

MEMORANDUM

Agenda Item No. 7(B)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Second Reading: 7-6-23)
April 4, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to airport zoning regulations in the incorporated and unincorporated areas; amending sections 33-331 and 33-333 of the Code; revising prohibited uses in the outer safety zone for Miami-Dade County Airports; revising definitions

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Keon Hardemon and Commissioner Kevin Marino Cabrera.



Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: July 6, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink, reading "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Land Use Compatibility and Height

The proposed Ordinance clarifies the type of land uses allowed inside the outer safety zones of airport facilities within the following airports: Miami International Airport (MIA), Miami-Opa Locka Executive Airport (OPF), Miami Homestead General Aviation Airport (X51), and Miami Executive Airport (TMB).


The proposed Ordinance does not have a fiscal impact to Miami-Dade County, as the revisions do not require additional staffing resources or generate any additional operational expenses.

A handwritten signature in blue ink, reading "Jimmy Morales".

Jimmy Morales
Chief Operations Officer

Date: July 6, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Amending Sections 33-331 and 33-333
of the Miami-Dade County Code Related to Airport Zoning Regulations

The proposed Ordinance amends the airport zoning regulations set forth in Sections 33-331 and 33-333 of the Miami-Dade County Code related to land uses allowed within the Outer Safety Zones (OSZ) of airports inside the County's airport system.

The proposed Ordinance deletes the term "buildings for public assemblage" in Section 33-331 of the Code entitled: "Definitions" as well as in Section 33-333 of the Code entitled: "Land Use Compatibility and Height/Airspace Regulations; Nonconforming Uses; Disclosures". The term is defined pursuant to Section 33-17 of the Code as the assembly of 50 people or more in one (1) room or structure such as "an auditorium, church, club, hospital, sanitarium, school, theater, night club, amusement park structure and similar structures, excluding hotels, motels and apartments" prohibiting the gathering of 50 people or more only for certain uses in the OSZ. Additionally, the proposed Ordinance adds two specific types of land uses (theaters and auditoriums) to the list of prohibited uses within the OSZ to Section 33-333 of the Code. The proposed revisions are detailed below.

Social Equity Statement

The outer safety zone (OSZ), which is a trapezoidal shaped area that extends outward from the airport runways to a point 5,200 feet away from the runway end, is a land use compatibility regulation mandated by Section 33-333 of the Code, not by the Federal Aviation Administration (FAA). As such, the amendments in the proposed Ordinance do not violate any FAA requirements, and furthermore, they do not have any operational impacts to Miami International Airport (MIA).

Section 33-333 of the Code was amended in 2004 to include land use restrictions in the OSZ. Among the restrictions incorporated into the Code, buildings for public assembly in excess of 1,000 persons inside the OSZ were prohibited. In 2019, the Code was amended again to revise, among other things, the definition of public assemblage which was changed to be consistent with the existing provisions of Section 33-17 of the Code. The revision reduced the number of people permitted in buildings within the OSZ from 1,000 to 50.

At this time, Section 33-333 of the Code states that "within the OSZ, new residential construction, educational facilities, hospitals, religious facilities, and other buildings for public assemblage, shall be prohibited. In no event shall these prohibitions be varied with respect to Miami International Airport (MIA). It is provided, however, that aviation-related schools, hotels

Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

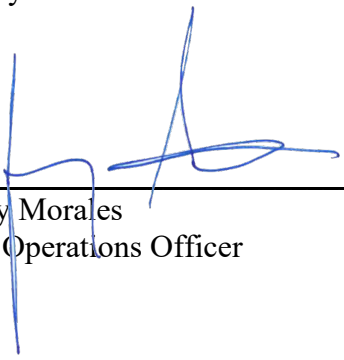
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and motels and their ancillary uses, and structures used in connection with public transportation shall not be subject to this prohibition.” The proposed Ordinance adds two new land use restrictions to Section 33-333 of the Code through the addition of auditoriums and theaters to the list of prohibited land uses. As shown below, the language underlined is the new language being added to Section 33-333 of the Code, and the language stricken through is the existing language being deleted.

“Within the OSZ, the following shall be prohibited: new residential construction; educational facilities; hospitals; religious facilities; auditoriums; and theaters ~~and other buildings for public assemblage, shall be prohibited.~~ In no event shall these prohibitions be varied with respect to Miami International Airport (MIA). It is provided, however, that aviation-related schools, hotels and motels and their ancillary uses, and structures used in connection with public transportation shall not be subject to this prohibition.”

In summary, the proposed Ordinance amends Section 33-331 of the Code to delete the definition of public assemblage pursuant to Section 33-17 of the Code, amending the prohibitions contained in the OSZ which prohibits certain types of buildings for public assemblage and adds auditoriums and theaters to the list of buildings prohibited in Section 33-333 of the Code. It should be noted that under the proposed Ordinance nightclubs, restaurants, and amusement parks are allowed in the OSZ.

The provisions of the proposed Ordinance attempt to strike a balance with respect to the social equity impact. On the one hand, by adding specific restrictions on auditoriums and theaters (which can have large crowds in a single building), they continue to protect the health and well-being of residents and visitors as well as property on the ground. On the other hand, by allowing restaurants, retail, and entertainment venues, it preserves the opportunity for economic development and jobs on parcels affected by this amendment. There is no monetary impact to be borne by residents if this Ordinance is adopted by the Board of County Commissioners (Board).



Jimmy Morales
Chief Operations Officer

MDC004



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 6, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(B)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(B)
7-6-23

ORDINANCE NO. _____

ORDINANCE RELATING TO AIRPORT ZONING REGULATIONS IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING SECTIONS 33-331 AND 33-333 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROHIBITED USES IN THE OUTER SAFETY ZONE FOR MIAMI-DADE COUNTY AIRPORTS; REVISING DEFINITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on November 19, 2019, this Board adopted Ordinance No. 19-112, which revised the County’s airport zoning regulations set forth in article XXXVII of Chapter 33 of the County Code, including the regulations pertaining to designated restriction zones established for each of the County’s airports and their surrounding areas; and

WHEREAS, the Runway Protection Zone (RPZ), a trapezoidal area centered about the extended runway centerline beginning 200 feet beyond the end, and the Outer Safety Zone (OSZ), a trapezoidal area extending outward from the RPZ to a point that is 5,200 feet from the runway end, are two of the most critical zones where certain uses are restricted or prohibited; and

WHEREAS, the airport zoning code currently prohibits in these most critical areas certain uses that typically involve the gathering or attendance of large numbers of people for extended periods of time, including schools, hospitals, religious facilities, and other buildings of public assemblage, while permitting uses such as aviation-related schools, hotels, and motels and their ancillary uses; and

WHEREAS, the term “buildings of public assemblage,” which refers to section 33-17 of the County Code, is defined as “[a]ll building[s] or other structures or any part thereof, intended for public assemblage, wherein provisions are made for fifty (50) or more persons to assemble in

one (1) room or such structure as an auditorium, church, club, hospital, sanitarium, school, theater, night club, amusement park structure and similar structures, excluding hotels, motels and apartments”; and

WHEREAS, to provide greater certainty as to the uses prohibited by the County’s airport zoning regulations, the term “buildings of public assemblage” should be deleted and replaced with an enumerated list of the particular uses that are prohibited; and

WHEREAS, accordingly, this Board wishes to amend the County’s airport zoning regulations to accomplish these ends,

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

Section 1. Section 33-331 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

Sec. 33-331. Definitions.

For purposes of this article, the following definitions shall apply:

* * *

~~[[Buildings for public assemblage shall mean the same as described and defined in section 33-17]].~~

* * *

Section 2. Section 33-333 of the Code of Miami-Dade County is hereby amended to read as follows:

Sec. 33-333. Land Use Compatibility and Height/Airspace Regulations; Nonconforming Uses; Disclosures.

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.

(A) *Land Use Compatibility Regulations.* The objective of these land use compatibility regulations is to guide incompatible land uses away from airport environs and to encourage compatible land uses to locate around airport facilities. The land use compatibility regulations contained herein seek to address the impact of aircraft operations on surrounding uses, to safeguard the quality of life in the surrounding communities while increasing the efficiency of airports as economic generators. The following regulations shall apply to land uses occurring within the designated restriction zones established for the respective County airports and surrounding areas, as depicted on each airport's land use and noise compatibility restriction zones map:

(1) *Land use compatibility restriction zones:*

* * *

(b) *Outer Safety Zone (OSZ).*

- (i) The Outer Safety Zone (OSZ) is a trapezoidal area extending outward from the RPZ to a point that is 5,200 feet from the runway end.
- (ii) Within the OSZ, >>the following shall be prohibited:<< new residential construction>>:<<[[§]] educational facilities[[§]]>>:<< hospitals[[§]]>>:<< religious facilities[[§]]>>; auditoriums; and theaters<<[[and other buildings for public assemblage, shall be prohibited]]. In no event shall these prohibitions be varied with respect to Miami International Airport. It is provided, however, that aviation-related schools, hotels and motels and their ancillary uses, and structures used in connection with public transportation shall not be subject to this prohibition.
- (iii) Uses prohibited in the Critical Approach Zone (CAZ) shall also be prohibited in the OSZ.

* * *

Section 3. 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 4. 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 5. 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:



Prepared by:

Dennis A. Kerbel
James Eddie Kirtley



Co-Prime Sponsors: Commissioner Keon Hardemon
 Commissioner Kevin Marino Cabrera