

**ORDINANCE NO. 2017-12**

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF ARTICLE IX OF THE HILLIARD TOWN CODE TO COMPLY WITH CHAPTER 333 OF THE FLORIDA STATUTES, AS AMENDED; AMENDING TOWN CODE SECTIONS 62-33 AND 62-93 TO CLARIFY THE RESPECTIVE AUTHORITIES OF THE LAND USE ADMINISTRATOR'S OFFICE AND PLANNING AND ZONING BOARD TO EFFECT THE INTENT OF CHAPTER 333 OF THE FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**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 June 2016, the Florida Legislature amended Chapter 333, Florida Statutes, to require political subdivisions to issue or deny permits in accordance with certain established standards; and

**WHEREAS**, Sections 62-521, 62-523, and 62-524 of the Town Code must be amended to bring the Code into compliance with Chapter 333, Florida Statutes; and

**WHEREAS**, Sections 62-33 and 62-93 of the Town Code must be amended to clarify the respective authorities of the Land Use Administrator's Office and the Planning and Zoning Board to effect the intent of Chapter 333, Florida Statutes; and

**WHEREAS**, the Hilliard Town Council has the authority to amend the Hilliard Town Code in accordance with Section 4.01 of the Town Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILLIARD, FLORIDA, AS FOLLOWS:**

**Section 1.** The above recitals are true and correct and by this reference are hereby incorporated herein and made an integral part hereof as though fully set forth herein.

**Section 2.** Sections 62-33, 62-93, 62-521, 62-523, and 62-524 of the Hilliard Town Code are hereby amended as follows (additions are denoted by underlining; deletions are denoted by striking through):

**Sec. 62-33. - Powers and duties of the land use administrator's office.**

The land use administrator shall administer and enforce the provisions of this chapter. The duties of the land use administrator are to:

- (1) Provide for the processing of all applications for zoning amendments, variances, and conditional uses.
- (2) Keep comprehensive records of applications, permits and certificates issued, complaints

filed, inspections made and notices or orders issued. The land use administrator shall retain on file copies of required drawings and all related legal documents.

(3) Record changes in district boundaries of the zoning atlas. If in accordance with the provisions of this chapter when changes are made in district boundaries or other matters portrayed on the official zoning atlas, such changes shall be made on the official zoning map promptly after the amending ordinance has been legally approved by the town council, together with an entry on the official zoning map as follows: "On (date) by official action of the town council the following change(s) were made on the official zoning atlas (brief description of nature of change)," which entry shall be signed by the president, attested by the town clerk, and approved by the mayor.

(4) Mail notices of zoning requests to be considered at the next scheduled meeting of the planning and zoning board to its respective members seven days prior to the meeting date. This will allow the planning and zoning board members sufficient time to make the necessary site inspections.

(5) Assist applicants in understanding the provisions of this chapter.

(6) Enter any building, structure, or premises to perform any duty imposed by this chapter.

(7) Suggest to the planning and zoning board and the town council modifications to this chapter and map, with written statement outlining the need for such changes.

(8) Conduct the necessary inspections required to make rational zoning decisions and to properly advise the town council and the planning and zoning board on zoning matters.

(9) Review all applications for building permits including plot plans to determine whether the proposed construction, alteration, repair, enlargement, and the proposed use is in compliance with the provisions of this chapter. The land use administrator's signature, stating approval or disapproval, is required on all building permit applications before a building permit is issued.

(10) Review all applications for permits proposing to construct, alter, or allow an airport obstruction in an airport hazard area. The land use administrator's signature, stating approval or disapproval, is required on all building permit applications before a building permit is issued.

~~(10 11)~~ Periodically canvass the town for zoning violations.

~~(11 12)~~ Initiate the appropriate proceedings against violators of this chapter in accordance with the provisions of this chapter.

~~(12 13)~~ In the event the land use administrator is unable to perform these duties the mayor shall appoint a planning and zoning board member to serve in that capacity or a designee as directed by the planning and zoning board.

### **Sec. 62-93. - Powers and duties.**

The functions, powers and duties of the planning and zoning board shall be, in general, to serve in an advisory capacity to the town council on all planning and zoning matters. In this capacity, the planning and zoning board shall have the following duties and responsibilities:

(1) Review and recommend changes in the town's comprehensive plan.

(2) Coordinate planned development with adjacent municipalities and the county.

(3) Review and make recommendations on petitions for changes in zoning classifications, amendments and district boundary changes.

- (4) Review and approve requests for special exceptions.
- (5) Review and approve site plans for all proposed zoning changes for multifamily, mobile home parks, mobile home subdivisions, commercial and industrial development and redevelopment and planned unit developments and all special exceptions.
- (6) Review, consider, and approve or deny applications for permits to construct, alter, or allow an airport obstruction in an airport hazard area, in accordance with section 62-523.
- (~~6~~ 7) Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the land use administrator in the enforcement of this chapter.
- (~~7~~ 8) Authorize upon appeal such variances from the terms of this chapter which will not be contrary to the public interest when, due to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship upon the owner of the subject property or structure or the applicant for the variance.
- (~~8~~ 9) Recommend to the town council the removal of the land use administrator for noncompliance with or nonenforcement of the land development regulations.

### **Sec. 62-521. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Airport means ~~Hilliard Airpark~~ any area of land or water designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose.

*Airport commissioner* means a member of the town council appointed as airport commissioner to monitor compliance with the lease agreement, licensing and other internal administrative operations.

*Airport elevation* means the highest point of an airport's usable landing area measured in feet above mean sea level.

Airport hazard means an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.

Airport hazard area means any area of land or water upon which an airport hazard might be established.

Airport land use compatibility zoning means airport zoning regulations governing the use of

land on, adjacent to, or in the immediate vicinity of airports.

Airport layout plan means a set of scaled drawings that provides a graphic representation of the existing and future development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the airport.

Airport master plan means a comprehensive plan of an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand.

Airport obstruction means any existing or proposed object, terrain, or structure construction or alteration or object of natural growth or use of land which would exceed that exceeds the federal obstruction standards as contained in 14 C.F.R. part 77, subpart C. The term includes: CFR 77.21, 77.23, 77.25, 77.28 and 77.29 or which obstruct the airspace required for flight of aircraft in landing and takeoff at an airport or is otherwise hazardous to such landing or takeoff of aircraft.

(a) Any object of natural growth or terrain;

(b) Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or

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

Accident potential hazard area means an area within 5,000 feet of the approach or departure end of a runway or in proximity to an airport, where aircraft may maneuver after takeoff or before landing, and is subject to the greatest potential to crash into a structure or the ground.

Airport protection zoning regulations means airport zoning regulations governing airport hazards.

Airspace height means the height limits in all zones set forth in this article. The datum shall be mean sea level elevation (AMSL) unless otherwise specified.

Educational facility means any structure, land, or use that includes a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multitenant building.

Land use administrator means the individual responsible for administering zoning within the town.

Landfill has the same meaning as provided in s. 403.703, Fla. Stat.

Nonconforming use means any preexisting structure, object of natural growth or use of land which is inconsistent with the provisions of this article, or amendments thereto.

*Runway* means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

*Runway protection zone* means an area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.

*Structure* means any object, constructed or installed by man, including but not limited to buildings, towers, smokestacks, utility poles and overhead transmission lines.

*Substantial modification* means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

*Utility runway* means a runway that is constructed for and intended to be used by propeller-driven aircraft of 15,500 pounds maximum gross weight and less.

*Visual runway* means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA-approved airport layout plan, a military services-approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

### **Sec. 62-523. - Airport zones and airspace height limitations.**

(a) *Created; map.* In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying beneath the approach, transitional, horizontal and conical surfaces as they apply to a particular airport. Such zones are shown on the Hilliard Airport Zoning Map which is attached to the ordinance from which this chapter is derived, made a part of this article by reference and available for inspection in the town offices.

(b) *Public civil airport height zones and limitations.* An area located in more than one of the described zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(1) *Primary zone.* An area longitudinally centered on the runway extending 200 feet beyond each end of that runway with the width so specified for each runway for the most precise approach existing or planned for either end of the runway. No structure or obstruction will be permitted within the primary zone that is not part of the landing and takeoff area, and is of a greater height than the nearest point on the runway centerline. The width of the primary zone is as follows:

Runways 18 and 36, 250 feet for utility runways having only visual approaches.

The width of the primary zone of a runway will be that width prescribed in this section for the most precise approach, existing or planned, for either end of that runway.

No structure or obstruction will be permitted within the primary zone that is not part of landing and takeoff facilities and is of a greater height than the nearest point on the runway centerline.

- (2) *Horizontal zone.* The area around each civil airport with an outer boundary the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary zone of each airport's runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

Runways 18 and 36, 5,000 feet for all runways designated as utility or visual. No structure or obstruction will be permitted in the horizontal zone that has a height greater than 150 feet above the airport height.

- (3) *Conical zone.* The area extending outward from the periphery of the horizontal zone for a distance of 4,000 feet. Height limitations for structures in the conical zone are 150 feet above airport height, increasing one foot vertically for over 20 feet of horizontal distance measured outward from the inner boundary to a height of 350 feet above airport height at the outer boundary.

- (4) *Approach zone.* An area longitudinally centered on the extended runway centerline and extending outward from each end of the primary surface. An approach zone is designated for each runway based upon the type of approach available or planned for that runway end.

a. The inner edge of the approach zone is the same width as the primary zone and it expands uniformly to a width of:

Runways 18 and 36, 1,250 feet for that end of a utility runway with only visual approaches.

b. The approach surface extends for a horizontal distance of:

Runways 18 and 36, 5,000 feet for all utility and visual runways.

c. The outer width of an approach zone to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

d. Permitted height limitation within the approach zones is the same as the runway end height at the inner edge and increases with horizontal distance outward from the inner edge as follows:

Runways 18 and 36, permitted height increases one foot vertically for every 20 feet horizontal distance for all utility and visual runways.

- (5) *Transitional zone.* The area extending outward, from the sides of the primary zones and approach zones connecting them, to the horizontal zone. Height limits within the transitional zone are the same as the primary zone or approach zone at the boundary line where it adjoins and increases at a rate of

one foot vertically for every seven feet horizontally, with the horizontal distance measured at right angles to the runway centerline and extended centerline, until the height matches the height of the horizontal zone or conical zone or for a horizontal distance of 5,000 feet from the side of the part of the precision approach zone that extends beyond the conical zone.

(6) *Other areas.* In addition to the height limitations imposed in subsections (b)(1) through (5) of this section, no structure or obstruction will be permitted within the town's jurisdiction that would cause a hazard to air navigation.

(c) Permits. The following procedures are established for the application, consideration, and issuance of permits proposing to construct, alter, or allow an airport obstruction in an airport hazard area.

(1) Application. A person proposing to construct, alter, or allow an airport obstruction in an airport hazard area in violation of the airport protection zoning regulations adopted under this chapter must apply to the planning and zoning board for a permit. Each application for such permit must be accompanied by (a) documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and (b) a valid aeronautical study.

(2) Permit not to be issued. The planning and zoning board may not issue any permit if it would allow the establishment or creation of an airport hazard or if it would permit a nonconforming obstruction to become a greater hazard to air navigation than it was when the applicable airport protection zoning regulation was adopted which allowed the establishment or creation of the obstruction, or than it is when the application for a permit is made.

(3) Considerations. In determining whether to issue or deny a permit, the Planning and Zoning Board must consider the following, as applicable:

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

(B) The safe and efficient use of navigable airspace.

(C) The nature of the terrain and height of existing structures.

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

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

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

(G) The effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport.

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

(I) Any additional requirements elsewhere in this Chapter pertinent to evaluation and protection of airspace and airport operations.

(4) In deciding whether to grant or deny a permit, the planning and zoning board may not rely solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.

(5) Obstruction Marking and Lighting. In issuing a permit under this section, the Planning and Zoning Board shall require the owner of the obstruction to install, operate, and maintain thereon, at his or her own expense, marking and lighting in conformance with the specific standards established by the Federal Aviation Administration.

(6) Landfills prohibited. The establishment of new landfills is prohibited within the following areas:

A. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.

B. Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.

C. Outside the perimeters defined in subparagraphs 1. and 2., but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. s. 77.19.

#### **Sec. 62-524. - Airport land use restrictions.**

- (a) *Use restrictions.* Notwithstanding any other provision of this chapter, no use may be made of land or water within any zones established by this chapter in such a manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:
- (1) All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from a public airport or in the vicinity thereof.
  - (2) No operations from any type shall produce smoke, glare or other visual hazards within three statute miles of any usable runway of a public airport.
  - (3) No operations from any type shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.
  - (4) Use of land within the accident potential hazard area shall prohibit high density residential use, schools, hospitals, storage of explosive material, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.
- (b) *Lighting.* Notwithstanding subsection (a) of this section, the owner of any structure over 200 feet above ground level shall install lighting in accordance with Federal Aviation Administration Circular 70-7460-1D and amendments thereto on such structure. Additionally, high intensity white obstruction lights shall be installed on a high structure which exceeds 749 feet above mean sea level. The high intensity white obstruction lights must be in accordance with Federal Aviation Administration Advisory Circular 70-7460-1D and amendments.
- (c) *Variances.* Any person desiring to erect or increase the height of any structures, or use his property not in accordance with the regulations prescribed in this chapter, may apply to the planning and zoning board for variance from such regulations. The limitations and considerations set forth at section 62-523(c) of this Code shall apply to such applications.
- (d) *Hazard marking and lighting.* Any permit or variance granted shall require the owner



to mark and light the structure in accordance with FAA Advisory Circular 70-7460-1D or subsequent revisions. The permit may be conditioned to permit the county or the town at its own expense to install, operate and maintain such markers and lights as may be necessary to indicate to pilots the presence of an airspace hazard if special conditions so warrant.

(e) *Airport noise zones.* No person shall sell, lease or offer to sell or lease any land within the airport noise zone (100CNR 85 dba contour) unless the prospective buyer or lessee has been given the following notice:

"Noise warning—This land lies beneath the aircraft approach and departure routes for Hilliard Airpark and is subject to noise that may be objectionable."

**Section 3.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereto.

**Section 4.** Any and all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**Section 5.** This Ordinance shall become effective upon the passage of this Ordinance.

ADOPTED THIS 20<sup>th</sup> DAY OF July, 2017.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seal the 20<sup>th</sup> day of July, 2017.

Signed, sealed and delivered in the presence of:

TOWN OF HILLIARD, FL

By:

\_\_\_\_\_  
John P. Beasley  
Council President

Attest:

\_\_\_\_\_  
Lisa Purvis  
Town Clerk

Approved:

\_\_\_\_\_  
Cris McConnell  
Mayor

Approved as to legal form: \_\_\_\_\_

Sherri L. Renner

Town Attorney

Date of Town Council First Reading:	June 1, 2017
Dates of Town Council Publication:	June 15, 2017
Date of Planning & Zoning Publication:	June 15, 2017
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Date of Town Council Final Passage:	July 20, 2017