this chapter, adopted adequate airport airspace protection
283 zoning regulations, placed in compliance with s. 333.03, and
284 such regulations are on file with the department's aviation
285 office, and established a permitting process Department of
286 Transportation, a permit for the construction or alteration of
287 an obstruction is such structure shall not be required from the
288 department of Transportation. Upon receipt of a complete permit
289 application, the local government shall provide a copy of the
290 application to the department's aviation office by certified

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291 mail, return receipt requested, or by a delivery service that
292 provides a receipt evidencing delivery. To evaluate technical
293 consistency with this subsection, the department shall have a
294 15-day review period following receipt of the application, which
295 must run concurrently with the local government permitting
296 process. Cranes, construction equipment, and other temporary
297 structures in use or in place for a period not to exceed 18
298 consecutive months are exempt from the department's review,
299 unless such review is requested by the department.

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

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

- 309 (a) The safety of persons on the ground and in the air.
- 310 (b) The safe and efficient use of navigable airspace.
- 311 (c) ~~(a)~~ The nature of the terrain and height of existing
312 structures.
- 313 (b) ~~Public and private interests and investments.~~
- 314 (d) The effect of the construction or alteration of an
315 obstruction on the state licensing standards for a public-use
316 airport contained in chapter 330 and rules adopted thereunder.
- 317 (e) ~~(e)~~ The character of existing and planned flight flying
318 operations and planned developments at public-use of airports.
- 319 (f) ~~(d)~~ Federal airways, visual flight rules, flyways and

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320 corridors, and instrument approaches as designated by the
321 Federal Aviation Administration.

322 (g) ~~(e)~~ The effect of whether the construction or alteration
323 of an obstruction on the proposed structure would cause an
324 increase in the minimum descent altitude or the decision height
325 at the affected airport.

326 (f) Technological advances.

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

328 (h) Land use density.

329 (i) The safe and efficient use of navigable airspace.

330 (j) The cumulative effects on navigable airspace of all
331 existing obstructions structures, proposed structures identified
332 in the applicable jurisdictions' comprehensive plans, and all
333 other known proposed obstructions structures in the area.

334 (7) When issuing a permit under this section, the
335 department of Transportation shall, as a specific condition of
336 such permit, require the owner obstruction marking and lighting
337 of the obstruction to install, operate, and maintain, at the
338 owner's expense, marking and lighting in conformance with the
339 specific standards established by the Federal Aviation
340 Administration permitted structure as provided in s.
341 333.07(3)(b).

342 (8) The department may of Transportation shall not approve
343 a permit for the construction or alteration erection of an
344 obstruction a structure unless the applicant submits both
345 documentation showing both compliance with the federal
346 requirement for notification of proposed construction or
347 alteration and a valid aeronautical study. A evaluation, and no
348 permit may not shall be approved solely on the basis that the

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349 Federal Aviation Administration determined that the such
350 proposed construction or alteration of an obstruction was not an
351 airport hazard structure will not exceed federal obstruction
352 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,
353 77.28, or 77.29, or any other federal aviation regulation.

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

356 Section 5. Section 333.03, Florida Statutes, is amended to
357 read:

358 333.03 Requirement Power to adopt airport zoning
359 regulations.—

360 (1) (a) In order to prevent the creation or establishment of
361 airport hazards, Every political subdivision having an airport
362 hazard area within its territorial limits shall, by October 1,
363 1977, adopt, administer, and enforce, under the police power and
364 in the manner and upon the conditions hereinafter prescribed in
365 this section, airport protection zoning regulations for such
366 airport hazard area.

367 (b) If Where an airport is owned or controlled by a
368 political subdivision and if any other political subdivision has
369 land upon which an obstruction may be constructed or altered
370 which underlies any surface of the airport as provided in 14
371 C.F.R. part 77, subpart C, the political subdivisions airport
372 hazard area appertaining to such airport is located wholly or
373 partly outside the territorial limits of said political
374 subdivision, the political subdivision owning or controlling the
375 airport and the political subdivision within which the airport
376 hazard area is located, shall either:

377 1. By interlocal agreement, in accordance with the

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378 provisions of chapter 163, adopt, administer, and enforce a set
379 of airport protection zoning regulations ~~applicable to the~~
380 airport hazard area in question; or

381 2. By ordinance, regulation, or resolution duly adopted,
382 create a joint airport protection zoning board ~~that, which board~~
383 shall ~~have the same power to~~ adopt, administer, and enforce a
384 set of airport protection zoning regulations ~~applicable to the~~
385 airport hazard area in question as that vested in paragraph (a)
386 ~~in the political subdivision within which such area is located.~~
387 ~~The~~ Each such joint airport protection zoning board shall have
388 as voting members two representatives appointed by each
389 participating political subdivision ~~participating in its~~
390 ~~creation and in addition~~ a chair elected by a majority of the
391 members so appointed. ~~However,~~ The airport manager or a
392 representative of each airport in managers of the affected
393 participating political subdivisions shall serve on the board in
394 a nonvoting capacity.

395 (c) Airport protection zoning regulations adopted under
396 paragraph (a) must shall, at as a minimum, require:

397 1. A permit variance for the ~~construction or erection,~~
398 ~~alteration, or modification of any obstruction structure which~~
399 ~~would cause the structure to exceed the federal obstruction~~
400 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~
401 ~~77.28, and 77.29;~~

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

404 3. Documentation showing compliance with the federal
405 requirement for notification of proposed construction or
406 alteration of structures and a valid aeronautical study

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407 evaluation submitted by each person applying for a permit
408 variancee;

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

411 5. That approval of a permit not be based no variance shall
412 be approved solely on the determination by the Federal Aviation
413 Administration basis that the such proposed structure is not an
414 airport hazard will not exceed federal obstruction standards as
415 contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29,
416 or any other federal aviation regulation.

417 (d) The department shall be available to provide assistance
418 to political subdivisions regarding federal obstruction
419 standards shall issue copies of the federal obstruction
420 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,
421 77.28, and 77.29 to each political subdivision having airport
422 hazard areas and, in cooperation with political subdivisions,
423 shall issue appropriate airport zoning maps depicting within
424 each county the maximum allowable height of any structure or
425 tree. Material distributed pursuant to this subsection shall be
426 at no cost to authorized recipients.

427 (2) In the manner provided in subsection (1), political
428 subdivisions shall adopt, administer, and enforce interim
429 airport land use compatibility zoning regulations shall be
430 adopted. Airport land use compatibility zoning when political
431 subdivisions have adopted land development regulations shall, at
432 a minimum, in accordance with the provisions of chapter 163
433 which address the use of land in the manner consistent with the
434 provisions herein, adoption of airport land use compatibility
435 regulations pursuant to this subsection shall not be required.

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436 ~~Interim airport land use compatibility zoning regulations shall~~
437 ~~consider the following:~~

438 (a) The prohibition of new landfills and the restriction of
439 ~~existing landfills Whether sanitary landfills are located within~~
440 the following areas:

441 1. Within 10,000 feet from the nearest point of any runway
442 used or planned to be used by ~~turbine turbojet or turboprop~~
443 aircraft.

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

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

450 (b) Where ~~Whether~~ any landfill is located and constructed
451 ~~in a manner so that it~~ attracts or sustains hazardous bird
452 movements from feeding, water, or roosting areas into, or
453 across, the runways or approach and departure patterns of
454 aircraft. The landfill operator must ~~political subdivision shall~~
455 ~~request from the airport authority or other governing body~~
456 ~~operating the airport a report on such bird feeding or roosting~~
457 ~~areas that at the time of the request are known to the airport.~~
458 ~~In preparing its report, the authority, or other governing body,~~
459 ~~shall consider whether the landfill will incorporate bird~~
460 ~~management techniques or other practices to minimize bird~~
461 ~~hazards to airborne aircraft. The airport authority or other~~
462 ~~governing body shall respond to the political subdivision no~~
463 ~~later than 30 days after receipt of such request.~~

464 (c) Where an airport authority or other governing body

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465 operating a ~~publicly owned~~, public-use airport has conducted a
466 noise study in accordance with ~~the provisions of~~ 14 C.F.R. part
467 150, or where a public-use airport owner has established noise
468 contours pursuant to another public study approved by the
469 Federal Aviation Administration, the prohibition of incompatible
470 uses, as established in the noise study in 14 C.F.R. part 150,
471 Appendix A or as a part of an alternative Federal Aviation
472 Administration-approved public study, within the noise contours
473 established by any of these studies, except if such uses are
474 specifically contemplated by such study with appropriate
475 mitigation or similar techniques described in the study ~~neither~~
476 ~~residential construction nor any educational facility as defined~~
477 ~~in chapter 1013, with the exception of aviation school~~
478 ~~facilities, shall be permitted within the area contiguous to the~~
479 ~~airport defined by an outer noise contour that is considered~~
480 ~~incompatible with that type of construction by 14 C.F.R. part~~
481 ~~150, Appendix A or an equivalent noise level as established by~~
482 ~~other types of noise studies.~~

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

491 (e) ~~(3) The restriction of~~ ~~In the manner provided in~~
492 ~~subsection (1), airport zoning regulations shall be adopted~~
493 ~~which restrict new incompatible uses, activities, or~~ substantial

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494 modifications to existing incompatible uses construction within
495 runway protection clear zones, including uses, activities, or
496 construction in runway clear zones which are incompatible with
497 normal airport operations or endanger public health, safety, and
498 welfare by resulting in congregations of people, emissions of
499 light or smoke, or attraction of birds. Such regulations shall
500 prohibit the construction of an educational facility of a public
501 or private school at either end of a runway of a publicly owned,
502 public-use airport within an area which extends 5 miles in a
503 direct line along the centerline of the runway, and which has a
504 width measuring one-half the length of the runway. Exceptions
505 approving construction of an educational facility within the
506 delineated area shall only be granted when the political
507 subdivision administering the zoning regulations makes specific
508 findings detailing how the public policy reasons for allowing
509 the construction outweigh health and safety concerns prohibiting
510 such a location.

511 (4) The procedures outlined in subsections (1), (2), and
512 (3) for the adoption of such regulations are supplemental to any
513 existing procedures utilized by political subdivisions in the
514 adoption of such regulations.

515 (3)-(5) Political subdivisions shall provide The Department
516 of Transportation shall provide technical assistance to any
517 political subdivision requesting assistance in the preparation
518 of an airport zoning code. a copy of all local airport
519 protection zoning codes, rules, and regulations and airport land
520 use compatibility zoning regulations, and any related amendments
521 and proposed and granted variances thereto, to shall be filed
522 with the department's aviation office within 30 days after

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523 adoption department.

524 ~~(4)-(6) Nothing in Subsection (2) may not or subsection (3)~~
525 shall be construed to require the removal, alteration, sound
526 conditioning, or other change, or to interfere with the
527 continued use or adjacent expansion of any educational facility
528 ~~structure~~ or site in existence on July 1, 1993, ~~or be construed~~
529 ~~to prohibit the construction of any new structure for which a~~
530 ~~site has been determined as provided in former s. 235.19, as of~~
531 ~~July 1, 1993.~~

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

538 Section 6. Section 333.04, Florida Statutes, is amended to
539 read:

540 333.04 Comprehensive zoning regulations; most stringent to
541 prevail where conflicts occur.—

542 (1) INCORPORATION.—In the event that a political
543 subdivision has adopted, or hereafter adopts, a comprehensive
544 plan or policy zoning ordinance regulating, among other things,
545 the height of buildings, structures, and natural objects, and
546 uses of property, any airport zoning regulations applicable to
547 the same area or portion thereof may be incorporated in and made
548 a part of such comprehensive plan or policy zoning regulations,
549 and be administered and enforced in connection therewith.

550 (2) CONFLICT.—In the event of conflict between any airport
551 zoning regulations adopted under this chapter and any other

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552 regulations applicable to the same area, whether the conflict be
553 with respect to the height of structures or vegetation trees,
554 the use of land, or any other matter, and whether such
555 regulations were adopted by the political subdivision that which
556 adopted the airport zoning regulations or by some other
557 political subdivision, the more stringent limitation or
558 requirement shall govern and prevail.

559 Section 7. Section 333.05, Florida Statutes, is amended to
560 read:

561 333.05 Procedure for adoption of airport zoning
562 regulations.—

563 (1) NOTICE AND HEARING.—No Airport zoning regulations may
564 not shall be adopted, amended, or repealed changed under this
565 chapter except by action of the legislative body of the
566 political subdivision or affected subdivisions in question, or
567 the joint board provided in s. 333.03(1)(b)2. s. 333.03(1)(b) by
568 the political subdivisions bodies therein provided and set
569 forth, after a public hearing in relation thereto, at which
570 parties in interest and citizens shall have an opportunity to be
571 heard. Notice of the hearing shall be published at least once a
572 week for 2 consecutive weeks in a newspaper an official paper,
573 ~~or a paper~~ of general circulation, in the political subdivision
574 or subdivisions where in which are located the airport zoning
575 regulations are areas to be adopted, amended, or repealed zoned.

576 (2) AIRPORT ZONING COMMISSION.—Before Prior to the initial
577 zoning of any airport area under this chapter, the political
578 subdivision or joint airport zoning board that which is to
579 adopt, administer, and enforce the regulations must shall
580 appoint a commission, to be known as the airport zoning

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581 commission, to recommend the boundaries of the various zones to
582 be established and the regulations to be adopted therefor. Such
583 commission shall make a preliminary report and hold public
584 hearings thereon before submitting its final report, and the
585 legislative body of the political subdivision or the joint
586 airport zoning board may shall not hold its public hearings or
587 take any action until it has received the final report of such
588 commission, and at least 15 days shall elapse between the
589 receipt of the final report of the commission and the hearing to
590 be held by the latter board. If where a planning city plan
591 commission, an airport commission, or a comprehensive zoning
592 commission already exists, it may be appointed as the airport
593 zoning commission.

594 Section 8. Section 333.06, Florida Statutes, is amended to
595 read:

596 333.06 Airport zoning regulation requirements.—

597 (1) REASONABLENESS.—All airport zoning regulations adopted
598 under this chapter shall be reasonable and may not ~~none~~ shall
599 impose any requirement or restriction which is not reasonably
600 necessary to effectuate the purposes of this chapter. In
601 determining what regulations it may adopt, each political
602 subdivision and joint airport zoning board shall consider, among
603 other things, the character of the flying operations expected to
604 be conducted at the airport, the nature of the terrain within
605 the airport hazard area and runway protection ~~clear~~ zones, the
606 character of the neighborhood, the uses to which the property to
607 be zoned is put and adaptable, and the impact of any new use,
608 activity, or construction on the airport's operating capability
609 and capacity.

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610 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport
611 zoning regulations adopted under this chapter is to provide both
612 airspace protection and land uses use compatible with airport
613 operations. Each aspect of this purpose requires independent
614 justification in order to promote the public interest in safety,
615 health, and general welfare. Specifically, construction in a
616 runway protection ~~clear~~ zone which does not exceed airspace
617 height restrictions is not conclusive evidence per se that such
618 use, activity, or construction is compatible with airport
619 operations.

620 (3) NONCONFORMING USES.—An ~~No~~ airport protection zoning
621 regulation regulations adopted under this chapter may not shall
622 require the removal, lowering, or other change or alteration of
623 any obstruction structure or tree not conforming to the
624 regulation regulations when adopted or amended, or otherwise
625 interfere with the continuance of any nonconforming use, except
626 as provided in s. 333.07(1) and (3).

627 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED
628 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by
629 each public-use publicly owned and operated airport licensed by
630 the department ~~of Transportation~~ under chapter 330. The
631 authorized entity having responsibility for governing the
632 operation of the airport, when either requesting from or
633 submitting to a state or federal governmental agency with
634 funding or approval jurisdiction a "finding of no significant
635 impact," an environmental assessment, a site-selection study, an
636 airport master plan, or any amendment to an airport master plan,
637 shall submit simultaneously a copy of said request, submittal,
638 assessment, study, plan, or amendments by certified mail to all

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639 affected local governments. As used in ~~For the purposes of~~ this
640 subsection, the term "affected local government" is defined as
641 any municipality city or county having jurisdiction over the
642 airport and any municipality city or county located within 2
643 miles of the boundaries of the land subject to the airport
644 master plan.

645 Section 9. Section 333.065, Florida Statutes, is repealed.

646 Section 10. Section 333.07, Florida Statutes, is amended to
647 read:

648 333.07 Local government permitting of airspace obstructions
649 ~~Permits and variances.—~~

650 (1) PERMITS.—

651 (a) A person proposing to construct, alter, or allow an
652 airport obstruction in an airport hazard area in violation of
653 the airport protection zoning regulations adopted under this
654 chapter must apply for a permit. ~~A Any airport zoning~~
655 ~~regulations adopted under this chapter may require that a permit~~
656 ~~be obtained before any new structure or use may be constructed~~
657 ~~or established and before any existing use or structure may be~~
658 ~~substantially changed or substantially altered or repaired.~~ In
659 ~~any event, however, all such regulations shall provide that~~
660 ~~before any nonconforming structure or tree may be replaced,~~
661 ~~substantially altered or repaired, rebuilt, allowed to grow~~
662 ~~higher, or replanted, a permit must be secured from the~~
663 ~~administrative agency authorized to administer and enforce the~~
664 ~~regulations, authorizing such replacement, change, or repair.~~ No
665 ~~permit may not shall be issued if it granted that would allow~~
666 ~~the establishment or creation of an airport hazard or if it~~
667 ~~would permit a nonconforming obstruction structure or tree or~~

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668 ~~nonconforming use to be made or become higher or to become a~~
669 greater hazard to air navigation than it was when the applicable
670 airport protection zoning regulation was adopted which allowed
671 the establishment or creation of the obstruction, or than it is
672 when the application for a permit is made.

673 (b) If Whenever the political subdivision or its
674 administrative agency determines that a nonconforming
675 obstruction ~~use or nonconforming structure or tree~~ has been
676 abandoned or is more than 80 percent torn down, destroyed,
677 deteriorated, or decayed, a no permit may not shall be granted
678 if it that would allow the obstruction ~~said structure or tree~~ to
679 exceed the applicable height limit or otherwise deviate from the
680 airport protection zoning regulations.; and, Whether or not an
681 application is made for a permit under this subsection ~~or not~~,
682 ~~the said agency may by appropriate action, compel~~ the owner of
683 the nonconforming obstruction ~~may be required structure or tree~~,
684 at his or her own expense, to lower, remove, reconstruct, alter,
685 or equip such obstruction ~~object~~ as may be necessary to conform
686 to the current airport protection zoning regulations. If the
687 owner of the nonconforming obstruction neglects or refuses
688 ~~structure or tree shall neglect or refuse to comply with such~~
689 requirement ~~order~~ for 10 days after notice ~~thereof~~, the
690 administrative ~~said~~ agency may report the violation to the
691 political subdivision involved ~~therein~~, which subdivision,
692 through its appropriate agency, may proceed to have the
693 obstruction ~~object~~ so lowered, removed, reconstructed, altered,
694 or equipped, and assess the cost and expense thereof upon the
695 owner of the obstruction ~~object~~ or the land whereon it is or was
696 located, and, unless such an assessment is paid within 90 days

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697 from the service of notice thereof on the owner or the owner's
698 agent, of such object or land, the sum shall be a lien on said
699 land, and shall bear interest thereafter at the rate of 6
700 percent per annum until paid, and shall be collected in the same
701 manner as taxes on real property are collected by said political
702 subdivision, or, at the option of said political subdivision,
703 said lien may be enforced in the manner provided for enforcement
704 of liens by chapter 85.

705 (e) Except as provided herein, applications for permits
706 shall be granted, provided the matter applied for meets the
707 provisions of this chapter and the regulations adopted and in
708 force hereunder.

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

713 (a) The safety of persons on the ground and in the air.
714 (b) The safe and efficient use of navigable airspace.
715 (c) The nature of the terrain and height of existing
716 structures.

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

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

722 (f) Federal airways, visual flight rules, flyways and
723 corridors, and instrument approaches as designated by the
724 Federal Aviation Administration.

725 (g) The effect of the construction or alteration of the

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726 proposed structure on the minimum descent altitude or the
727 decision height at the affected airport.

728 (h) The cumulative effects on navigable airspace of all
729 existing structures and all other known proposed structures in
730 the area.

731 (i) Additional requirements adopted by the political
732 subdivision or administrative agency pertinent to evaluation and
733 protection of airspace and airport operations.

734 (2) VARIANCES.—

735 (a) Any person desiring to erect any structure, increase
736 the height of any structure, permit the growth of any tree, or
737 otherwise use his or her property in violation of the airport
738 zoning regulations adopted under this chapter or any land
739 development regulation adopted pursuant to the provisions of
740 chapter 163 pertaining to airport land use compatibility, may
741 apply to the board of adjustment for a variance from the zoning
742 regulations in question. At the time of filing the application,
743 the applicant shall forward to the department by certified mail,
744 return receipt requested, a copy of the application. The
745 department shall have 45 days from receipt of the application to
746 comment and to provide its comments or waiver of that right to
747 the applicant and the board of adjustment. The department shall
748 include its explanation for any objections stated in its
749 comments. If the department fails to provide its comments within
750 45 days of receipt of the application, its right to comment is
751 waived. The board of adjustment may proceed with its
752 consideration of the application only upon the receipt of the
753 department's comments or waiver of that right as demonstrated by
754 the filing of a copy of the return receipt with the board.

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755 Noncompliance with this section shall be grounds to appeal
756 pursuant to s. 333.08 and to apply for judicial relief pursuant
757 to s. 333.11. Such variances may only be allowed where a literal
758 application or enforcement of the regulations would result in
759 practical difficulty or unnecessary hardship and where the
760 relief granted would not be contrary to the public interest but
761 would do substantial justice and be in accordance with the
762 spirit of the regulations and this chapter. However, any
763 variance may be allowed subject to any reasonable conditions
764 that the board of adjustment may deem necessary to effectuate
765 the purposes of this chapter.

766 (b) The Department of Transportation shall have the
767 authority to appeal any variance granted under this chapter
768 pursuant to s. 333.08, and to apply for judicial relief pursuant
769 to s. 333.11.

770 (3) OBSTRUCTION MARKING AND LIGHTING.—

771 (a) In issuing a granting any permit or variance under this
772 section, the political subdivision or its administrative agency
773 or board of adjustment shall require the owner of the
774 obstruction structure or tree in question to install, operate,
775 and maintain thereon, at his or her own expense, such marking
776 and lighting in conformance with the specific standards
777 established by the Federal Aviation Administration as may be
778 necessary to indicate to aircraft pilots the presence of an
779 obstruction.

780 (b) Such marking and lighting shall conform to the specific
781 standards established by rule by the Department of
782 Transportation.

783 (c) Existing structures not in compliance on October 1,

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784 ~~1988, shall be required to comply whenever the existing marking~~
785 ~~requires refurbishment, whenever the existing lighting requires~~
786 ~~replacement, or within 5 years of October 1, 1988, whichever~~
787 ~~occurs first.~~

788 Section 11. Section 333.08, Florida Statutes, is repealed.

789 Section 12. Section 333.09, Florida Statutes, is amended to
790 read:

791 333.09 Administration of airport protection zoning
792 regulations.—

793 (1) ADMINISTRATION.—All airport protection zoning
794 regulations adopted under this chapter shall provide for the
795 administration and enforcement of such regulations by the
796 political subdivision or its administrative agency an
797 ~~administrative agency which may be an agency created by such~~
798 ~~regulations or any official, board, or other existing agency of~~
799 ~~the political subdivision adopting the regulations or of one of~~
800 ~~the political subdivisions which participated in the creation of~~
801 ~~the joint airport zoning board adopting the regulations, if~~
802 ~~satisfactory to that political subdivision, but in no case shall~~
803 ~~such administrative agency be or include any member of the board~~
804 ~~of adjustment.~~ The duties of any administrative agency
805 designated pursuant to this chapter must ~~shall~~ include that of
806 hearing and deciding all permits under s. 333.07 ~~s. 333.07(1)~~,
807 deciding all matters under ~~s. 333.07(3)~~, as they pertain to such
808 agency, and all other matters under this chapter applying to
809 said agency, but such agency shall not have or exercise any of
810 the powers herein delegated to the board of adjustment.

811 (2) LOCAL GOVERNMENT PROCESS.—

812 (a) A political subdivision required to adopt airport

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813 zoning regulations under this chapter shall provide a process
814 to:

815 1. Issue or deny permits consistent with s. 333.07.
816 2. Provide the department with a copy of a complete
817 application consistent with s. 333.025(4).

818 3. Enforce the issuance or denial of a permit or other
819 determination made by the administrative agency with respect to
820 airport zoning regulations.

821 (b) If a zoning board or permitting body already exists
822 within a political subdivision, the zoning board or permitting
823 body may implement the airport zoning regulation permitting and
824 appeals processes.

825 (3) APPEALS.—

826 (a) A person, a political subdivision or its administrative
827 agency, or a joint airport zoning board that contends a decision
828 made by a political subdivision or its administrative agency is
829 an improper application of airport zoning regulations may use
830 the process established for an appeal.

831 (b) All appeals taken under this section must be taken
832 within a reasonable time, as provided by the political
833 subdivision or its administrative agency, by filing with the
834 entity from which the appeal is taken a notice of appeal
835 specifying the grounds for appeal.

836 (c) An appeal shall stay all proceedings in the underlying
837 action appealed from, unless the entity from which the appeal is
838 taken certifies pursuant to the rules for appeal that by reason
839 of the facts stated in the certificate a stay would, in its
840 opinion, cause imminent peril to life or property. In such
841 cases, proceedings may not be stayed except by order of the

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842 political subdivision or its administrative agency on notice to
843 the entity from which the appeal is taken and for good cause
844 shown.

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

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

854 Section 13. Section 333.10, Florida Statutes, is repealed.

855 Section 14. Section 333.11, Florida Statutes, is amended to
856 read:

857 333.11 Judicial review.—

858 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~
859 ~~decision of a board of adjustment, or any governing body of a~~
860 ~~political subdivision, or the Department of Transportation or~~
861 ~~any joint airport zoning board affected by a decision of a~~
862 ~~political subdivision, or its of any administrative agency~~
863 ~~hereunder,~~ may apply for judicial relief to the circuit court in
864 the judicial circuit where the ~~political subdivision board of~~
865 ~~adjustment~~ is located within 30 days after rendition of the
866 ~~decision by the board of adjustment.~~ Review shall be by petition
867 for writ of certiorari, which shall be governed by the Florida
868 Rules of Appellate Procedure.

869 (2) Upon presentation of such petition to the court, it may
870 allow a writ of certiorari, directed to the board of adjustment,

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871 to review such decision of the board. The allowance of the writ
872 shall not stay the proceedings upon the decision appealed from,
873 but the court may, on application, on notice to the board, on
874 due hearing and due cause shown, grant a restraining order.

875 (3) The board of adjustment shall not be required to return
876 the original papers acted upon by it, but it shall be sufficient
877 to return certified or sworn copies thereof or of such portions
878 thereof as may be called for by the writ. The return shall
879 concisely set forth such other facts as may be pertinent and
880 material to show the grounds of the decision appealed from and
881 shall be verified.

882 (2)-(4) The court has shall have exclusive jurisdiction to
883 affirm, reverse, or modify, or set aside the decision on the
884 permit or other determination from which the appeal is taken
885 brought up for review, in whole or in part, and, if appropriate
886 need be, to order further proceedings by the political
887 subdivision or its administrative agency board of adjustment.
888 The findings of fact by the political subdivision or its
889 administrative agency board, if supported by substantial
890 evidence, shall be accepted by the court as conclusive, and an
891 no objection to a decision of the political subdivision or its
892 administrative agency may not ~~board~~ shall be considered by the
893 court unless such objection was raised in the underlying
894 proceeding ~~shall have been urged before the board, or, if it was~~
895 ~~not so urged, unless there were reasonable grounds for failure~~
896 ~~to do so.~~

897 (3)-(5) If ~~In any case in which~~ airport zoning regulations
898 adopted under this chapter, ~~although generally reasonable,~~ are
899 held by a court to interfere with the use and enjoyment of a

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900 particular structure or parcel of land to such an extent, or to
901 be so onerous in their application to such a structure or parcel
902 of land, as to constitute a taking or deprivation of that
903 property in violation of the State Constitution or the
904 Constitution of the United States, such holding shall not affect
905 the application of such regulations to other structures and
906 parcels of land, or such regulations as are not involved in the
907 particular decision.

908 ~~(4)-(6) A judicial No appeal to any court may not shall be~~
909 ~~or is~~ permitted under this section until the appellant has
910 exhausted all of its remedies through application for local
911 government permits, exceptions, and appeals, to any courts, as
912 herein provided, save and except an appeal from a decision of
913 the board of adjustment, the appeal herein provided being from
914 such final decision of such board only, the appellant being
915 hereby required to exhaust his or her remedies hereunder of
916 application for permits, exceptions and variances, and appeal to
917 the board of adjustment, and gaining a determination by said
918 board, before being permitted to appeal to the court hereunder.

919 Section 15. Section 333.12, Florida Statutes, is amended to
920 read:

921 333.12 Acquisition of air rights.—~~If In any case which: it~~
922 ~~is desired to remove, lower or otherwise terminate a~~
923 ~~nonconforming obstruction is determined to be an airport hazard~~
924 ~~and the owner will not remove, lower, or otherwise eliminate it~~
925 ~~structure or use; or the approach protection necessary cannot,~~
926 ~~because of constitutional limitations, be provided by airport~~
927 ~~zoning regulations under this chapter; or it appears advisable~~
928 ~~that the necessary approach protection be provided by~~

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929 acquisition of property rights rather than by airport zoning
930 regulations, the political subdivision within which the property
931 or nonconforming obstruction ~~use~~ is located, or the political
932 subdivision owning or operating the airport or being served by
933 it, may acquire, by purchase, grant, or condemnation in the
934 manner provided by chapter 73, such property, air right,
935 avigation ~~navigation~~ easement, or other estate, portion, or
936 interest in the property or nonconforming obstruction ~~structure~~
937 ~~or use~~ or such interest in the air above such property, ~~tree~~,
938 ~~structure, or use,~~ in question, as may be necessary to
939 effectuate the purposes of this chapter, and in so doing, if by
940 condemnation, to have the right to take immediate possession of
941 the property, interest in property, air right, or other right
942 sought to be condemned, at the time, and in the manner and form,
943 and as authorized by chapter 74. In the case of the purchase of
944 any property, ~~or any~~ easement, or estate or interest therein or
945 the acquisition of the same by the power of eminent domain, the
946 political subdivision making such purchase or exercising such
947 power shall, in addition to the damages for the taking, injury,
948 or destruction of property, also pay the cost of the removal and
949 relocation of any structure or any public utility that ~~which~~ is
950 required to be moved to a new location.

951 Section 16. Section 333.13, Florida Statutes, is amended to
952 read:

953 333.13 Enforcement and remedies.—

954 (1) Each violation of this chapter or of any airport zoning
955 regulations, orders, or rulings adopted ~~promulgated~~ or made
956 pursuant to this chapter shall constitute a misdemeanor of the
957 second degree, punishable as provided in s. 775.082 or s.

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958 775.083, and each day a violation continues to exist shall
959 constitute a separate offense.

960 (2) In addition, the political subdivision or agency
961 adopting the airport zoning regulations under this chapter may
962 institute in any court of competent jurisdiction an action to
963 prevent, restrain, correct, or abate any violation of this
964 chapter or of airport zoning regulations adopted under this
965 chapter or of any order or ruling made in connection with their
966 administration or enforcement, and the court shall adjudge to
967 the plaintiff such relief, by way of injunction, ~~which~~ may be
968 mandatory, ~~or~~ or otherwise, as may be proper under all the facts
969 and circumstances of the case in order to fully effectuate the
970 purposes of this chapter and of the regulations adopted and
971 orders and rulings made pursuant thereto.

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

975 Section 17. Section 333.135, Florida Statutes, is created
976 to read:

977 333.135 Transition provisions.—

978 (1) Any airport zoning regulation in effect on July 1,
979 2016, which includes provisions in conflict with this chapter
980 shall be amended to conform to the requirements of this chapter
981 by July 1, 2017.

982 (2) Any political subdivision having an airport within its
983 territorial limits which has not adopted airport zoning
984 regulations shall, by July 1, 2017, adopt airport zoning
985 regulations consistent with this chapter.

986 (3) For those political subdivisions that have not yet

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987 adopted airport zoning regulations pursuant to this chapter, the
988 department shall administer the permitting process as provided
989 in s. 333.025.

990 Section 18. Section 333.14, Florida Statutes, is repealed.

991 Section 19. This act shall take effect July 1, 2016.