

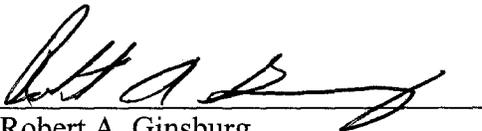
MEMORANDUM

GOE
Agenda Item No. 3(A)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners **DATE:** November 14, 2003

FROM: Robert A. Ginsburg
County Attorney **SUBJECT:** Zoning ordinance providing land use compatibility between Miami International Airport and Off-Airport Development

The accompanying alternate ordinance was prepared and placed on the agenda at the request of Commissioner Joe A. Martinez.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. **DATE:**
and Members, Board of County Commissioners

FROM: George M. Ferguson
County Manager

A handwritten signature in black ink, appearing to read "G. Ferguson", written over the printed name of George M. Ferguson.

SUBJECT: Zoning ordinance
providing land use
compatibility between
Miami International
Airport and Off-
Airport Development

FISCAL/ECONOMIC IMPACT

The implementation of this ordinance is not expected to have any fiscal or economic impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE:

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- “4-Day Rule” (“3-Day Rule” for committees) applicable if raised**
- 6 weeks required between first reading and public hearing**
- 4 weeks notification to municipal officials required prior to public hearing**
- Decreases revenues or increases expenditures without balancing budget**
- Budget required**
- Statement of fiscal impact required**
- Bid waiver requiring County Manager’s written recommendation**
- Ordinance creating a new board requires detailed County Manager’s report for public hearing**
- Housekeeping item (no policy decision required)**
- No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No.
11-14-03

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI INTERNATIONAL AIRPORT (WILCOX FIELD) ZONING; PROVIDING FOR MINIMUM ZONING STANDARDS, DEFINITIONS, AIRPORT ZONING, ZONE CLASSIFICATION DISTRICTS, HEIGHT LIMITATIONS, LAND USE ZONING CRITERIA, USE RESTRICTIONS, ADMINISTRATION AND ENFORCEMENT, PERMITS, AND NONCONFORMING USES; PROVIDING FOR VARIANCES, EXCEPTIONS, CONDITIONS TO VARIANCES AND APPEALS THEREFROM; REQUIRING DISCLOSURE BY SELLERS OR LESSORS OF RESIDENTIAL PROPERTY LOCATED WITHIN ANY AIRPORT ZONING DISTRICT; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Article XXXVII of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

ARTICLE XXXVII. MIAMI INTERNATIONAL AIRPORT (WILCOX FIELD) ZONING

* * *

Sec. 33-331. Provisions hereof established as minimum standards governing zoning.

It is established that the airport zoning area for Miami International Airport (Wilcox Field), the zone classification districts therein and the height limitations applicable to such districts, as the same are hereinafter set forth, shall be incorporated with all other minimum standards governing zoning heretofore or hereinafter adopted pursuant to Section 4.07 of the Home Rule Charter for ~~[[Metropolitan]]~~ >>Miami-<<Dade County, Florida.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 33-332. Definitions.

In construing the provisions hereof and each and every word, term, phrase or part thereof, where the context will permit, the definitions provided in Section 1.01, Florida Statutes, and Section 33-1 and Section 33-302 of the Code of ~~[[Metropolitan]]~~ >>Miami<<Dade County, Florida, and the following definitions shall apply:

* * *

- (3) ~~[[Airport-h]]~~>>Hazard to Air Navigation<< means >>an object which the Federal Aviation Administration determines will have substantial adverse effect upon the safe and efficient use of navigable airspace by aircraft, operation of air navigation facilities, or existing or potential airport capacity.<< ~~[[any structure or tree or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.]]~~

* * *

- (10) *Runway* means ~~[[a]]~~ >> the <<~~[[paved surface of uniform width used by aircraft by aircraft for]]~~ >>defined area on an airport prepared for << landing and ~~[[taking-off]]~~ >> take-off of aircraft along its length.<<

- >>(11)<< *Primary surface*, sometimes hereinafter called "landing district," means a surface longitudinally centered on a runway and extending two hundred (200) feet beyond each end of that runway. The elevation of any point on a primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface >>for instrument runways<< is one thousand (1,000) feet. >>The width of the primary surface for non-instrument runways is five hundred (500) feet.<<

* * *

- >>(14) *Obstruction* means any structure, growth, or other object including a mobile object, which exceeds the height limitation as set forth herein.

- (15) *Airport hazard* means any structure, obstruction, tree or use of land which would exceed the federal obstruction standards as contained in 14 C.F.R., SS. 77.21, 77.23, 77.25, 77.28 and 77.29 and which obstructs the airspace required for the flight of aircraft in taking

off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft.

- (16) Educational facilities shall mean those facilities as defined by Chapter 1013, Florida Statutes, as amended, and as defined by the Code of Miami-Dade County. It is provided, however, that for purposes of this article educational facilities shall not include “baby-sitting services for shoppers” and “family day care homes” as those terms are defined in section 33-151.11 of the Code.
- (17) Aviation-related schools shall mean any educational facility whose greater portion of its curriculum is in the education or training in the science and art of flight and airports, including but not limited to: the operation and construction of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or other air navigation facilities; and instruction in flying or subjects pertaining thereto.
- (18) New Construction shall mean any residential or educational facility or other structure constructed after the effective date of this Ordinance.
- (19) Height : For the purpose of determining the height limits in all districts set forth in this article and shown on the boundary map for airport zone classification districts, the datum shall be mean sea level (MSL) elevation unless otherwise specified.
- (20) Day Night Noise Level (DNL) Noise Contour : Map showing concentrations of aircraft noise around an airport. This is calculated based on DNL or day night noise levels which are averaged over a year.
- (21) Official Noise Contour Map : A noise contour map prepared for an airport and approved by the operator of that airport.
- (22) Non-instrument runway means a runway other than an instrument runway. Currently, only one non-instrument runway exists at Miami International Airport and is designated as Runway 8/26 and its centerline is described as follow:
- (a) Runway 8/26: Commencing at the Northwest corner of Section 25, Township 53 South, Range 40 East, Miami-Dade County, Florida; thence southward along the west line of said Section 25 a distance

of 3245.23 feet; thence N 87° 22' 38" E a distance of 1138.87 feet to the west end of the runway and the point of beginning; thence N 87° 22' 44" E a distance of 8,600 feet to the east end of the runway.<<

Sec. 33-333. Establishment of airport zoning area for Miami International Airport (Wilcox Field).

For the purpose of this article there is hereby created and established the airport zoning area for Miami International Airport (Wilcox Field), and it is hereby ordained that such area shall include, and that the provisions of this article shall be applicable to and embrace, all of the unincorporated and incorporated land and water area lying, situate and being in those certain portions of >>Miami-<<Dade County, Florida, within the following described boundaries:

- (1) *Northern boundary.* Commencing at the intersection of the >>Miami-<< Dade County-Broward County line and the centerline of U.S. Highway 27, proceed easterly along the County line to the range line between Range 42 and Range 43 East.
- (2) *Eastern boundary.* Commencing at the intersection of the >>Miami-<< Dade County-Broward County extended, and the range line between Range 42 East and Range 43 East, proceed southerly along said range line to the intersection of theoretical S.E. 152 Street.

* * *

Sec. 33-334. Establishment of zone classification districts for airport zoning area. [~~;- criteria for review of land use and zoning modifications in airport zoning area]~~]

(A) For the purpose of this article all of the airport zoning area for Miami International Airport (Wilcox Field), as the same is created, established and described hereinbefore, is hereby divided into airport zone classification districts as follows:

- (1) *L or Landing districts >>(Primary Surfaces)<<.* A "landing district" is established for each instrument >>and non-instrument<< runway. A landing district for an instrument runway shall have a uniform width of one thousand (1,000) feet[[:]] >>. A landing district for a non-instrument runway shall have a uniform width of five hundred (500) feet. All landing districts<< shall extend for the full length of such runway plus a distance of two hundred (200) feet beyond each end thereof and shall include such runway and be

symmetrical about the centerline thereof. Each landing district shall embrace and include all of the land and water area lying vertically beneath an imaginary surface referred to as the primary surface which shall have an elevation equal to the elevation of the nearest point on the runway centerline.

- (2) *IA or Instrument approach districts.* An "instrument approach district" is established for each end of each instrument runway for instrument landings and takeoffs, and it is further established that each instrument approach district shall embrace and include all of the land and water area lying vertically beneath an imaginary inclined surface which shall hereafter, for the purposes of this article, be referred to and described as the instrument approach surface.

The instrument approach surface shall begin on a base one thousand (1,000) feet wide, such base to be at a position two hundred (200) feet beyond the end of the runway and from such base the approach surface shall widen uniformly to sixteen thousand (16,000) feet at a horizontal distance of fifty thousand ~~>>two hundred<<~~ (50,[[000]]>>200<<) feet beyond the ~~[[base of the approach surface,]]~~ ~~>>end of the runway<<~~ the centerline of ~~[[such approach]]~~ ~~>>this<<~~ surface being the ~~[[continuation]]~~ ~~>>extension<<~~ of the centerline of the runway.

* * *

- (5) *DZ or Departure zone district.* A "departure zone district" is hereby established adjacent to each instrument runway, and it is further established that each departure zone district shall embrace and include all of the land and water area lying vertically beneath imaginary inclined surfaces which shall hereafter, for the purpose of this article, be referred to and described as departure ~~[[zoning area; criteria for review of land use and zoning modifications in airport zoning area]]~~ ~~>>zone surface 1 and departure zone surface 2.~~ The high structure set-aside district, which is hereinafter established and described, shall not be a part of and is hereby specifically excluded from the departure zone district <<.

* * *

- ~~>>(9) *NA or Non-instrument approach districts.* A "non-instrument approach district" is established for each end of each non-instrument runway for non-instrument landings and take-offs~~

and it is further established that each such non-instrument approach district shall embrace and include all of the land and water area lying vertically beneath an imaginary inclined surface which shall hereafter, for the purposes of this article, be referred to and described as the non-instrument approach surface.

The non-instrument approach surface shall begin, and shall have a base five hundred (500) feet wide, at a distance of two hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand two hundred (10,200) feet beyond the end of the runway, the centerline of this surface being the continuation of the centerline of the runway.

The non-instrument approach surface shall extend outward and upward from its five hundred-foot-wide base, the elevation of which is base is ten (10) feet MSL.

(a) For Runways 8 and 26, the approach surface shall slope upward one (1) foot vertically to thirty-four (34) feet horizontally for its entire length <<

* * *

Sec. 33-335. Establishment of height limitations for zone classification districts in the airport zoning area.

Except as otherwise provided elsewhere in this article, no structure shall be erected or altered and no tree shall be allowed to grow or be maintained in any district created and established by this article to a height in excess of the height limits herein established for such district. Such height limitations will, in applying the provisions of this article, be corrected to elevations referred to the heretofore established mean sea level datum plane, by adding such height limitations to the mean sea level elevation of the point, line or plane to which such height limitation is referenced, or to the airport elevation, as the context of this article requires. An area, a structure or a tree located in more than one (1) of the described districts is considered to be only in the district with the more restrictive height limitation. Such limitations are hereby established for the districts as follows:

- (1) ~~[[Landing districts: Structures and trees will not be permitted in landing districts except as required, necessary and pertinent to the~~

~~operation and maintenance of Miami International Airport (Wileox Field) and then only to the extent permitted or authorized by applicable rules or regulation promulgated by Miami Dade County and the Federal Aviation Administration, or its successor ecounterpart]] >>For Runways 9L, 27R, 12 and 30: One (1) foot vertically for each sixty-five (65) feet horizontally beginning at a point two hundred (200) feet from the end of each instrument runway and extending for a distance of ten thousand two hundred (10,200) feet from the end of each runway; thence one (1) foot vertically for each forty (40) feet horizontally for a distance of forty thousand (40,000) feet to a point fifty thousand two hundred (50,200) feet from the end of each runway.<<~~

(2) ~~[[Instrument approach districts:~~

~~(a) For Runways 9L, 27R, 12 and 30: One (1) foot vertically for each sixty five (65) feet horizontally beginning at a point two hundred (200) feet from the end of each instrument runway and extending for a distance of ten thousand two hundred (10,200) feet from the end of each runway; thence one (1) foot vertically for each forty (40) feet horizontally for a distance of forty thousand (40,000) feet to a point fifty thousand two hundred (50,200) feet from the end of each runway.~~

~~(b)]]For Runways 9R and 27L, one (1) foot vertically for each fifty (50) feet horizontally beginning at a point two hundred (200) feet from the end of these instrument runways and extending for a distance of ten thousand two hundred (10,200) feet from the end of each runway; thence one (1) foot vertically for each forty (40) feet horizontally for a distance of forty thousand (40,000) feet to a point fifty thousand two hundred (50,200) feet from the end of each runway.~~

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(2)>>(8) Non-Instrument approach districts:

- (a) For Runways 8 and 26, the non-instrument approach surface shall extend outward and upward from its base, the elevation of which shall be the same as that of the runway end adjacent thereto, with a slope of one (1) foot vertically to thirty-four (34) feet horizontally for its entire length.<<

* * *

Sec. 33-336. ~~[[Zone classification district boundary map for the airport zoning area]] >>Establishment of land use zoning classification maps, criteria and use restrictions for Miami International Airport. <<~~

~~[[The Board of County Commissioners hereby adopts, approves and ratifies a drawing "Airport Zoning Area Map Miami International Airport Aircraft Arrival/Departure Districts," the original of which is on file with the Clerk of the Board. Such drawing shall locate and identify Miami International Airport (Wilcox Field) and other topographic data pertinent thereto and to the purposes of this article, and shall truly and faithfully depict the boundary of the airport zoning area and the boundaries and by contour lines, the height limitations, for the several zone classification districts therein as the same are established herein and as the same may be changed, varied, amended or supplemented by resolution as provided and prescribed in Chapter 33 of the Code of Miami Dade County, Florida. Copies or prints of such drawing shall be maintained and kept on file in the offices of the Miami Dade County Aviation Department and the Department and shall be prima facie evidence of the boundaries of the zone classification districts and the height limitations applicable thereto and therein.]]~~

>>(A) For the purpose of this article all of the land use zoning criteria for Miami International Airport, as the same is created established and described hereinbefore, is hereby divided into classifications as follows:

- (1) Inner District (ILZ). An ILZ for Miami International Airport is considered to be within the 75 DNL and greater noise contour of the latest official aircraft noise contour map for the airport.
- (2) Outer District (OLZ). The OLZ for Miami International Airport is considered to be within the 65 DNL to 74 DNL noise contour of the latest official aircraft noise contour map for the airport.

- (3) No School Zone (NSZ). A NSZ for each runway covers an area that extends five (5) statute miles from the end of a runway in a direct line along the extended centerline of the runway, and has a width measuring one-half (1/2) the length of the runway.
 - (4) Inner Safety Zone (ISZ), also referred to as the Runway Protection Zone (RPZ). For Miami International Airport, the ISZ is defined as an area which is centered about the extended runway centerline and begins 200 feet beyond the end of the area usable for take-off or landing. The ISZ dimension for Runways 12/30, 9R/27L, 9L/27R and proposed 8/26 begin at a width of 1,000 feet and extends 2,500 feet to a width of 1,750 feet. The ISZ dimension for Runways 8/26 begin at a width of five hundred (500) feet and extends one thousand seven hundred (1,700) feet to a width of one thousand ten (1,010) feet.
 - (5) Outer Safety Zone (OSZ). The OSZ is described as an area that extends outward from the ISZ to a point that is five thousand (5,000) feet from the runway end. The OSZ dimensions for Runways 12/30, 9R/27L and 9L/27R begin at a width of 1,750 feet and extend outward 2,300 feet to a width at 2,440 feet. The OSZ dimensions for Runways 8/26 begin at a width of one thousand ten (1,010) feet and extend outward three thousand one hundred (3,100) feet to a width at one thousand nine hundred forty (1,940) feet.
- (B.) Except as otherwise provided elsewhere in this article, or unless otherwise approved at public hearing, limitations on development of land, structures, and utilization of land within areas designated herein as being restricted due to non-compatibility with aircraft operations are in effect. In situations where land is beneath more than one land use classification the most restrictive shall apply. Subject to the provisions of Section 33-338 restrictions to insure land use compatibility around Miami International Airport are hereby established as follows:
- (1) Inner District (ILZ). New residential construction and educational facilities, excluding aviation related schools, are prohibited within this land use classification.
 - (2) Outer District (OLZ). New residential construction constructed after the effective date of this ordinance and

educational facilities, excluding aviation related schools, within this land use classification are required to incorporate at least a 25 decibel (db) Noise Level Reduction (NLR) in the design/construction of the structure.

- (3) *No School Zone (NSZ).* New educational facilities, excluding aviation related schools, are prohibited within this land use classification. The requirement of section 33-284.51 (d) to provide a child care use in a TND zoning district shall not apply where the Director of Planning and Zoning determines that the TND zoning district, is encumbered in whole or in part by a NSZ and no suitable site within a TND zoning district exists for a child care facility outside the NSZ.
- (4) *Inner Safety Zone (ISZ).* New residential construction, educational facilities (excluding aviation related schools), and buildings for public assemblage in excess of 1000 persons are prohibited within this land use classification. It is provided, however, that the prohibition on buildings for public assemblage shall not apply to hotels, motels, or hospitals and their ancillary uses. Additionally the prohibition on buildings for public assemblage as provided herein shall not apply to structures used in connection with public transportation.
- (5) *Outer Safety Zone (OSZ).* Residential units are limited to less than two per acre. Educational facilities (excluding aviation related schools) and buildings for public assemblage in excess of 1000 persons are prohibited within this land use classification. It is provided, however, that the prohibition on buildings for public assemblage shall not apply to hotels, motels, or hospitals and their ancillary uses. Additionally the prohibition on buildings for public assemblage as provided herein shall not apply to structures used in connection with public transportation.
- (C.) The Board of County Commissioners shall by ordinance, adopt, approve and ratify drawings which shall be entitled "Airport Land Use Zoning Map for Miami International Airport and Surrounding Area", and "Airport Height Zoning Map for Miami International Airport." Such drawings shall locate and identify Miami International Airport and other topographic data pertinent thereto and for the purposes of this article it shall also accurately depict the boundary of the airport zoning area and the boundaries of the airport zone classification districts. By contour lines, the height limitations and airport zone classification districts are established herein. Copies or prints of such drawings shall be maintained and kept on file in the offices of

the Miami-Dade County Aviation Department and the Miami-Dade County Department of Planning and Zoning and shall be prima facie evidence of the boundaries of the airport zone classification districts and the height limitations applicable thereto and therein.

(D.) Except as otherwise provided elsewhere in this article, all use and development of land, water and structures within the airport zoning area of Miami International Airport shall conform with the limitations established in Section 33-336(B) above. These limitations shall serve as minimum restrictions and the absence of a parcel's inclusion in a specific limitation established by the article shall not serve as a basis to approve a land use not otherwise in conformity with the applicable local government comprehensive plan, nor as a basis to amend the comprehensive plan, nor as a basis to amend the comprehensive plan to authorize additional use in the flight path of Miami International Airport. Additionally, it shall be unlawful to put any land or water located within L, T, and within TR Districts adjoining L and within the inner ten thousand (10,000) feet of IA Districts and the adjoining portions of TR Districts to any of the following prohibited uses:

- (1) Establishments or uses that emit smoke, gases, or dust in quantities or densities sufficient to jeopardize the safe use of the airport.
- (2) Notwithstanding any other provisions of this article, no use may be made of land or water within the airport zoning area in such a manner as to create electrical interference with radio communications between the airport and aircraft; make it difficult for aircraft pilots and tower control operators to distinguish between airport lights, aircraft and others; result in glare in the eyes of aircraft pilots using the airport, or in the eyes of the tower control operators; impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of aircraft.
- (3) Land fills and associated uses that emit smoke gases, dust or any use that may attract birds shall be prohibited within 10,000 feet of any runway.
- (4) Aircraft touch and goes are not permitted.

(E.) Construction of any educational facility, with the exception of aviation school related facilities, is prohibited at either end of a runway of Miami International Airport within an area which extends

5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway.

(F.) *Airport disclosure statement for real property transactions involving residential property within the airport zoning districts.*

- a. Effective as of the date of adoption of this ordinance, any person marketing residential property for sale, rental or lease in the zoning districts described herein shall provide to all parties acquiring an interest in the property, including future purchasers, mortgagees, occupiers and users, the following written statement, which shall be set forth on a separate sheet of paper and shall be signed by the party acquiring interest in the property prior to the execution of any other instrument committing the party to any interest in the affected property:

LAND INVOLVED IN THIS TRANSACTION IS LOCATED WITHIN AN AIRPORT ZONING DISTRICT. ACTIVITIES RELATING TO OPERATION OF THE AIRPORT THAT MAY BE LAWFULLY CONDUCTED WITHIN THIS AREA MAY RESULT IN THE GENERATION OF TRAFFIC, NOISE, ODORS, DUST AND FUMES.

IN ADDITION, THIS LAND MAY BE SUBJECT TO RESTRICTIONS ON THE HEIGHT OF STRUCTURES, OBJECTS OF NATURAL GROWTH AND OTHER OBSTRUCTIONS AS REQUIRED BY FEDERAL AVIATION REGULATIONS, PART 77, AND THE CODE OF MIAMI-DADE COUNTY, FLORIDA, ARTICLE 33.

- b. It shall be the seller's responsibility that the following statement shall appear in a prominent location on the face of any instrument conveying title to or any other interest in residential property within the airport zoning districts. The seller shall record the notarized statement with the Clerk of the Court:

I HEREBY CERTIFY THAT I HAVE READ, UNDERSTAND AND HAVE SIGNED THE AIRPORT DISCLOSURE STATEMENT FOR REAL PROPERTY TRANSACTIONS INVOLVING RESIDENTIAL PROPERTY WITHIN THE AIRPORT ZONING

DISTRICTS, AS REQUIRED BY SECTION 33-336 , CODE OF MIAMI-DADE COUNTY, FLORIDA.

Signature of Purchaser

Date<<

Sec. 33-337. ~~[[Use restrictions.]]~~ >>Reserved.<<

~~[[Except as otherwise provided in this article, it shall be unlawful to put any land or water located within L or HZ Districts and within TR Districts adjoining L Districts and within the inner ten thousand (10,000) feet of IA Districts and the adjoining portions of TR Districts to any of the following prohibited uses:~~

~~(a) Prohibited uses:~~

- ~~(1) Establishment or uses that emit smoke, gases, or dust in quantities or densities sufficient to jeopardize the safe use of the airport.~~
- ~~(2) Notwithstanding any other provisions of this article, no use may be made of land or water within the airport zoning area in such a manner as to create electrical interference with radio communications between the airport and aircraft; make it difficult for aircraft pilots and tower control operators to distinguish between airport lights, aircraft and others; result in glare in the eyes of aircraft pilots using the airport, or in the eyes of the control tower operators; impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of aircraft.]]~~

Sec. 33-338. Nonconforming uses, regulations not retroactive.

The regulations prescribed by this article or any amendment thereto shall not be construed to require the removal, lowering, or other change or alteration of any permanent structure or tree or use lawfully in existence not conforming to the regulations as of ~~[[the effective date hereof]]~~ >> July 19, 1969,<< or otherwise interfere with the continuance of any nonconforming use. After the effective date ~~[[hereof]]~~ >>of this ordinance<< property owners shall not be permitted to >>erect any structure or to<< grow or maintain trees to heights in excess of those provided herein>>.<< ~~[[Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was lawfully begun prior to the effective date of this article, and is diligently prosecuted and completed within the time limit as prescribed by the South Florida Building Code]]~~ Notwithstanding the preceding provisions of

this article, the owner of any such nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such marking, or marking and lighting, as shall be deemed necessary by the Director of the Miami-Dade County Aviation Department, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazard. Such marking, or marking and lighting, and the installation, operation and maintenance thereof, or such disposition of the hazard as may be agreed upon by and between the owner and the Director of the Miami-Dade County Aviation Department in lieu of such marking, or marking and lighting, shall be at the expense of the Miami-Dade County Aviation Department.

>>Nothing contained herein shall be construed to require the removal, alteration, sound conditioning or other change, or to interfere with the continued use replacement, reconstruction or adjacent expansion, of any educational structure or site in existence on July 1, 1993, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in former Section 235.19, Florida Statutes, as of July 1, 1993.

For the purposes of determining what shall constitute a nonconforming use, nothing contained herein shall be construed to prohibit or to require the removal of any lawful residential construction existing on the effective date of this ordinance or the approval of new residential construction on land located inside a residential zoning district, or authorized for residential development by the applicable comprehensive plan on the effective date of this ordinance. Any new residential construction on land identified in this paragraph is required to incorporate at least a 25 db Noise Level Reduction (NLR) into the design/construction of the structure.

For the purposes of determining what shall constitute a non-conforming use, nothing contained herein shall be construed to prohibit the construction of educational facilities approved by appropriate zoning resolution prior to the effective date of this ordinance.<<

Sec. 33-339. Administration and enforcement.

It shall be the duty of the Director >>of the Department of Planning and Zoning of Miami-Dade County, Florida,<< to administer [[and enforce]] the regulations prescribed herein in accordance with Section 2-[[105]]>>118<<, Code of Miami-Dade County, Florida >>within unincorporated Miami-Dade County<<. It shall be the duty of Team Metro to enforce these regulations >>within unincorporated Miami-Dade County. The appropriate municipal official shall administer and enforce these regulations in the incorporated areas for Miami-Dade County.<<

In the event of any violation of the regulations contained herein, the person responsible for such violation shall be given notice in writing by Team Metro >>or the appropriate municipal administrative official<<. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation. A copy of said notice shall be sent to the Director of the Miami-Dade County Aviation Department, >>as well as the Department of Planning and Zoning or the appropriate municipal administrative official.<< [[A]] >>The Director of the Department of Planning and Zoning or the Director of the appropriate municipal office <<[[Department administrative official]] >>or designee<< shall order discontinuance of use of land or buildings, removal of trees to conform with height limitations set forth herein, removal of buildings, additions, alterations, or structures, discontinuance of any work being done; or shall take any or all other action necessary to correct violations and obtain compliance with all the provisions of this article.

Sec. 33-340. Permits.

~~[[Applications for permits under this article shall be obtained from the appropriate Building and Zoning Department or agency.~~

~~Applications for permits for all construction, for adding height to any existing structures, and for all alterations, repairs, or additions that will change the use of the structure from the existing use to any commercial or industrial use in any airport zone classification district lying within unincorporated areas of Miami-Dade County, shall be obtained from the Director and from the Building Department. Application for permits shall include the height and location of derricks, draglines, cranes and other boom equipped machinery, if such machinery is to be used during construction.~~

~~All applications for permits made to appropriate municipal Building and Zoning Departments or agencies for all construction or for adding height to any existing structure, and for all alterations, repairs, or additions that will change the use of a structure from the existing use to any commercial or industrial use in any airport zone classification district lying within a municipality for which airport zone classification district boundaries have been established herein, shall be approved by the Director and the Building Official or by their duly authorized representatives prior to issuance of the permit by any municipal Building and Zoning Department or agency for the purpose of assuring compliance with the minimum standards governing zoning as set forth in this article; provided, however, no approval by the Director and Building Official will be required for building and use permits from municipalities which have adopted by ordinance airport zoning regulations, (or general zoning ordinances) the minimum standards of which are at least as restrictive as the minimum standards prescribed herein as such apply to the areas covered by this article. No approval by the Director and Building Official will be required for building and use permits from~~

~~municipalities which have adopted by ordinance the minimum standards of which are at least as restrictive as the minimum standards prescribed herein as such apply to the area covered by this article; provided, however, that no municipality may grant any variance to said general zoning regulations which would make said minimum standards less restrictive than the minimum standards prescribed herein.~~

~~Permits will be approved by the Director and Building Official or their duly authorized representatives unless the proposal fails to meet the requirements of all applicable zoning regulations and building codes, including the provisions of this article.~~

~~Permits, when applied for by applicants intending to use derricks, draglines, cranes and other boom equipped machinery for such construction, reconstruction or alteration as is consistent with the provisions hereof, shall, when the machine operating height exceeds the height limitations imposed by this article, require the applicant to mark, or to mark and light the machine to reflect conformity with the Federal Aviation Administration's or the Miami Dade County Aviation Department's standards for marking and lighting obstructions, whichever is the more restrictive, and shall require the applicant in such cases to obtain approval from the Director of the Miami Dade County Aviation Department of the location, height and time of operation for such construction equipment use prior to the issuance of a construction permit to the applicant.~~

~~Any decision of the Director may be appealed as provided and prescribed under Article XXXVI, of Chapter 33, Code of Miami Dade County, Florida.]]~~

>>In the incorporated areas of Miami-Dade County, approval of permits under this article shall be obtained from the appropriate Building Department Director or successor agency of a municipality for the purpose of assuring compliance with the minimum zoning standards as set forth in this article. In the unincorporated areas, approval of permits under this article shall be obtained from the Directors of the Miami-Dade County Building Department and the Department of Planning and Zoning. In all instances, a copy of the application for permit shall be provided to the Director of the Miami-Dade Aviation Department at the time said permit application is submitted. Proof of notice to the Miami-Dade Aviation Department shall be submitted to the appropriate zoning official and to the appropriate building department prior to issuance of a permit. The Director of Miami-Dade Aviation Department shall have seven (7) days to submit written objections to the requested permit application, if any, to the permit applicant, to the appropriate zoning official and to the appropriate building department.

Approval of permits is required for all construction, for adding height to any existing structure, for all alterations, repairs, or additions that will change the use of the structure from the existing use to any commercial, industrial, educational or residential use in any airport zone classification district lying within both the

unincorporated as well as the incorporated areas of Miami-Dade County, for which airport zone classification district boundaries have been established herein. Such applications for permits shall include the height and location of derricks, draglines, cranes and other boom-equipped machinery, if such machinery is used during construction. No person shall operate such equipment until approval from the Director of the Miami-Dade County Aviation Department is obtained.

Notwithstanding any provisions of this ordinance, in approving any permit under this article, the Director of the Miami-Dade County Aviation Department shall require the owner of the structure or tree for which a permit is being sought, to install, operate and maintain thereon at the owners sole expense, such marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction, such marking and lighting to conform to the specific standard established by rule of the Department of Transportation.

Any decision of the Miami-Dade County Department of Planning and Zoning shall be appealed as provided and prescribed under Article XXXVI, of Chapter 33, Code of Miami-Dade County, Florida. Any decision of the Miami-Dade County Building Department regarding the application of airport zoning regulations shall be appealed to the Board of County Commissioners acting as the Board of Adjustment. Any decision of a municipal official shall be appealed pursuant to the appeal procedures of the municipality having jurisdiction over the subject property. The Director of the Planning and Zoning Department or designee is authorized to appeal decisions of a municipal official granting permits pursuant to this section in accordance with the procedures of the appropriate jurisdiction <<

Sec. 33-341. Nonconforming uses abandoned or destroyed.

Whenever the >>appropriate zoning<< Director determines that the height limits or use standards of this article will be violated by the reconstruction, substitution or replacement of an existing nonconforming use, structure or tree, no permit shall be granted for such reconstruction, substitution or replacement. Whether application is made for a permit under this paragraph or not, the >>appropriate zoning<< Director may by appropriate action require the owner of the nonconforming structure or tree to permit the Miami-Dade County Aviation Department at its expense to lower, remove, or mark, or mark and light such object as may be necessary to conform to these regulations.

Sec. 33-342. Variances >>and exceptions<< limited.

>>(1)<< Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or otherwise use his property, not in accordance with the regulations prescribed in this article, shall follow the procedures set forth below for a variance from such regulations. ~~[[as provided as prescribed under~~

~~Article XXXVI of Chapter 33, Code of Miami-Dade County, Florida. Allowance of such variances shall be limited only to those cases in which it is duly found that a literal application or enforcement of the regulations would result in practical difficulty and unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of this article, and such zoning board is hereby admonished that the intent and purpose of this article is to promote the health, safety and general welfare of the inhabitants of Miami-Dade County, Florida, by preventing the creation or establishment of airport and airspace hazards, thereby protecting the lives and property of users of the Miami International Airport (Wilcox Field) and of occupants of land in its vicinity and preventing destruction or impairment of the utility of the airport and the public investment therein.]]~~

>>(2) Applications for variances, exceptions, or any other authorization for any construction or use not authorized by Sections 33-334, 33-335, 33-336, 33-337, or 33-338 shall be submitted and determined in accordance with the procedures provisions and requirements set forth in Florida Statutes, Section 333.03 and Sections 333.07 through and including 333.11 (1998) or successor legislation. Notwithstanding any provisions of the Code of Miami-Dade County to the contrary, for the purpose of zoning applications within the unincorporated area filed under Article XXXVII, the appropriate Community Zoning Appeals Board shall constitute the board of adjustment pursuant to Florida Statutes, Section 333.10, and shall utilize the procedures for processing zoning applications pursuant to this chapter. Applications within the incorporated area shall be heard by the board of adjustment designated by the appropriate municipality.

(3) Prior to filing the application, the applicant shall forward to the Florida Department of Transportation as well as the Director of the Miami-Dade County Aviation Department by certified mail, return receipt requested, a copy of the application for both the Florida Department of Transportation and Aviation Department's review and comment, if any. Copies of the return receipts must be filed with the Director of the appropriate zoning department at the time of filing the application. No public hearing on the application may commence less than forty-six (46) days after receipt of the application by the Florida Department of Transportation and the Miami-Dade County Aviation Department. Notwithstanding any provision of the Code of Miami-Dade County or other applicable municipal code, failure to comply with the requirements of this subsection shall be grounds for appeal as set forth in Fla. Stat. s. 333.07(2)(a).

(4) Approval of variances shall be limited to those cases in which it is duly found that a literal application or enforcement of the regulations would result in unnecessary hardship and the relief granted would not be contrary to the public interest but granting thereof would do substantial justice and be in accordance with the spirit of this article, and such zoning boards are hereby admonished that the intent and purpose of this article is to promote the health, safety and general

welfare of the inhabitants of Miami-Dade County, Florida, by preventing the creation of an airport hazard or of a hazard to air navigation, thereby protecting the lives and property of users of Miami International Airport and of occupants of land in its vicinity and preventing destruction or impairment of the utility of the airport and the public investment therein. Notwithstanding anything in the code to the contrary, the Director of the Miami-Dade County Planning and Zoning Department or designee may appeal within fourteen (14) days to the Board of County Commissioners any decision of a Community Zoning Appeals Board that approves a variance. In the incorporated area, the Director of the Miami-Dade County Planning and Zoning Department or designee, utilizing the administrative procedures of the applicable municipality, may appeal a zoning board's decision that approves a variance. The Director of the Miami-Dade County Planning and Zoning Department or designee, after exhaustion of the municipality's administrative remedies, may appeal within fourteen (14) days to the Board of County Commissioners any final decision approving a variance. The Board of County Commissioners shall conduct a de novo hearing to determine whether the decision of a Community Zoning Appeals Board or the final decision of a municipal authority to approve a variance should be sustained, modified, or reversed. The procedures set forth in sections 33-310 and 33-314 shall apply to such appeals.

(5) Exceptions approving construction of an educational facility, excluding an aviation-related school, within the no school zone shall only be granted when the appropriate zoning board makes specific findings detailing how the public policy reasons for allowing construction outweigh health and safety concerns prohibiting such a location. No such approval shall be considered by a zoning board unless the applicant for the exception request has submitted a properly executed covenant on a form approved by the Miami-Dade County Planning and Zoning Department providing that the owner and operator of the educational facility recognize and accept that as a result of the location of the educational facility it may experience noise from the operation of aircraft as well as a potential hazard from such aircraft, that the owner and operator of such facility waive objection to the present and future use of Miami International Airport and that the owner and operator of such educational facility shall give notice to all potential students and employees that they may experience aircraft noise and a potential hazard from such aircraft. Notwithstanding anything in the code to the contrary, the Director of the Miami-Dade County Planning and Zoning Department or designee may appeal within fourteen (14) days to the Board of County Commissioners any decision of a Community Zoning Appeals Board that approves an exception for educational facilities. In the incorporated area, the Director of the Miami-Dade County Planning and Zoning Department or designee, utilizing the administrative procedures of the applicable municipality, may appeal a zoning board's decision that approves an exception for an educational facility. The Director of the Miami-Dade County Planning and Zoning Department or designee, after exhaustion of the municipality's administrative remedies, may appeal within fourteen (14) days

to the Board of County Commissioners any final decision approving an exception for an educational facility. The Board of County Commissioners shall conduct a de novo hearing to determine whether the decision of a Community Zoning Appeals Board or the final decision of a municipal authority should be sustained, modified, or reversed. The Board of County Commissioners' decision to modify or reverse a municipal decision approving an exception shall be made by a super majority vote of the Board which is defined herein as a majority of members present plus one. The procedures set forth in sections 33-310 and 33-314 shall apply to such appeals.

(6) Notwithstanding the foregoing provisions of this section, in granting any variances or any other authorization for any construction or use not authorized by Sections 33-334, 33-335, 33-336, 33-337, or 33-338 under this article, the Board of County Commissioners or the appropriate board shall require the owner of the structure or tree for which such authorization is being sought to install, operate and maintain thereon, at the owner's sole expense, such marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction, such marking and lighting to conform to the specific standards established by rule of the Department of Transportation.<<

Sec. 33-343. Conditions to variances.

Any variance granted under this article may, if such action is deemed advisable to effectuate the purposes of this article and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain >>at his or her expense<<, or to permit the Miami-Dade County Aviation Department to install, operate, and maintain thereon at the owner's expense, such marking, or marking and lighting, as may be necessary to indicate to aircraft pilots the presence of an airport hazard.

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," or "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon override by this Board.

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RA6
CAC

Prepared by:

Craig H. Coller

Sponsored by Commissioner Joe A. Martinez