

MEMORANDUM

Agenda Item No. 4(D)

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

DATE: December 12, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to airport zoning regulations in the incorporated and unincorporated areas; amending section 33-333 of the Code; revising prohibited uses in the Outer Safety Zone (“OSZ”) for Miami-Dade County airports; permitting certain types of residential uses in the OSZ under certain conditions; providing minimum standards applicable to municipalities; creating section 33-333.1; providing for zoning approval of development to the maximum density allowed by the applicable Comprehensive Development Master Plan Land Use Plan map designation on properties within a certain radius of an airport that are outside an airport land use compatibility restriction zone; providing minimum standards applicable to municipalities; making technical changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.


Geri Bonzon-Keenan
County Attorney

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MDC001



MEMORANDUM
(Revised)

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Gen Bonzon-Keenan
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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. 4(D)

12-12-23

ORDINANCE NO. _____

ORDINANCE RELATING TO AIRPORT ZONING REGULATIONS IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING SECTION 33-333 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROHIBITED USES IN THE OUTER SAFETY ZONE (“OSZ”) FOR MIAMI-DADE COUNTY AIRPORTS; PERMITTING CERTAIN TYPES OF RESIDENTIAL USES IN THE OSZ UNDER CERTAIN CONDITIONS; PROVIDING MINIMUM STANDARDS APPLICABLE TO MUNICIPALITIES; CREATING SECTION 33-333.1; PROVIDING FOR ZONING APPROVAL OF DEVELOPMENT TO THE MAXIMUM DENSITY ALLOWED BY THE APPLICABLE COMPREHENSIVE DEVELOPMENT MASTER PLAN LAND USE PLAN MAP DESIGNATION ON PROPERTIES WITHIN A CERTAIN RADIUS OF AN AIRPORT THAT ARE OUTSIDE AN AIRPORT LAND USE COMPATIBILITY RESTRICTION ZONE; PROVIDING MINIMUM STANDARDS APPLICABLE TO MUNICIPALITIES; MAKING TECHNICAL CHANGES; 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 land use compatibility 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, including new residential construction, subject to certain exceptions for aviation-related schools, hotels, and motels and their ancillary uses; and

WHEREAS, as has been widely reported, the County is experiencing a severe shortage of affordable and workforce housing, with median home and rental prices soaring to all-time highs; and

WHEREAS, studies show that Miami-Dade County has the highest proportion of cost-burdened tenants in the nation by a significant margin, with more than half of tenants spending more than 30 percent or more of their income on rent; and

WHEREAS, while this problem has no single solution, one important component is to provide for more housing opportunities on lands situated within the urban core and closer to where individuals work; and

WHEREAS, Miami International Airport is the leading economic engine for Miami-Dade County, generating business revenue of \$31,900,000,000.00 annually, and the County's other General Aviation airports are also significant economic engines; and

WHEREAS, as the County's economic engines, Miami International Airport and other County airports need a strong and reliable workforce; and

WHEREAS, the vast majority of workers at Miami International Airport and the County's General Aviation airports do not qualify for protection under the County's Living Wage Ordinance; and

WHEREAS, it has recently been reported that many workers at Miami International Airport complain of being paid low wages and of experiencing financial struggles; and

WHEREAS, people who work at the County’s airports or work for airlines that use those airports (“airport workers”) struggle with the same issues of housing cost and finding housing near their work as other workers throughout Miami-Dade County; and

WHEREAS, it has been widely reported that attracting and retaining competent workers has been one of the biggest challenges for businesses in recent years; and

WHEREAS, to provide greater flexibility in creating additional housing stock in Miami-Dade County, and in particular for airport workers, this Board wishes to amend the allowable uses in the OSZ to permit such developments under certain conditions, including that each such development provide affordable or workforce housing units and that such developments comply with regulations enforced by and grant assurances required by the Federal Aviation Administration (“FAA”); and

WHEREAS, in addition, in many areas of the County, the zoning districts that apply to many properties restrict density below the maximum density the Comprehensive Development Master Plan (“CDMP”) Land Use Plan map designation applicable to such property would allow; and

WHEREAS, in a further effort to address the housing needs of airport workers and thereby ensure that these major economic engines can operate to their maximum capacities, this Board wishes to allow properties that are within a radius of one mile of the exterior boundaries of each airport, but outside an airport land use compatibility restriction zone, to be developed with the maximum residential density permitted by the CDMP Land Use Plan map designation applicable to such property, regardless of any further limits established by the relevant zoning district; and

WHEREAS, Section 1.01(A) of the Home Rule Charter grants this Board “the power to carry on a central metropolitan government,” including, among other things, to “[p]rovide for and operate air, water, rail, and bus terminals, port facilities, and public transportation systems”, “[p]repare and enforce comprehensive plans for the development of the county”, “[e]stablish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public”, “[s]et reasonable minimum standards for all governmental units in the county for the performance of any service or function” and, “[i]f a governmental unit fails to comply with such standards, and does not correct such failure after reasonable notice by the Board . . . [to] take over and perform . . . any such service”; and

WHEREAS, although section 6.02 of the Home Rule Charter provides each municipality with “the authority to exercise all powers relating to its local affairs” and to “provide for higher standards of zoning, service, and regulation . . . in order that its individual character and standards may be preserved for its citizens”, the Charter also expressly requires all exercise of municipal authority to be “not inconsistent with this Charter”; and

WHEREAS, section 9.04 of the Home Rule Charter contains a supremacy clause providing that “[t]his Charter and the ordinances adopted hereunder shall in cases of conflict supersede all municipal charters and ordinances, except as herein provided . . . ”; and

WHEREAS, pursuant to the foregoing authority, because of the significant needs addressed by this ordinance, this Board wishes to require municipalities, as a minimum standard, to provide equivalent allowances within their respective jurisdictions,

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

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Section 33-333 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

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

(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. In no event shall these prohibitions be varied with respect to Miami International Airport. It is provided, however, that >>the following shall not be subject to this prohibition:

1.<< aviation-related schools~~[[;]]>>~~;

2.<< hotels and motels and their ancillary uses ~~[[, and]]>>~~;

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.

- 3.<< structures used in connection with public transportation[[:]]>>;and
4. workforce housing developments that meet all the requirements set forth in section 33-333.1(B)(1)-(5), provided that:
- a. prior to issuance of any certificate of occupancy for such development, the applicant furnishes proof to the Department and to MDAD that the FAA has either approved or expressed no objection to such development;
 - b. such developments shall be eligible for such bonuses as are provided in article XIIA to the extent they also comply with that article; and
 - c. municipalities shall, as a minimum standard, allow such workforce housing developments within their jurisdictions, and be subject to the provisions set forth in subparagraph 33-193.7(C)(2) regarding noncompliance with minimum standards<< [[shall not be subject to this prohibition]].

- (iii) Uses prohibited in the Critical Approach Zone (“CAZ”) shall also be prohibited in the OSZ.

* * *

- (3) *Divided parcel in land use or noise compatibility restriction zones.* Where a single parcel of land is partially located in one or more land use or noise compatibility restriction zones, development on each portion of the parcel remains subject to the land use or noise compatibility regulations applicable to that portion. Notwithstanding the foregoing or any other prohibitions in this article, residential development on a

parcel of land that was partially located within the OSZ as of November 29, 2019>>, and that is not otherwise permitted by subparagraph (A)(1)(b)(ii) above,<< may be permitted by the County Commission, after receiving a recommendation from MDAD, provided that:

* * *

Section 3. Section 33-333.1 of the Code of Miami-Dade County, Florida is hereby created to read as follows:

>>**Sec. 33-333.1. Additional Density Allowance for Workforce Housing Developments on Lands Around County Airports and Outside Land Use Compatibility Restriction Zones; Minimum Standards Applicable to Incorporated Areas.**

(A) Purpose and intent. The purpose of this section is to promote the development of housing that is affordable to the workers at the County's airports and that is close to the airports where they work, by authorizing additional density beyond that allowed by a property's applicable zoning district, to achieve the maximum density authorized by such property's Comprehensive Development Master Plan ("CDMP") Land Use Plan map designation.

(B) Density allowance for workforce housing around County airports. Residential developments that are located within a radius of one mile of a County airport, and outside an airport land use compatibility restriction zone, may be permitted up to the maximum density allowed by the applicable CDMP Land Use Plan map designation, regardless of the density limits of the zoning district applicable to such property, if such development complies with all of the following:

(1) At least 20 percent of the residential units are maintained, for a period of at least 30 years, as workforce housing units, as defined below.

(2) For one-half of the workforce housing units and 10 percent of any market rate units, priority in buying or leasing (including sub-leasing) such units shall be given to persons who work at the applicable County airport or who work for airlines that use the applicable airport (collectively, "airport workers").

- (a) The property owner shall be responsible for verifying that a prospective buyer or tenant is an airport worker.
 - (b) If, after 6 months from the date the unit is offered for sale or lease, no airport worker has bought or rented the unit, the owner may request the Director to waive this requirement for that unit. If the Director determines that a unit that is required to be marketed to an airport worker has been marketed in good faith during the 6-month period, the Director may approve the waiver.
 - (c) This requirement shall apply each time a unit is offered for sale or lease, regardless of whether a waiver was granted for a previous sale or rental.
- (3) The development shall be subject to administrative site plan review pursuant to section 33-310.4 or applicable municipal procedure and shall, as part of such review, identify the portion of the development that shall contain workforce housing units in compliance with this section.
- (4) Prior to issuance of any certificate of occupancy for such development, the property owner shall demonstrate to the Department and to MDAD the manner in which the owner shall determine that priority in buying or leasing each applicable unit shall be given to airport workers.
- (5) The development complies with all other applicable regulations of this article, including but not limited to noise compatibility requirements and height/airspace regulations.
- (6) For purposes of this section, a “workforce housing unit” means a dwelling unit, the sale, rental or pricing of which is restricted to households whose income is up to 140 percent of the most recent area median income for the County, adjusted for household size, reported by the U.S. HUD as maintained by the Department.
- (C) Eligibility for workforce housing bonuses. Developments that comply with this section shall also be eligible for such bonuses as are provided in article XIIA to the extent they comply with that article.

(D) *Minimum standards applicable to all municipalities.*

- (1) Notwithstanding any other provisions of this article to the contrary, all municipal land use regulations shall at a minimum allow residential development that complies with this section up to the maximum density allowed by the municipal comprehensive plan designation applicable to the subject property, regardless of the density limits of the zoning district applicable to such property.
- (2) The provisions set forth in subparagraph 33-193.7(C)(2) regarding noncompliance with minimum standards shall govern noncompliance with these minimum standards.<<

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:

GKS for GBK

Prepared by:



James Eddie Kirtley
Dennis A. Kerbel
Ryan C. Zagare
Melissa M. Gallo

Prime Sponsor: Commissioner Raquel A. Regalado