

Attachment “C”

Secs. 142-2—142-35. - Reserved.

ARTICLE II. - ST. PETERSBURG-CLEARWATER INTERNATIONAL AIRPORT^[2]

Sec. 142-36. - 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. Cross references to Florida Statutes, Chapter 333 Zoning, are provided where applicable:

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. (F.S. 333.01)

Airport means 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 (F.S. 333.01). Specific to this Chapter, Airport means the St. Pete-Clearwater International Airport.

Airport elevation means the established elevation of the highest point on the usable landing area, as 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 and for which no person has previously obtained a permit or variance.

Airport Land Use Compatibility Zoning means airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports (F.S. 333.01)

Airport Layout Plan means a set of scaled drawings that provide a graphic representation of the existing and future development plan for the airport and demonstrate 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. (F.S. 333.01)

Airport Protection Zoning Regulations means airport zoning regulations governing airport hazards. (F.S. 333.01)

Airport reference point means the point established as the approximate geographic center of the airport landing area and so designated.

Avigation easement means a covenant running with the land in which the property owner grants to the county the right to use the airspace above the owner's property and to create noise normally associated with aircraft operation without liability.

Board of Adjustment and Appeals means a board consisting of seven members of the appointed in accordance with the terms of chapter 138, to hear and decide upon variances.

Clearance determination is a determination based upon the standards herein, made by the airport director or designee in conjunction with development review services prior to the issuance of any development or use authorization, that the proposed development or use would not intrude into any airport zone as defined within this regulation. Local clearance determinations shall be based upon FAA Determinations which are issued following an FAA Obstruction Evaluation for one or more natural or manmade objects.

CFR is the Code of Federal Regulations.

Day-night average sound level (DNL) is the cumulative average sound levels in decibels (db) over a 24-hour period, and symbolized L(dn), as measured in accordance with FAR Part 150 and FAA Orders #1050.ID and #5050.4A.

Development Review Committee means the reviewing body as defined in Section 138-64 of this Code.

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 multi-tenant building.

FAA is the Federal Aviation Administration, a division of the U.S. Department of Transportation.

FAR is the Federal Aviation Regulations, Title 14, Code of Federal Regulations. FAR Part 77 is entitled "Objects Affecting Navigable Airspace." FAR Part 150 is entitled "Airport Noise Compatibility Planning."

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Landing area means the area of the airport used for the landing, takeoff or taxiing of aircraft.

Nonconforming use means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed or an amendment thereto becomes effective and does not then meet the requirements of such regulation.

Obstruction means any existing or proposed manmade object or object of natural growth or terrain that violates the standards contained in 14 C.F.R. part 77, subpart C. The term includes:

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

Person means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Runway means the paved surface of an airport landing strip.

Structure means any object, constructed or installed by man, including, but without limitation thereof, 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% of the market value of the structure.

TERPS means United States Standard for Terminal Instrument Procedures for arriving and departing aircraft as established by the Federal Aviation Administration.

Tree includes any plant of the vegetable kingdom.

Sec. 142-37. - Zones established.

- (a) The following Civil Airport Imaginary Surfaces (Exhibit B) are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach procedure existing or planned for that runway end. The Primary, Horizontal, Conical Approach and Transitional airport surfaces are illustrated on the drawing of Civilian Airport Imaginary Surfaces as illustrated in FAA Order 7400.2K (or subsequent Changes or updates).
- (b) The airport surfaces identified in Exhibit B shall be utilized to evaluate whether any existing or proposed structure or object of natural growth complies with federal obstruction standards as contained in CFR Part 77, 14 CFR §§ 77.15, 77.17, 77.19, 77.21, and 77.23; TERPS. The airport surfaces are specified for the most precise approach existing or planned for each runway and include all of the airspace lying beneath the various define Imaginary Civil Airport Surfaces as applied to St. Pete-Clearwater International Airport (KPIE, PIE).

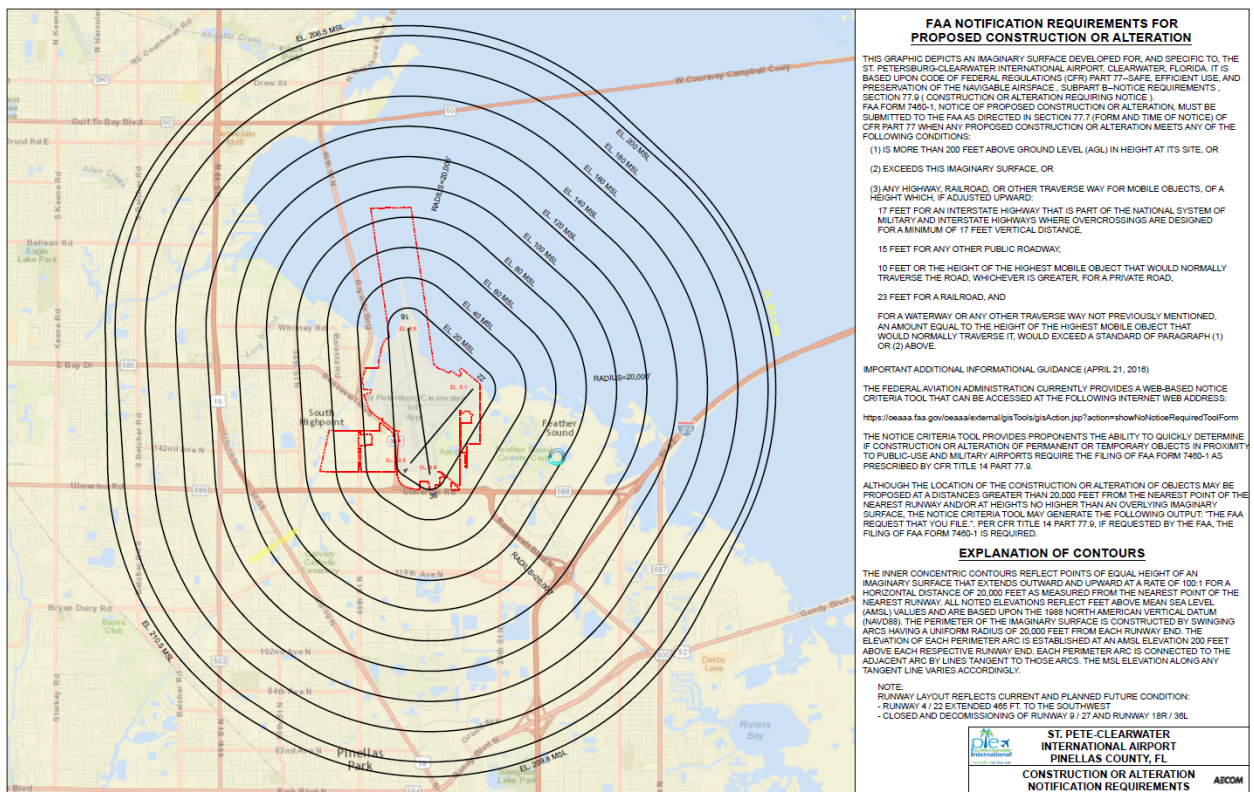
Sec. 142-38. - Permitting and FAA Determinations (Clearances)

- (a) It shall be the duty of the Development Review Services department in conjunction with the Airport Director to administer and enforce the regulations prescribed in this article. Applications required by this article shall be promptly considered and granted or denied. Applications for variances for action by the Development Review Committee (DRC) shall be promptly transmitted to the Development Review Services Department for review and action by the DRC.
- (b) Within the PIE Airport Hazard Area (exhibit A), except as otherwise provided in these regulations, no existing or proposed structure, or object of natural growth may be developed, constructed, established, enlarged, substantially altered or repaired, approved for construction, planted, allowed to grow, be replanted or issued a natural resource permit or building permit at a height that would be higher than the lowest overlying CFR Part 77 or TERPS surface (Exhibit B). The heights for objects and overlying surfaces are computed using feet above Mean Sea Level (MSL) values referencing the North American Vertical Datum 1988 (NAVD 88) Vertical Datum, unless otherwise specified.
- (c) Penetrations of any overlying CFR Part 77 Civil Airport Imaginary Surface or TERPS Surface will require an FAA Aeronautical Study and FAA-generated Determination.
- (d) Any existing or proposed structure or object of natural growth that exceeds the standards defined in Sec. 142-37 is presumed to be a hazard to air navigation unless an Obstruction Evaluation study conducted by the FAA determines otherwise. Any structure or object of natural growth in violation of these standards shall be evaluated by the FAA to determine if the structure or object of natural growth has substantial adverse effect on navigable airspace affecting airport operations. This FAA Determination may be any one of the following FAA-issued Determinations following an FAA Obstruction Evaluation for one or more natural or man-made objects studied:

1. "Determination of Hazard To Air Navigation",
2. "Does Not Exceed",
3. "Exceeds But Okay",
4. "Notice of Presumed Hazard",
5. "Determination of No Hazard", or
6. "Determination of Hazard".

(e) Based upon the FAA's determination regarding and proposed construction or alteration of structures, the Airport Director in conjunction with Development Review Services, prior to the issuance of any development or use authorization, must concur that the proposed development or use would not intrude into any airport zone as defined within this regulation.

Exhibit B Airport Imaginary Surfaces/FAA Notifications



(f) It shall be the responsibility of the applicable permitting department of each governing political subdivision to ensure that applicants applying for permitting of such objects comply with the FAA notice provisions of this section, collect documentation of such filing, and transmit notices to the Pinellas County Director of Development Review Services for additional consideration by the Airport Director.

Sec 142-39. - FAA Notice Criteria.

(a) Construction or alteration of objects located within 20,000 feet (5 nautical miles) of the end of the closest PIE Runway shall adhere to FAA guidance notification requirements as provided in Title 14: Aeronautics and Space, Code of Federal Regulations Part 77, Subpart B, Notice

Requirements. This filing notice may be completed using the FAA's online Notice Criteria Tool.

<https://oeaaa.faa.gov/oeaaa/external/userMgmt/permissionAction.jsp?action=showLoginForm>

- (b) At locations within Pinellas County located beyond 20,000 (5 nautical miles) feet of the closest end of the closest runway and having above ground heights greater than 200 feet shall also be assessed for possible need for the Filing of FAA Form 7460-1 using the FAA's Notice Criteria Tool.

Sec. 142-40. - Use restrictions.

- (a) *Generally.* Notwithstanding any other provisions of this article, no use may be made of land within any zone established by this article in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.
- (b) *In addition,* all uses, when located in the airport DNL noise contour areas identified on the St. Petersburg-Clearwater International Airport Noise Exposure Contours Map, as contained in the Airport Master Plan, shall conform to the following noise compatibility provisions:

Noise Exposure Contour
L(dn) Values

- (1) *L(dn) 65 to 70 db.* Activities where uninterrupted communication is essential shall incorporate noise level reduction features in design. These activities and residential development, auditoriums, schools, churches, hospitals, theaters and like activities, are not considered a suitable use, unless noise level reduction features have been incorporated in building design and an aviation easement has been established. Open-air activities and outdoor living will be affected by aircraft sound.
 - (2) *Greater than L(dn) 70 db.* Land within this contour shall be reserved for activities that can tolerate a high level of sound exposure such as some agricultural, industrial, and commercial uses. No residential developments of any type are permitted. Sound-sensitive activities such as schools, offices, hospitals, churches, and like activities shall not be constructed within this contour unless no alternative location is possible and noise level reduction features have been incorporated in building design and an aviation easement has been established. All regularly occupied structures shall consider noise level reduction features in design.
 - (3) All uses identified in (1) and (2) above, requiring noise level reduction in decibels, achieved through incorporation of noise attenuation (between indoor and outdoor levels) in the design and construction of a structure, shall attain a noise level reduction of 15 db over standard construction.
 - (4) *Less than L(dn) 65 db.* Local needs may warrant consideration of noise level reduction and an aviation easement for locations in close proximity to established airport flight tracks.
- (c) No educational facility of a public or private school, with the exception of aviation school facilities, shall be permitted within an area extending along the centerline of any runway and measured from the end of the runway and extending for a distance of five miles and having a width equal to one-half of the runway length. Exceptions approving construction of an educational facility within the delineated area shall only be granted when the board of county commissioners makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.

Sec. 142-41. - Nonconforming uses.

- (a) *Regulations not retroactive.* The regulations prescribed by this article shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of November 7, 1986, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 142-41. Nothing contained in this article shall

require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to November 7, 1986, and has not been abandoned.

- (b) *Marking and lighting.* Notwithstanding the provision of subsection (a) of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereof of such markers and lights as shall be deemed necessary by the development review services department to indicate to the operators of aircraft in the vicinity of the airport the presence of airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the county.

Sec. 142-42. - Enforcement of article.

It shall be the duty of the Development Review Services Department in conjunction with the Airport Director to administer and enforce the regulations prescribed in this article. Additional procedures to receive and process applications, clearance determinations, and to issue or deny permits may be established administratively. Similarly, administrative procedures to coordinate permitting with other affected political subdivisions may be established through Interlocal agreement(s).

Sec. 142-43. - Variances.

- (a) The Pinellas County Development Review Committee (DRC) established under chapter 138, article II, division 2 shall have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by the development review services department, or the airport director or designee in the enforcement of this article;
- (2) To hear and decide specific variances related to the enforcement of this article.

- (b) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this article, may apply to the Development Review Committee for a variance from such regulations. Such variances may only be allowed where it is duly found that a literal application or enforcement of this article would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this article. In determining whether to issue or deny a variance, the board of adjustment shall consider:

- (1) The nature of the terrain and height of existing structures.
- (2) Public and private interests and investments.
- (3) The character of flying operations and planned developments of airports.
- (4) Federal airways as designated by the Federal Aviation Administration.
- (5) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the descent height at the affected airport.
- (6) Technological advances.
- (7) The safety of persons on the ground and in the air.
- (8) Land use density.
- (9) The safe and efficient use of navigable airspace.
- (10) The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.
- (11) The need for the establishment of an aviation easement.

Sec. 142-44. - Appeals.

- (a) Any person aggrieved, or any taxpayer affected, by any decision of the development review services department or the airport director or designee or the Development Review Committee made

in its administration of this article, if of the opinion that a decision of the development review services department, or the airport director or designee is an improper application of these regulations, may appeal to the Board of Adjustment and Appeals.

- (b) All appeals must be taken within a reasonable time as provided by the rules of the Board of Adjustment and Appeals, by filing with the agency from which the appeal is taken and the Board of Adjustment and Appeals a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the Board of Adjustment and Appeals all the papers constituting the record upon which the action appealed from was taken or properly certified copies thereof in lieu of originals as the agency involved may elect.
- (c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the agency from which the appeal is taken certifies to the Board of Adjustment and Appeals, after notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril of life or property. In such cases, proceedings shall not be stayed otherwise than by an order of the Board of Adjustment and Appeals on notice to the agency from which the appeal is taken and on due cause shown.
- (d) The Board of Adjustment and Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the appeal within a reasonable time. At the appeal hearing any party may appear in person or by agent or attorney.
- (e) The Board of Adjustment and Appeals may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

Sec. 142-45. - Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment and Appeals may appeal to the circuit court as provided in F.S. § 333.11.

Sec. 142-46. - Penalty for violation of article.

Each violation of this article or any regulation, order or ruling made pursuant to this article shall constitute a misdemeanor and be punishable by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, and each day a violation of this article continues to exist shall constitute a separate offense.

Sec. 142-47. - Conflicting regulations.

- (a) *Incorporation.* In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, structures and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations for that political subdivision, and be administered and enforced in connection therewith.
- (b) *Conflict.* In the event of any conflict between the airport zoning regulations adopted under this article and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, and whether such regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

Sec. 142-48. - Territory embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this division.