

MEMORANDUM

Agenda Item No. 7(C)

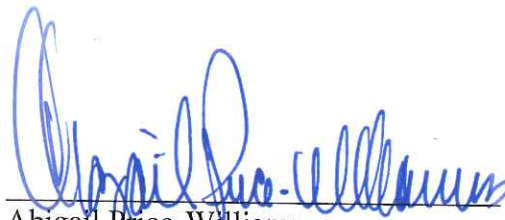
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

(Second Reading 1-24-17)
DATE: November 1, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance pertaining to zoning and real property transactions in the vicinity of Homestead Air Reserve Base (HARB); amending Article XXXV of Chapter 33 of the Code; revising zoning regulations near HARB; revising boundaries and regulations related to airport height zones and airport land use restriction area; revising process for granting variances and appeals; providing for enforcement in the unincorporated area and setting minimum standards within municipalities near HARB and providing an exception; requiring certain disclosures of proximity to HARB in real property transactions; amending section 33-1; revising definitions; amending section 33-311; conforming County Code to state law related to variances

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.



Abigail Price-Williams
County Attorney

APW/smm

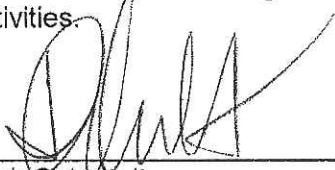
Memorandum



Date: January 24, 2017
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
From: Carlos A. Gimenez 
Mayor
Subject: Fiscal Impact Statement for Ordinance Pertaining to Zoning and Property
Transactions in the Vicinity of the Homestead Air Reserve Base

The proposed ordinance pertaining to zoning and real property transactions in the vicinity of the Homestead Air Reserve Base (HARB) amends Article XXXV of Chapter 33 of the Code of Miami-Dade County updating the zoning regulations pertaining to HARB and complying with State statutory requirements.

There is no anticipated fiscal impact to the County with the enactment of this proposed ordinance as additional staffing resources are not required. Implementation of these regulations will be carried out through the normal course of zoning approvals and enforcement compliance activities.

A handwritten signature in black ink, appearing to read "Jack Osterholt".

Jack Osterholt
Deputy Mayor


Fis00817 162395

Memorandum



Date: January 24, 2017

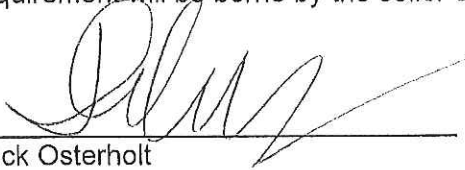
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Ordinance Pertaining to Zoning and Property Transactions
in the Vicinity of the Homestead Air Reserve Base

The proposed ordinance is an overhaul of the existing zoning regulations in the Code pertaining to the Homestead Air Reserve Base. These updates address mandates in Chapter 163, Florida Statutes to provide for land use compatibility in the vicinity of military installations as well as Chapter 333, Florida Statutes, which requires all jurisdictions with airport hazard areas to adopt, administer, and enforce regulations addressing such hazard areas. In particular, the proposed ordinance complies with CDMP Land Use Policy LU-4H and Aviation Subelement Policy AV-5J, which requires an amendment to the existing zoning regulations in the Code to enhance and promote the compatibility of adjacent land uses and the development of the Homestead Air Reserve Base, and the protection of its operations and activities. Furthermore, this proposed ordinance will incorporate some of the strategies recommended in the Joint Land Use Study and Air Installation Compatible Use Zone Study, as adopted by the Board through Resolution No. R-357-10, which required further legislative action.

The Code has existing regulations pertaining to building heights, zoning variances, and buildings of public assemblage in the vicinity of the Homestead Air Reserve Base; however, this proposed ordinance updates those regulations with the intent to protect the operations of the Homestead Air Reserve Base as well as the interests of adjacent land owners consistent with the recommended strategies approved by the Board. For instance, the proposed ordinance introduces a requirement for outdoor-indoor noise level reduction in the design and construction of residential properties within a certain distance of the Homestead Air Reserve Base, similar to what is required of properties within a certain distance from Miami International Airport, and limits the number of dwelling units per acre in the closest zone to the Homestead Air Reserve Base. The costs to construct residential properties with the requisite noise level reduction design will be borne by the respective developer and/or purchaser. Lastly, the proposed ordinance, if enacted, will require a disclosure statement for real property transactions for certain areas around the Homestead Air Reserve Base. Any penalties associated with failing to comply with the disclosure statement requirement will be borne by the seller of the real property.



Jack Osterholt
Deputy Mayor

162395

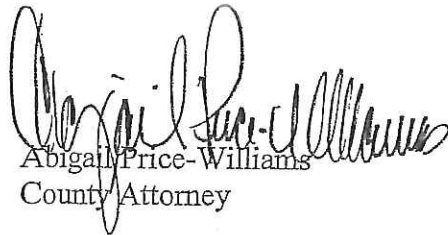


MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: January 24, 2017

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(C)

Please note any items checked.

- "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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(C)
1-24-17

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING AND REAL PROPERTY TRANSACTIONS IN THE VICINITY OF HOMESTEAD AIR RESERVE BASE (HARB); AMENDING ARTICLE XXXV OF CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY; REVISING ZONING REGULATIONS NEAR HARB; REVISING BOUNDARIES AND REGULATIONS RELATED TO AIRPORT HEIGHT ZONES AND AIRPORT LAND USE RESTRICTION AREA; REVISING PROCESS FOR GRANTING VARIANCES AND APPEALS; PROVIDING FOR ENFORCEMENT IN THE UNINCORPORATED AREA AND SETTING MINIMUM STANDARDS WITHIN MUNICIPALITIES NEAR HARB AND PROVIDING AN EXCEPTION; REQUIRING CERTAIN DISCLOSURES OF PROXIMITY TO HARB IN REAL PROPERTY TRANSACTIONS; AMENDING SECTION 33-1; REVISING DEFINITIONS; AMENDING SECTION 33-311; CONFORMING COUNTY CODE TO STATE LAW RELATED TO VARIANCES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, pursuant to Chapter 163, Florida Statutes, incompatible development of land close to military installations can adversely affect the ability of such an installation to carry out its mission and also may threaten public safety because of the possibility of accidents occurring within the areas surrounding a military installation; and

WHEREAS, Chapter 333, Florida Statutes, pertaining to Airport Zoning requires every political subdivision that contains an airport hazard area within its boundaries to adopt, administer, and enforce airport zoning regulations for such airport hazard areas; and

WHEREAS, in 2007, the Homestead Air Reserve Base completed an extensive analysis, known as the Air Installation Compatible Use Zone Study (AICUZ), that considered the effects of aircraft noise, accident potential, compatible land use, and development on present and future neighbors of the Homestead Air Reserve Base; and

WHEREAS, On April 6, 2010, the Board of County Commissioner passed and adopted Resolution No. R-357-10 accepting the Joint Land Use Study (JLUS) and the AICUZ, and authorizing the County's administration to implement JLUS strategies 1, 4, 7, 8, 10, and 11; and

WHEREAS, Policies LU-4H and AV-7C of the Comprehensive Development Master Plan (CDMP) require the County to amend Article XXXV of Chapter 33 of the Code related to Homestead Air Force Base Zoning to consider the guidelines recommended in the JLUS and the AICUZ, and address the following compatibility criteria: (a) permitted uses and use restrictions; (b) development density and intensity; (c) building Floor Area Ratios and setbacks; (d) height restrictions; (e) lighting standards; (f) noise attenuation; (g) variances and appeals; (h) real estate disclosure processes; and (i) aviation easements; and

WHEREAS, Policy AV-5J of the CDMP's Aviation Subelement provides for the County to amend its zoning regulations to enhance and promote the compatibility of adjacent uses and development with the Homestead Air Reserve Base,

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

Section 1. Section 33-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-1. - Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

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.

(37.1) *Department.* Unless otherwise specified within this chapter, department shall mean the >>Miami-Dade County Department of Regulatory and Economic Resources or successor department<< [[Department of Planning and Zoning]].

* * *

(39) *Director.* The word "Director" shall mean the Director of the Department [[of Planning and Zoning]] or >>the Director's<< designee, unless the context clearly indicates otherwise.

* * *

Section 2. Article XXXV of Chapter 33 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Article XXXV. - Homestead Air ~~[[Free]]>>Reserve<< Base Zoning.~~

>>Sec. 33-291.1. Intent.

In accordance with Chapter 333, Florida Statutes, and Policies LU-4H and AV-7C of the Comprehensive Development Master Plan (CDMP), it is the intent of the Board of County Commissioners to establish the Homestead Air Reserve Base (HARB) zoning regulations to enhance and promote the compatibility of adjacent land uses and development with the HARB and the protection of HARB operations and activities. This article regulates land uses around the HARB through Accident Potential Zones, Noise Contour Zones, and Airport Height Zones designated around the HARB's perimeter.

Sec. 33-291.2. Applicability and Enforcement.

The regulations in this article shall apply outside the boundaries of HARB, within the unincorporated area of Miami-Dade County, and as minimum standards within the incorporated areas of the County. Enforcement of this article shall be the responsibility of the County in the unincorporated area and the responsibility of the municipalities in the incorporated areas. It is provided that municipal regulations adopted prior to [Insert Effective Date of this Ordinance] are deemed to be in compliance with this article.<<

Sec. 33-292. Definitions.

As used in this article, unless the context otherwise ~~[[required]]~~ >>requires, the following definitions shall apply<<:

- (1) *Airport* is the Homestead Air ~~[[Free]]~~ >>Reserve<< Base Airport >>, the boundaries of which are established by the United States government<<.
- (2) *Airport hazard* >>is an obstruction to aircraft navigation that affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.<< ~~[[is any structure or tree or use of land which obstructs the air space required for the safe flight of aircraft in landing or taking-off or maneuvering at or in the vicinity of the airport, or is otherwise hazardous to such landing or taking-off of aircraft.]]~~
- (3) *Airport* >>Land Use Restriction Area<< ~~[[hazard area]]~~ is ~~[[any]]~~ >>the land<< area >>encompassed within the Accident Potential Zones and Noise Contour Zones as depicted on Figure 2 of section 33-295 of this article. A full scale map of the boundaries of the Airport Land Use Restriction Area presented in Figure 2 is on file with the Department.<< ~~[[of land or water upon which an airport hazard might be established if not prevented as provided in this article.]]~~
- (4) *Nonconforming use* is any structure, tree, or use of land which >>was legally established but which<< does not conform to this article ~~[[as of the effective date thereof]]~~.
- (5) *Person* is any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee or other similar representative thereof.
- (6) *Structure* is any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, >>signs,<< utility poles and overhead transmission lines.
- (7) ~~[[Land area is any land or water area outside the governmental reservation and lying within the unincorporated and incorporated area of the County.~~
- ~~(8)]~~ *Tree* is any object of natural growth.
- ~~[[9]]~~ >>(8)<< *Landing area* is that part of the airfield that is used or intended to be used for landing and taking-off of aircraft, and the adjacent clear zone.
- ~~[[10]]~~ >>(9)<< *Primary surface* is that surface which defines the limits of the obstruction clearance requirements in the immediate vicinity of the landing area. This area is entirely within the >>boundaries of the Airport<< ~~[[government reservation]]~~.

~~[(11)]~~>>(10) Accident Potential Zones include the following land areas:

- (a) << Clear zone surface is an area ~~[[entirely within the government reservation and defines the limits of the obstruction clearance requirements in the vicinity contiguous to the ends of the primary surfaces.]]~~
>>that is 3,000 feet wide and that extends outward from each end of the runway, starting at the runway's threshold, for 3,000 feet.
- (b) Accident Potential Zone I (APZ I) is an area that is 3,000 feet wide and that extends outward from each clear zone surface for a distance of 5,000 feet, such that the outer edges of the APZ I are 8,000 feet from the respective runway's thresholds.
- (c) Accident Potential Zone II (APZ II) is an area that is 3,000 feet wide and that extends out 7,000 feet from each APZ I, such that the outer edges of the APZ II are 15,000 feet from the respective runway's thresholds.<<

~~[(12)]~~>>(11) Airport Height Zone shall refer to an approach-departure clearance surface zone, inner horizontal surface zone, conical surface zone, outer horizontal surface zone, and transitional surface zone, as described in, and depicted on Figure 1 in, section 33-29.<< ~~[[Approach-departure clearance surface is an imaginary plane symmetrical about the runway centerline extended, beginning as an inclined plane (known as the glide angle) two hundred (200) feet beyond each end of the ultimate primary surface at the centerline elevation of the runway end (established airfield elevation) and extends for fifty thousand (50,000) feet. The slope of the approach-departure clearance surface is eighty to one (80:1) along the runway centerline extended (glide angle) until it reaches an elevation of five hundred (500) feet above the established airfield elevation. It then continues horizontally at this elevation to a point fifty thousand (50,000) feet from the start of the original inclined plane. The width of this surface at the runway end is two thousand (2,000) feet; it flares uniformly to a width of sixteen thousand (16,000) feet at fifty thousand (50,000) feet.~~

- (13) Inner horizontal surface is a plane; oval shape at a height of one hundred fifty (150) feet above the established airfield elevation. It is constructed by scribing an arc with a radius of seventy five hundred (7500) feet about the centerline at the ends of the runway and interconnecting these arcs with tangents.

- (14) ~~Conical surface is an inclined surface extending outward and upward from the outer periphery of the inner horizontal surface for a horizontal distance of seven thousand (7,000) feet to a height of five hundred (500) feet above the established airfield elevation. The slope of the conical surface is 20:1. It is constructed by scribing an arc with a radius of fourteen thousand five hundred (14,500) feet about the centerline at the ends of the runway and interconnecting these arcs with tangents.~~
- (15) ~~Outer horizontal surface is a plane located five hundred (500) feet above the established airfield elevation. It extends for a horizontal distance of thirty thousand (30,000) feet from the outer periphery of the conical surface.~~
- (16) ~~Transitional surfaces connect the primary surfaces, clear zone surface, and approach departure clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is seven to one (7:1) outward and upward at right angles to the runway centerline.]]~~
- >>(12) Noise Contour Zones shall refer to those land areas, as depicted on Figure 2 in section 33-295, located within the Noise Contours in which noise exposure is measured at a Day-Night Noise Level (DNL) of 65 decibels (dB) or greater.<<
- [[~~(17)~~]]>>(13)<< Established airfield elevation is [[~~seven (7)~~]]>>six<< feet above MSL.
- [[~~(18)~~]]>>(14)<< Airfield reference point is a point or points on the airfield from which certain distances relative to specific criteria referred to in this article are measured. For the purpose of this article, the reference points will be at each end of the runway and on its centerline. These points are described and located in Section 33-293.1
- >>(15) HARB shall mean Homestead Air Reserve Base.
- (16) Landfill has the same meaning as provided in Section 403.703, Florida Statutes, as such may be amended from time to time.<<
- [[~~(19)~~]] ~~A zone is that area of land falling beneath any surface and each zone will have the same name as the surface describing it.~~
- (20) ~~Administrative agency is the Department, with its Director as the chief executive, is hereby designated the administrative agency charged with the duty of administering and enforcing the regulations herein prescribed, including that of hearing for permits.]]~~

>>(17)<<[[~~(21)~~]] *MSL* >>or<<[[~~—~~]] *Mean sea level* [[~~whenever the term MSL or mean sea level is used in the article, the same~~]] shall mean [[~~one (1) and the same thing~~]] >>a tidal datum, as defined by the National Oceanic and Atmospheric Administration, describing the arithmetic mean of hourly local water level heights observed over the National Tidal Datum Epoch.<<

[[~~(22) The County's Community Zoning Appeals Board is hereby appointed the "Board of Adjustment," pursuant to Section 333.10, Florida Statutes.~~]]

Sec. 33-293. >>Airport height and use restrictions.<<
[[~~Establishing airport hazard area.~~]]

~~All of the land and water in this County which falls within the limits of the approach-departure clearance surfaces, and the outer horizontal surface, or surfaces closer to Homestead AFB, except land within the boundaries of Homestead Air Force Base, is declared to be in the airport hazard area and is subject to limitations of height and use control established by this article.]]~~

>>This article regulates land uses around the Homestead Air Reserve Base through height limitations and use restrictions based on proximity to the airport.<<

Sec. 33-293.1. Reference points of airport >>zones<< [[~~hazard area~~]].

- (1) Reference points 1 and 2 [[~~are the reference points of the airport hazard area and~~]] are related to a primary reference point >>250<< [[~~two hundred fifty (250)~~]] feet east and >>100<< [[~~one hundred (100)~~]] feet south of the northwest corner of the N ½ of the NW ¼ of the SW ¼ of the NW ¼ of Township 57 South, Range 39 East, Section 12, Miami-Dade County, Florida, which is the location of the control tower which is also described as being at

Lat
 25° - 29' - 18.9"

Long
 80° - 23' - 39.9"

For the purpose hereof, the elevation of this point is [[~~seven (7)~~]] >>six<< feet above mean sea level.

- (2) Reference point No. 1 is at the northeast end of the runway and on its centerline. This point is located ~~>>1,000<< [[one thousand (1,000)]]~~ feet from surveying monument HAF-41 on a true bearing of S49°03'29"W. The location of HAF-41 monument is as follows:

N
- 424, 425.21

E
- 708, 243.92

Lat
- 25° - 29' - 59.808"

Lon
- 80° - 22' - 07.135"

For the purpose hereof, the elevation of this point is ~~[[seven (7)]]>>six<<~~ feet above mean sea level.

- (3) Reference point No. 2 is at the southwest end of the runway and on its centerline. This point is located ~~>>1,262.35<< [[one thousand two hundred sixty-two and thirty-five hundredths (1,262.35)]]~~ feet from surveying monument HAF-25 on a true bearing of ~~[[N 49° 02' 29" E]]>>49.321 degrees<<~~. The location of HAF-25 monument is as follows:

N
- 415, 609.25

E
- 698, 081.42

Lat
- 25° - 28' - 32.958"

Lon
- 80° - 23' - 58.482"

For the purpose hereof, the elevation of this point is ~~[[seven (7)]]>>six<<~~ feet above mean sea level.

~~[[Sec. 33-293.2. Division of airport hazard area into zone.~~

~~The airport hazard area outside of the government reservation boundary is divided into height limiting zones as follows: approach-departure clearance surface zones, inner horizontal surface zones, outer horizontal surface zones and transitional surface zones.~~

Sec. 33-293.3. Zoning map adopted.

~~The Board of County Commissioners shall, by resolution, adopt, approve, and ratify a drawing which shall be entitled Homestead Air Force Base, Tab. No. F 5, sheet 1 of 1, as revised by Base Civil Engineers on September 1, 1967, on drawing original[ly] prepared by Weed, Johnson Associates, April 1, 1960. Such drawing shall locate and identify Homestead Air Force Base and other topographic data pertinent thereto and to the purposes of this article and it shall also truly and faithfully depict the boundaries of airport zoning area; 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 Homestead Air Force Base 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.]]~~

Sec. 33-294. Heights limitations.

Except as otherwise provided in this article, any structure which is erected >>or<< [[5]] increased in height>>_<< or >>any<< tree >>which is<< allowed to grow so as to project above the height of the controlling >>Airport Height Zone,<< [[imaginary surface as specified hereunder]] will be considered [[a flight]]>>an airport<< hazard and in violation of this article.

~~[[a) Approach-departure clearance surfaces.]]~~ There is only one ~~[[1]]~~ runway at Homestead Air ~~[[Foree]]>>Reserve<<~~ Base. This runway has a true ~~[[north]]~~ bearing of ~~[[49]] >>49.321<<~~ degrees ~~[[, 03 minutes, 29 seconds east]]~~. The magnetic declination at the Homestead Air ~~[[Foree]]>>Reserve<<~~ Base is ~~[[1 degree, 10 minutes east]] >>6.2 degrees West, for a magnetic runway bearing of 55.521 degrees. As depicted on Figure 1, a<< [[A]] height~~

limitation within each surface is hereby established which will provide a clear space above the entire area of the >>established Airport Height Zone. Figure 1 consists of a map entitled "Homestead Air Reserve Base Imaginary Surfaces - Height Zoning Contour Map," as prepared by Homestead Air Reserve Base, dated August 2016, reflecting the defined Airport Height Zones. A full scale copy of Figure 1 is on file with the Department and the Homestead Air Reserve Base. The Airport Height Zones are defined as follows:

- (a) Approach-departure clearance surface is an imaginary plane symmetrical about the runway centerline extended, beginning as an inclined plane (known as the glide angle), ~~<< [[approach-departure clearance surface, the height limitations being represented by a sloping plane;]]~~ the base of which is ~~>>2,000<< [[two thousand (2,000)]]~~ feet wide and begins ~~>>200<< [[two hundred (200)]]~~ feet beyond ~~>>each end of the ultimate primary surface at the centerline elevation<<[[the ultimate length]]~~ of the runway ~~>>threshold (established airfield elevation)<<~~ and extends outward and upward on a ratio of ~~[[eighty (80)]]>>50<<~~ feet horizontal to ~~>>1<< [[one (1)]]~~ foot vertical for a horizontal distance of ~~>>40,000<< [[forty thousand (40,000)]]~~ feet, at which point it reaches a vertical height of ~~[[five hundred seven (507)]] >>506<<~~ feet above the mean sea level and a horizontal width of ~~>>13,200<< [[thirteen thousand two hundred (13,200)]]~~ feet. This plane continues at a vertical height of ~~[[five hundred seven (507)]] >>506<<~~ feet above MSL until it reaches a horizontal distance of ~~>>50,000<< [[fifty thousand (50,000)]]~~ feet and horizontal width of ~~>>16,000 feet<< [[sixteen thousand (16,000)]]~~ feet. The maximum permissible heights within the approach-departure clearance surface zone, based on mean sea level, shall be listed in the following tabulation:

Dist. from end of runway in feet	Width of zone in feet	Max. permissible elev. in feet
200	2,000	7
1,000	2,224	17
5,000	3,344	67
10,000	4,744	129
15,000	6,144	192
20,000	7,544	255

25,000	8,944	317
30,000	10,344	380
35,000	11,744	442
40,000	13,144	504
40,200	13,200	507
50,200	16,000	507]]

(b) Inner horizontal surface is an oval-shaped plane at a height of 150 feet above the established airfield elevation. It is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the ends of the runway and interconnecting these arcs with tangents. The height limitation within the inner horizontal surface zone is 150 feet above the established airfield elevation or 157 feet above mean-sea level.

(c) Conical surface is an inclined surface extending outward and upward from the outer periphery of the inner horizontal surface for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation. The slope of the conical surface is 20:1. It is constructed by scribing an arc with a radius of 14,500 feet about the centerline at the ends of the runway and interconnecting these arcs with tangents.

The height limitations within the conical surface zone are given in the following tabulations:

<i>Distance from outer edge of inner horizontal surface (Feet)</i>	<i>Maximum permissible height above MSL (Feet)</i>
0	157
1,000	207
2,000	257
3,000	307
4,000	357
5,000	407
6,000	457
7,000	507]]

- (d) Outer horizontal surface is a plane located 500 feet above the established airfield elevation. It extends for a horizontal distance of 30,000 feet from the outer periphery of the conical surface. The height limitation within the outer horizontal surface zone is 500 feet above the established airfield elevation or 506 feet above mean sea level.
- (e) Transitional surface is any surface that connects the primary surfaces, clear zone surfaces, and approach-departure clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface, or other transitional surface. The slope of the transitional surface is 7:1 outward and upward at right angles to the runway centerline. The height limitation along the intersection of the transitional surface zones and the approach-departure clearance surface are given in the following tabulations:

<i>Distance from end of runway (Feet)</i>	<i>Distance from runway centerline (Feet)</i>	<i>Permissible height above mean sea level (Feet)</i>
200	1,000	7
1,400	1,168	22
2,600	1,336	37
3,800	1,504	52
5,000	1,672	67
7,400	2,008	97
9,800	2,344	127
12,200	2,680	157
14,600	3,016	187
19,400	3,688	247
29,000	5,032	367
38,600	6,376	487
40,200	6,600	507]]

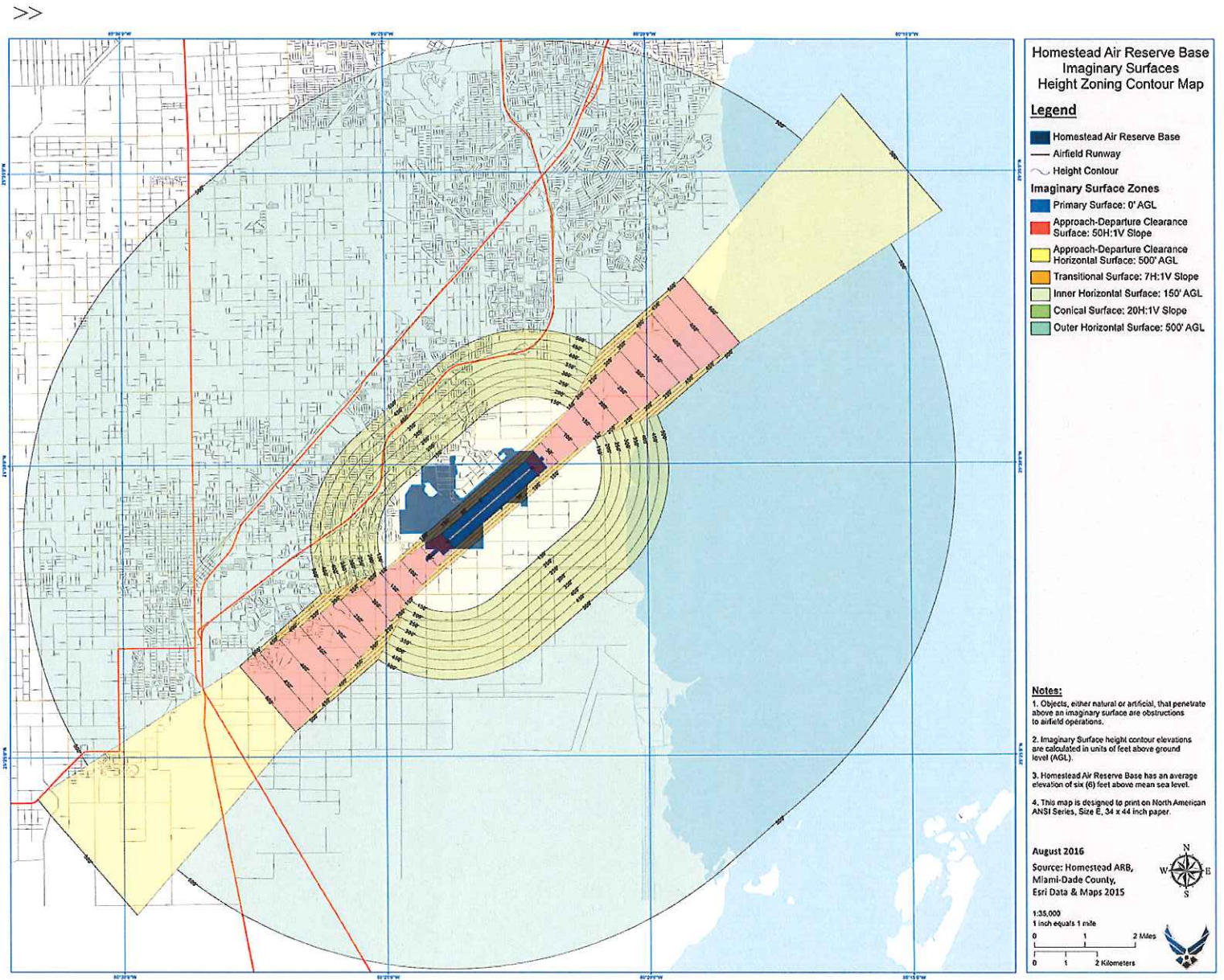


Figure 1. Homestead Air Reserve Base Imaginary Surfaces - Height Zoning Contour Map

Sec. 33-295. Use restrictions.

>>The Airport Land Use Restriction Area consists of the Accident Potential Zones and the Noise Contour Zones, as generally depicted in Figure 2 below. Full scale maps of the Accident Potential Zones and Noise Contour Zones are on file with the Department and the Homestead Air Reserve Base. The following regulations shall apply within the Airport Land Use Restriction Area.<<

- (a) >>Interference.<< Notwithstanding any other provisions of this article, no use may be made of land within the Airport ~~[[Hazard Area]]~~ >>Land Use Restriction Area<< in such a manner as to create electrical interference with radio communications between the airport and aircraft, make it difficult for ~~[[flyers]]~~ >>pilots<< to distinguish between airport lights and others, result in glare in the eyes of ~~[[flyers]]~~ >>pilots<< using the airport, impair visibility in the vicinity of the airport such as from the release of steam, dust, or smoke, or otherwise endanger the landing, taking-off or maneuvering of aircraft.
- (b) >>Lighting. All outdoor lighting in the Airport Land Use Restriction Area shall be designed with a maximum height of 35 feet. Shielding shall be provided to prevent light from projecting upward. Any vertical or horizontal overspill of lighting onto adjacent properties shall not exceed one-half foot-candle. Internally illuminated signage shall be prohibited.
- (c) Prohibition on certain buildings of public assembly.<< ~~[[In addition to the height limitations which apply to the approach-departure surface zone, use of the land in the area defined as the approach-departure surface zones shall be controlled so as to prevent location or construction of places of public assembly, schools]]~~ >>Schools<<, ~~[[churches,]]~~ hospitals, barracks, ~~[[and]]~~ apartment >>buildings, and religious facilities or other buildings of public assembly<< ~~[[housing, and such uses]]~~ are ~~[[hereby]]~~ prohibited in >>the Accident Potential Zones and within the 75 db DNL and greater Noise Contour Zones<<[[these surface zones]].
- >>(d) Setbacks and floor area ratios. Setbacks and Floor Area Ratios within the Airport Land Use Restriction Area shall be in accordance with the applicable zoning district.
- (e) Certain residential uses in Noise Contour Zones prohibited. Residential uses in excess of 1 dwelling unit per 5 acres are prohibited in the 75 dB DNL and greater Noise Contour Zones. All new uses within the 65 dB DNL and greater Noise Contour Zones shall incorporate at least a 25 decibel outdoor-to-indoor Noise Level Reduction (NLR) into the design and construction of the structure.

- (f) Landfills. Effective January 1, 2017, landfills shall be prohibited within 10,000 feet of the nearest point of the airport runway.

- (g) Zoning applications. The Director or equivalent municipal official shall transmit all zoning applications subject to this chapter and pertaining to land located within the Airport Land Use Restriction Area to HARB for review and comment. To allow for timely processing of applications, HARB shall have 21 days following the transmittal of applications to submit comments to the Director or municipal official, unless the Director or municipal official authorizes a greater review period. Failure to receive comments from HARB staff within the prescribed time period shall not preclude the County or municipality from taking action on the zoning application.<<

Sec. 33-296. Permits.

>>Within the land area regulated by this article, before<<
[[Before]] any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired, and before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the [[Administrative Agency]] >>Department or applicable municipal department<<. Except as provided herein, applications for permits shall be granted, provided the matter as applied for meets the provisions of this article.

- (a) *New uses.* No material change shall be made in the use of land, and no structure shall be erected, altered, or otherwise established, in the [[airport hazard area]] >>Airport Land Use Restriction Area or Airport Height Zones<<, unless a permit has been applied for and granted by the [[Administrative Agency]] >>Department or applicable municipal department<<. No tree shall be planted within the transitional surface zones, within >>3,000<< [[three thousand (3,000)]] feet from the ends of the runways, unless a permit has been applied for and granted by the [[Administrative Agency]] >>Department or applicable municipal department<<. Each such application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit the [[Administrative Agency]] >>Department or applicable municipal department<< to determine whether the resulting use, structure, or tree would conform to this chapter. If such determination is in the affirmative, the permit applied for shall be granted. If such determination is in the negative, the permit applied for shall be denied.
- (b) *Existing uses.* Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, in the [[airport hazard area]] >>Airport Land Use Restriction Area or Airport Height Zones<<, a permit must be secured from the [[Administrative Agency]] >>Department or applicable municipal department<<, authorizing such replacement, change or repairs. No such permit shall be granted that would allow the establishment or creation of any airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on >>March 31, 1968<< [[the

effective date of this article [~~ten (10) days after March 21, 1968~~] or than it was when the application for a permit is made.

- (c) *Nonconforming uses.* >>Notwithstanding any other provisions in this chapter or municipal regulations to the contrary, whenever the Department or applicable municipal department<< [~~Wherever the Administrative Agency~~] determines that a nonconforming structure or tree has been abandoned or is more than eighty (80) percent torn down, destroyed, deteriorated or decayed:
- (1) No permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations; and
 - (2) Whether application is made for a permit under this subsection or not, the said >>department<< [~~agency~~] may, by appropriate action, compel the owner of the nonconforming structure or tree, at his own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations. If the owner of the nonconforming structure or tree shall neglect or refuse to comply with such order for >>10<< [~~ten (10)~~] days after notice thereof, the said >>department<< [~~agency~~] may report the violation to the political subdivision involved therein, which subdivision, through its appropriate >>department<< [~~agency~~], may proceed to have the object lowered, removed, reconstructed, or equipped and assess the cost and expense thereof upon the object or the land, whereon it is or was located, and unless such an assessment is paid within >>90<< [~~ninety (90)~~] days from the service of the notice thereof on the owner or his agent of such object or land, the sum shall be a lien on said land, and shall bear interest thereafter at the rate of >>6<< [~~six (6)~~] percent per annum until paid, and shall be collected in the same manner as taxes on real property are collected by said political subdivision, said lien may be enforced in the manner provided for enforcement of liens by Chapter 86, Florida Statutes.

- (d) >>Courtesly notice to HARB. Courtesly notice of permit applications for new residential and non-residential land uses within the Airport Land Use Restriction Area should be forwarded by the Department to HARB. Failure to provide the courtesly notice does not affect the validity of any permit issued in response to such application.<< [[In addition to the permits required herein in the event the land area is in an incorporated area, building permits must be obtained from the applicable municipality.]]

Sec. 33-297. Variances and appeals.

- >>(a) Variances.<< Any person desiring to erect any structures, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of the airport zoning regulations adopted under this chapter, may apply [[to the Community Zoning Appeals Board]] for a variance from the zoning regulations in question >>in accordance with Section 33-311(A)(5) of this chapter or applicable municipal regulations<<. Such variances shall be allowed where a literal application or enforcement of regulations would result in [[practical difficulty or]] unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of these regulations. Provided, that any variance may be allowed subject to any reasonable conditions that the Board may deem necessary to effectuate the purpose of these regulations. All such variances shall be applied for in the same manner as any other variances and shall be granted only after the same notice and hearing as required in the case of other variances. >>Additionally, and in accordance with section 333.025(4), Florida Statutes, no hearing shall be held until the Aviation and Spaceports Office of the Florida Department of Transportation has received a copy of the variance application and has been provided a minimum of 15 days to comment.
- (b) Appeals.<< Any person>>,<< [[aggrieved, or taxpayer affected, by any decision of the administrative agency made in its administration of these airport zoning regulations or any governing body or Board of a]] political subdivision, or any airport zoning board, [[which is of the opinion]] >>that contends<< that a decision of [[such administrative agency]] >>the Department or applicable municipal department<< is an improper application of these

airport zoning regulations ~~[[of concern to such governing body,]]~~ may ~~>>file an<<~~ appeal ~~>>~~of the administrative determination in accordance with the procedures set forth in Article XXXVI of this chapter for appeals of administrative determinations, or applicable municipal regulations.~~<< [[to the Community Zoning Appeals Board to hear and decide appeals from the decision of such administrative agency.]]~~

Sec. 33-298. - Hazard marking and lighting.

In granting any permit or variance under these regulations, the ~~>>~~Department~~<<~~ ~~[[administrative agency]]~~ or ~~>>~~applicable zoning board~~<<~~ ~~[[Board of Adjustments]]~~ may, if it deems such action advisable, to effectuate the purposes of these regulations and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to install, operate and maintain at his own expense, thereon hazard markers and lights which conform to the Federal Aviation Authority Standards as may be necessary to indicate to pilots the presence of an airport hazard. Upon conditions mutually agreeable to the United States Air Force and to the owner of an existing structure or tree, the United States Air Force shall be granted a permit to alter the height of the hazard or to install, operate and maintain thereon hazard markers and lights, at its own expense, as may be deemed necessary by the United States Air Force to indicate to pilots the presence of an airport hazard.

Sec. 33-299. - Relation to comprehensive zoning regulations.

In the event of conflict between any airport zoning regulations adopted under this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of the land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Sec. 33-300. - Penalties.

Each violation of these regulations, or any order or ruling promulgated hereunder, shall constitute a violation and shall be punishable by a fine of not more than ~~[[five hundred dollars (\$500.00[])]]~~ or by imprisonment, and each day a violation continues to exist shall constitute a separate offense.

Sec. 33-301. - >> Land Use Restriction Area Disclosure.

(a) Definitions. As used in this section, the term:

- (1) Affected Land means any parcel of land that is located wholly or partially within the Airport Land Use Restriction Area as defined in Section 33-292.
- (2) Interest in real property means a nonleasehold, legal, or equitable estate in land or any severable part thereof created by deed, contract, mortgage, easement, covenant, or other instrument.
- (3) Purchaser means a buyer, transferee, grantee, donee, or other party acquiring an interest in real property.
- (4) Real property transaction means the sale, grant, conveyance, mortgage, or transfer of an interest in real property.
- (5) Seller means a transferor, grantor, donor, or other party conveying an interest in real property.

(b) Disclosure statement for real property transactions involving Affected Land. The Seller shall provide the Purchaser with the following statement, which shall be set forth on a separate sheet of paper and shall be signed by the prospective Purchaser prior to the execution of any other instrument committing the Purchaser to acquire title to such real property or any other interest in any Affected Land, as follows:

LAND INVOLVED IN THIS TRANSACTION IS LOCATED WITHIN THE AREA DESIGNATED AS AIRPORT LAND USE RESTRICTION AREA BY THE CODE OF MIAMI-DADE COUNTY. THIS DESIGNATION APPLIES TO PROPERTIES THAT ARE LOCATED IN CLOSE PROXIMITY TO THE HOMESTEAD AIR RESERVE BASE AND MAY BE IMPACTED BY FLIGHT OPERATIONS. SUCH IMPACTS MAY INCLUDE, BUT ARE NOT LIMITED TO, NOISE, VIBRATION, ODORS, DUST, AND FUMES. USE OF PROPERTY LOCATED WITHIN THE AIRPORT LAND USE RESTRICTION AREA IS SUBJECT TO COMPLIANCE WITH ARTICLE XXXV (HOMESTEAD AIR RESERVE BASE ZONING) OF THE CODE OF MIAMI-DADE COUNTY.

- (c) Acknowledgment of airport land use restriction area disclosure statement on instrument of conveyance. 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 Affected Land. 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 LAND USE RESTRICTION AREA DISCLOSURE STATEMENT FOR THE SALE OF OR OTHER TRANSACTION INVOLVING THIS PARCEL OF AFFECTED LAND AS REQUIRED BY SECTION 33-301.1, CODE OF MIAMI-DADE COUNTY, FLORIDA.

Signature of Purchaser Date

- (d) Penalties. Any Seller who violates any provision of this section, or fails to comply therewith, or with any lawful rule, regulation, or written order promulgated under this section, shall be subject to the penalties, civil liability, attorney's fees, and enforcement proceedings set forth in article I of this chapter, and to such other penalties, sanctions, and proceedings as may be provided by law. Miami-Dade County shall not be held liable for any damages or claims resulting from the Seller's failure to comply with provisions of this section.

Sec. 33-301.1. - << Severability.

If any of the provisions of this article or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provisions or applications, and to this end the provisions of this article are declared to be severable.

Section 3. Section 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-311. - Community Zoning Appeals Board—Authority and duties.

- (A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such action shall be taken until notice of time and place of the hearing at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310.2. The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County. The Community Zoning Appeals Board and Board of County Commissioners or any of their members may inspect the premises and area under consideration. The Community Zoning Appeals Boards shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

- (5) Variances from airport zoning regulations. Hear applications for and grant or deny variances from any airport zoning regulations, but in considering, granting or denying any such variance the Community Zoning Appeals Boards shall be governed and shall abide by the guides and standards, general purpose and intent of the particular airport zoning regulation concerned. No such application shall be heard until the recommendation of the Director of the Aviation Department is first obtained, which recommendation shall be considered, together with that of the Director's. >>Additionally, and in accordance with Section 333.025(4), Florida Statutes, no hearing shall be held until the Aviation and Spaceports Office of the Florida Department of Transportation has received a copy of the variance application and has been provided a minimum of 15 days to comment.<< The granting of a variance under this subsection does not authorize or permit violation of other zoning regulations or the zoning regulations of any municipality concerned unless authorized by the appropriate County or municipal board, body or commission concerned, as the case may be.

* * *

Section 4. 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 5. 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," "article," or other appropriate word.

Section 6. 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 an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

APW

Prepared by:

JEM (ja)

Dennis A. Kerbel
James Eddie Kirtley

Prime Sponsor: Commissioner Dennis C. Moss