



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: September 5, 2017

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Airport Zoning Regulations

Background: At the June 20, 2017 meeting, the City approved an Interlocal Agreement (ILA) with GOAA for establishing airport protection zoning for the airports within or near our jurisdiction and GOAA further requests the City review and adopt Airport Protection Zoning Regulations as part of the BI Municipal Code. The Council also voted to send the regulations to the P&Z Board for review and recommendation. At the P&Z meeting on August 22, 2017, the P&Z Board recommended the regulation be adopted by the City Council.

Staff Recommendation: Read Ordinance 17-10 adopting the Airport Zoning Regulations for first time by title only.

Suggested Motion: Motion: I move that read Ordinance 17-10 for a first time by title only.

Alternatives: Do not read the ordinance.

Fiscal Impact: None

Attachments: Memo to P&Z Board from City Manager
Ordinance 17-10



CITY OF BELE ISLE, FL

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MEMORANDUM

From: Bob Francis, City Manager

To: P & Z Board Members

Date: August 7, 2017

Re: Airport Zoning Regulations

At the last P & Z Meeting, there was an agenda item on titled "Public Hearing Case #2017-07-024: Interlocal Agreement among Orange County, City of Orlando, Seminole County, Osceola County, Winter Park, Oviedo, Belle Isle, Kissimmee, and the Greater Orlando Aviation Authority regarding Airport Zoning Ordinance. The Board shall review the proposed interlocal agreement for recommendation to City Council. Following City Council action on the interlocal agreement, the Land Development Regulations amendments to incorporate Exhibit "1" of the interlocal agreement will be considered by the Board through the ordinance adoption process." The item was tabled until the next meeting.

I wanted to give you an explanation of what is needed of the P & Z Board. First, the Interlocal Agreement (ILA) was approved by the City Council on June 20th. The Greater Orlando Aviation Authority (GOAA) requested the City Council review and execute the ILA to establish airport protection zoning for the airports within or near our jurisdiction and also adopt Airport Protection Zoning Regulations. In speaking with the GOAA attorney who crafted the documents, GOAA to have the ILA adopted prior to July 1 which is why the Council moved to adopt the ILA earlier; however, the ordinance could be adopted soon after. According to Chapter 333, Florida Statutes, every political subdivision that has an airport hazard area within its territorial limits, is required to adopt, administer, and enforce a set of airport protection zoning regulations. Since these regulations are to be incorporated into the Municipal Code for Land Development, it is important that the P & Z Board review them and make a recommendation to the City Council to adopt them and incorporate them in the Code.

In 2016, the FAA posted new zoning requirements for "airport hazard areas" that took effect on July 1. An "airport hazard area" can be located within any city or county, and is not contingent on an airport being located within our jurisdiction. As a result changes may need to be made to the city's existing regulations and processes. We need to be in compliance with this law including a

review of the new criteria for an FDOT evaluation of permit applications, new criteria and processes for our airport zoning regulations, and modifications to land use compatibility regulations.

If an airport is owned or controlled by a political subdivision and if any other political subdivision has land upon which an obstruction may be constructed or altered which underlies any surface of the airport as provided in 14 C.F.R. part 77, subpart C, the political subdivisions shall either: by interlocal agreement, adopt, administer, and enforce a set of airport protection zoning regulations; or by ordinance, regulation, or resolution duly adopted, create a joint airport protection zoning board that shall adopt, administer, and enforce a set of airport protection zoning regulations. The City of Belle Isle decided on the former.

The purpose of the ordinance establishes: (a) The requirements to provide notice to the FAA of certain proposed construction, or the alteration of existing structures and (b) The standards used to determine obstructions to air navigation, and navigational and communication facilities.

If requested by the FAA, or if any of the following types of construction or alteration is proposed, the applicant must file notice with the FAA of: (1) Any construction or alteration that is more than 200 ft. AGL (above ground level) at its site or (b) Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes: (1) 100 to 1 for horizontal distance of 20,000 ft. from the nearest point of the nearest runway or more than 3,200 ft. in actual length (2) 50 to 1 for horizontal distance of 10,000 ft. from the nearest point of the nearest runway, or no more than 3,200 ft. in actual length, and (3) 25 to 1 for a horizontal distance of 5,000 ft. from the nearest point of the nearest landing and takeoff area of each heliport. Of these requirements, the Planner and I believe that only (1) would be applicable to the City. The only height restriction above 200 ft. AGL that is currently listed in our Code is for communication towers which states:

Sec. 44-34. - Height limitation and method of determining communication tower height.

Measurement of communication tower height shall include antenna, base pad, and other appurtenances, and shall be measured from the finished grade of the parcel. If the finished grade is more than three feet above natural grade, measurement shall be from natural grade. The height of communication towers shall not exceed **300 feet** without the city council's approval of a special exception and a variance.

In closing, the Airport Zoning Regulations document is a large complex document however very few regulations affect the City of Belle Isle. I do not believe that approving the document for incorporation into the City of Belle Isle Code will be problematic for the City. Therefore, I am requesting the P & Z Board make a recommendation to the Council to adopt the Airport Zoning Regulations and incorporate them in the City Code.

ORDINANCE No.: 17-10

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE CODE OF ORDINANCES CONCERNING AIRPORT ZONING REGULATIONS; BY AMENDING PART II, CODE OF ORDINANCES; BY AMENDING SUBPART B, LAND DEVELOPMENT CODE; BY AMENDING CHAPTER 44, COMMUNICATION TOWERS, TO CREATE ARTICLE V, AIRPORT ZONING REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the desire of the City Council that the City of Belle Isle Code of Ordinance be constitutionally sound and internally consistent; and

WHEREAS Chapter 333, Florida Statutes, states that every political subdivision that has an airport hazard area within its territorial limits, is required to adopt, administer, and enforce a set of airport protection zoning regulations; and

WHEREAS, the City of Belle Isle has entered into the interlocal agreement among Orange County, City of Orlando, Seminole County, Osceola County, Winter Park, Oviedo, Belle Isle, Kissimmee, and the Greater Orlando Aviation Authority regarding Airport Zoning Regulations; and

WHEREAS, the City of Belle Isle Planning and Zoning Board serves as local planning agency for the City; and

WHEREAS, the City of Belle Isle Planning and Zoning Board, acting in its capacity as the Local Planning Agency, held a duly noticed and advertised public hearing on August 22, 2017; and

WHEREAS, the City of Belle Isle Planning and Zoning Board, acting in its capacity as the Local Planning Agency, at the August 22, 2017, public hearing, found the regulations to be consistent with the City of Belle Isle Comprehensive Plan and recommended that the City Council adopt the airport zoning regulations; and

WHEREAS, the City Council held two (2) public hearings on September 5, 2017, and September 19, 2017, to receive public comments, and considered the recommendation of the Planning and Zoning Board and the proposed airport zoning regulations; and

WHEREAS, the City Council has found and determined that the adoption of the proposed ordinance will foster and preserve the public health, safety and welfare and aid in the harmonious, orderly and progressive development of the City, and thus serve a valid public purpose.

BE IT ORDAINED by the City Council of Belle Isle, Florida:

Chapter 44
Article V. Airport
Zoning Regulations

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SECTION 1

BELLE ISLE ZONING ORDINANCE

1.1 Title

These regulations will be known and cited as "Airport Zoning Regulations for the Orlando International Airport" (collectively the "Regulations").

1.2 Authority

The City of Belle Isle is a public body corporate having jurisdiction over all public airports within the City of Belle Isle. The City of Belle Isle has the power to prepare, adopt and enforce these regulations pursuant to Chapter 333, Florida Statutes, as amended. These regulations apply to all land within the City of Belle Isle, with exception of the property owned by the Greater Orlando Aviation Authority and operated as a public use general aviation or commercial service airport. The Greater Orlando Aviation Authority is required by Federal Aviation Administration regulations to protect the airspace surfaces being regulated herein and therefore there is not a need for City of Belle Isle review or oversight which would be duplicative.

1.3 Findings

The City of Belle Isle hereby finds that:

- A. The creation or establishment of an airport obstruction hazardous to the operation of aircraft reduces the navigable airspace available to the region served by the Airport;
- B. It is necessary, in the interest of the public health, public safety, and general welfare, to prevent the creation of airspace hazards and the use of land incompatible with Airport operations;
- C. The prevention of these hazards and incompatible land uses should be accomplished, to the extent legally possible, without compensation; and

- D. Preventing the creation or establishment of hazards and incompatible land uses, as well as the elimination, removal, alteration or mitigation of hazards and incompatible land uses are public purposes for which the City of Belle Isle may raise and expend public funds.

1.4 Purpose

Based on the findings set forth in section 1, the purposes of these regulations are as follows:

- A. To promote the maximum safety of aircraft using the Airport;
- B. To promote the maximum safety of persons and property located near the Airport;
- C. To promote the full utility of the Airport to ensure the welfare and convenience of the citizens and visitors of City of Belle Isle;
- D. To provide limits on the height of structures and objects of natural growth within the 14 CFR Part 77 surface primary, horizontal, conical, approach and transitional, Terminal Instrument Procedures ("TERPS") surfaces, and other imaginary airport airspace surfaces (One Engine Inoperative-Obstacle Identification Surfaces as defined in AC 120-91 and ICAO Annex 6 ["OEI"], Threshold Siting Surface ["TSS"]), as defined herein, to ensure proper and sound development of the areas within these surfaces;
- E. To discourage new land uses, activities or construction incompatible with existing and planned airport operations or public health, safety and welfare; and
- F. To provide administrative procedures for the efficient and uniform review of land development proposals in the areas surrounding the Airport.

SECTION 2

DEFINITIONS AND RULES OF INTERPRETATION

2.1 Definitions

For the purpose of these Regulations, certain words and terms used herein are defined as follows:

- A. Aeronautical Study. A Federal Aviation Administration study, conducted in accordance with the standards of 14 CFR 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.
- B. Aircraft. Any fixed wing, blimp, airship or rotorcraft device capable of atmospheric flight and requiring a paved or turf landing or take-off area.
- C. Airport. Any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purpose which, for the purposes of these Regulations, means Orlando International Airport and Orlando Executive Airport [and any other applicable airport].
- D. Airport Board of Adjustment. The City of Belle Isle Planning and Zoning Board, or such other board appointment by the City of Belle Isle, acting pursuant to the terms and provisions of Chapter 333, Florida Statutes, created to carry out the obligations set forth in section 6 below.
- E. Airport Elevation. The highest point of an Airport's usable landing area measured in feet above mean sea level.
- F. Airport Hazard. 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.
- G. Airport Hazard Area. Any area of land or water upon which an Airport Hazard might be established.
- H. Airport Height Zone. Any area described herein or shown on the Airport Height Zoning Map indicating the height at which a proposal for development, construction, establishment,

enlargement or substantial alteration or repair of a structure requires an airport height zoning permit.

- I. Airport Height Zoning Map. A map depicting the Airport Height Zones, attached hereto and incorporated herein as Exhibit "A".
- J. Airport Land Use Compatibility Zoning. Airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports.
- K. Airport Layout Plan or ALP. 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.
- L. Airport Master Plan. A comprehensive plan of an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand.
- M. Airport Obstruction. Any existing or proposed structure or object of natural growth that exceeds federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21, 77.23 and any other Federal Airspace obstruction related standards such as OEI, TERPS and TSS.
- N. Airspace Surface. Any surface established and described in these Regulations used to evaluate whether an application for an airport height zoning permit or any existing or proposed structure or object of natural growth complies with federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23; terminal instrument procedures as contained in Federal Aviation Administration Order 8260.3C and Order 8260.58A, TERPS, federal regulations for turbine powered aircraft as contained in 14 CFR § 121.189, OEI, and TSS.
- O. Airport Surveillance Radar (or ASR). A radar used for FAA air traffic management.
- P. Airport Zoning Director. The Director of Planning of the City of Belle Isle , or a designee of the City of Belle Isle 's Director of Planning, who shall be responsible for administering and enforcing these Regulations.

- Q. Airspace Hazard. Any structure, object of natural growth or use of land which would exceed federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23, TERPS, OEI, TSS, and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering or landing or is otherwise hazardous to such taking off, maneuvering or landing of aircraft and for which no person has previously obtained a permit pursuant to these regulations.
- R. Authority. [Insert Local Airport Authority and if multiple add additional definition].
- S. Authority Board. The Board of the [Insert Local Airport Authority and if multiple add additional definition].
- T. Authority Planning Director. The Director of Planning of the Authority, or a designee of the Authority's Director of Planning, who shall be an ex-officio member of the Airport Board of Adjustment, shall review all applications submitted to the [Insert Local Government and if multiple enter specificity to differentiate planning directors] under this Ordinance and provide an analysis of same with recommendations for use by the Airport Zoning Director.
- U. Avigation Easement. The right to use the airspace over real property.
- V. City of Belle Isle. The City of Belle Isle, Florida.
- W. County. Orange County.
- X. Educational Facility. 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.
- Y. Existing Nonconforming Use. Any structure, object of natural growth, or use of land that does not conform to the provisions of these Regulations or any amendments hereto as of the effective date of such regulation or amendment.

- Z. Federal Aviation Administration (or FAA). A federal agency charged with regulating air commerce to promote its safety, encouraging and developing civil aviation, air traffic control and air navigation and promoting the development of a national system of airports.
- AA. Non-Vertically Guided Instrument Runway. A runway having an existing, published, or planned instrument approach procedure utilizing air navigation facilities with only lateral [horizontal] guidance or area type navigation equipment, for which a straight-in non-vertically guided instrument approach procedure has been approved or planned on a FAA planning document or approved airport layout plan.
- BB. Object of Natural Growth. Any organism of the plant kingdom, including a tree.
- CC. Person. Any individual, firm, co-partnership, corporation, company, association, joint-stock association or body politic, including any trustee, receiver, assignee or other similar representative thereof.
- DD. Vertically Guided Instrument Runway. A runway having an existing, published, or planned instrument approach procedure utilizing air navigation facilities or an Instrument Landing System (“ILS”) with lateral and vertical guidance or area type navigation equipment, for which a straight-in vertically guided instrument approach procedure has been approved or planned, and for which a vertically guided approach is planned or indicated on an FAA planning document or approved airport layout plan.
- EE. Real Property. A lot, parcel, tract of land, or water together with any structure, object of natural growth, or natural feature located thereon.
- FF. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- GG. Runway Protection Zone. Area at the end of a runway designed to enhance the protection of people and property on the ground; the dimensions of which are based on aircraft category and

visibility minimums defined in FAA Advisory Circular 150/5300-13A, Change 1, entitled Airport Design and in accordance with 14 CFR § 151.9(b).

- HH. Structure. Any permanent or temporary object, including but not limited to buildings, antenna, towers, cellular towers, smoke stacks, utility or light poles, overhead transmission lines, advertising signs, billboards, poster panels, fences, construction cranes, derricks, draglines, boom-equipped machinery, balloons, kites, watercraft, retaining walls, and navigation aids including but not limited to VORTAC, LLWAS, ASOS, approach lighting systems and radar facilities, as FAA Navigation Aids are defined in section 3.7(c).
- II. Terminal Instrument Procedures (or TERPS). Criteria for terminal instrument procedures for arriving and departing aircraft as established in FAA Order 8260.3C and Order 8260.58A, entitled United States Standards for Terminal Instrument Procedures, OEI, TSS.

2.2 Abbreviations

For the purpose of these regulations, certain abbreviations will have the following meanings:

- A. AGL. Above ground level.
- B. ALP. Airport layout plan.
- C. AMSL. Above mean sea level.
- D. CFR. Code of Federal Regulations.
- E. FAA. Federal Aviation Administration.
- F. FCC. Federal Communications Commission.
- G. FDOT. Florida Department of Transportation.

2.3 Rules of Interpretation

Unless the natural construction of the wording indicates otherwise, all words used in the present tense include the future tense; all words in the plural number include the singular number; all words in the singular number include the plural number and all words of the masculine gender include correlative

words of the feminine and neuter genders. Any reference herein to a rule, statute, regulation or other legal requirement or form shall also include any modification, amendment, alteration or replacement thereof subsequent to the effective date hereof.

SECTION 3

ZONING AND HEIGHTS REQUIRING PERMIT, AIRPORT SURFACES, AND PERMIT PROCEDURES

3.1 Zones and Heights Requiring Airport Height Zoning Permit

In order to regulate the height of permanent and temporary structures and objects of natural growth, this section establishes permitting requirements in certain zones based on height. These zones, and the heights established for each zone, provide for the independent review by the City of Belle Isle of the height of land development proposals over which the City of Belle Isle may have jurisdiction to regulate, as well as objects of natural growth. No structure or object of natural growth that would exceed two hundred (200) feet AGL, any federal obstruction standards or the height for the zone in which it is located or proposes to be located may be developed, constructed, established, enlarged, substantially altered or repaired, approved for construction, issued a natural resources permit or building permit, or planted, allowed to grow or be replanted, unless either the Airport Zoning Director has issued an airport height zoning permit in accordance with these regulations. The zones and heights are depicted on the Airport Height Zoning Map, attached hereto and incorporated herein as Exhibit "A".

3.2 Airport Height Zoning Permit Application Procedure

A request for an airport height zoning permit may be initiated by filing with the Airport Zoning Director a completed application for airport height zoning permit on a form prescribed by the City of Belle Isle including a copy of the Form 7460-1 and/or FAA's online OE/AAA website tool, Notice of Proposed Construction or Alteration filed with the FAA, as required pursuant to 14 CFR §§ 77.5, 77.7, 77.9

and 77.11. An FAA airspace review determination resulting from the submittal of a Notice of Proposed Construction or Alteration does not preclude the requirement to obtain an airport height zoning permit from the City of Belle Isle. An application for an airport height zoning permit must contain a site survey, with an FAA accuracy code of 1A, which certifies the site coordinates and elevations with an accuracy of +/- 20-feet horizontal and +/- 3-feet vertical (all site coordinates must be based on North American Datum of 1983 and National Geodetic Vertical Datum of 1988); site plans; drawings and other data as may be necessary to enable the Airport Zoning Director to determine whether or not the proposal will comply with these Regulations. A separate application for an airport height zoning permit must be submitted for permanent or temporary derricks, draglines, cranes and other boom-equipped machinery to be used during construction or installation at heights greater than the height of proposed structure. Applications for an airport height zoning permit must be signed by the owner or an authorized agent of the owner.

3.3 Pre-Application Conference Procedure

Prior to submittal of any application for an airport height zoning permit, a prospective applicant shall request a pre-application conference with the Airport Zoning Director and may include the Authority Planning Director. The pre-application conference is to advise the applicant of the information needed for submittal and the standards and other requirements so that issues can be identified and costly modifications avoided. Information provided as a result of the conference is for conceptual purposes only, is given solely as a means to assist the applicant, and does not take the place of the formal application review process.

3.4 Review of Airport Height Zoning Permit Application

Before an application for an airport height zoning permit will be considered, the applicant must submit to the Airport Zoning Director a copy of the final airspace review determination by the FAA of the applicant's Notice of Proposed Construction or Alteration. Upon receipt of a completed application and copy of the

final determination, the Airport Zoning Director shall forward same to the Authority Planning Director and to the FDOT Aviation Office, via certified mail return receipt requested or via a delivery service that provides evidence of delivery. FDOT shall have fifteen (15) days to review the application for technical consistency with Chapter 333, Florida Statutes, with said review period running concurrently with the review by the City of Belle Isle and the Authority Planning Director. The Authority Planning Director shall produce an analysis and recommendation as to consistency with these regulations to the Airport Zoning Director. The Airport Zoning Director upon receipt of the application and analysis from the Authority Planning Director will review the application for consistency with the height limits for the airspace surfaces as set forth in this section 3 and the guidelines, procedures and criteria set forth in chapter 6, section 3, part 2 of FAA Order 7400.2k, entitled Procedures for Handling Airspace Matters, as provided in section 3.6 herein. Within a period of twenty-one (21) calendar days from receipt of a completed application, the Authority Planning Director's analysis, and final determination by the FAA, the Airport Zoning Director will either approve or disapprove the application. The Airport Zoning Director may consider an application for an airport height zoning permit concurrently with the development plan approval. An incomplete application will be deemed abandoned one hundred eighty (180) calendar days after filing, unless pursued in good faith. The Airport Zoning Director may grant one extension of one hundred eighty (180) days. The extension must be requested in writing and justifiable cause demonstrated.

3.5 Airspace Surfaces

There are hereby created and established certain airspace imaginary surfaces in order to evaluate whether any existing or proposed structure or object of natural growth complies with federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23 terminal instrument procedures as contained in FAA Order 8260.3C and Order 8260.58A, entitled United States Standards for Terminal Instrument Procedures and federal regulations for turbine powered aircraft as contained in 14

CFR § 121.189. The airspace surfaces are hereby specified for the most restrictive approach existing or planned for each runway and any planned extension of existing runways and include all of the land lying beneath the airspace surface, as applied to each airport. Except as otherwise provided in these regulations, no application for an airport height zoning permit may be approved; no structure may be developed, constructed, established, enlarged, substantially altered or repaired, approved for construction, or issued a natural resources permit or building permit; and no object of natural growth may be planted, allowed to grow or be replanted, in any airspace surface at a height above the height limit established herein for the airspace surface in which the structure or object of natural growth is located or proposed to be located. Such height limits will be computed from mean sea level elevation, unless otherwise specified. The 14 CFR Part 77C (primary, horizontal, conical approach and transitional) airspace surfaces have been analyzed by the [Local Airport Authority] and are illustrated on the map incorporated herein as Exhibit "A" and further defined as illustrated in FAA Order 7400.2k, entitled Procedures for Handling Airspace Matters, and are defined as follows, as applied to MCO and ORL [Insert Additional Airports]. Definitions of 14 CFR Part 77 and the Airspace Surfaces that are illustrated in Exhibit "A" are available at the [Insert Local Airport Authority]'s website.

3.6 Objects Affecting Navigable Airspace

Any existing or proposed structure or object of natural growth that exceeds the standards for identifying and evaluating aeronautical effect as defined in section 3, chapter 6, part 2 of FAA Order 7400.2, entitled Procedures for Handling Airspace Matters, is presumed to be a hazard to air navigation unless an obstruction evaluation study determines otherwise. Any structure or object of natural growth in violation of the aforementioned standard will be evaluated by the FAA and the Airport Zoning Director to determine if the structure has a substantial adverse effect on navigable airspace effecting airport operations. The Airport Zoning Director shall take into account the above presumption in approving or denying an application for an airport height zoning permit.

3.7 Supportive Screening Criteria

- A. Antenna Installations. Antenna installations used to transmit over navigable airspace may produce a harmful electromagnetic interference (EMI) with navigation aids or radio communications or aircraft, airport or air traffic control facility. An antenna installation must comply with the permitting requirements of this section unless the antenna is to be co-located on an existing structure and:
1. The antenna does not increase the height of the existing structure;
 2. The structure has a current no hazard determination on file with the FAA; and
 3. The transmission of the antenna has been coordinated and approved by the Federal Communications Commission (FCC).
- B. FAA Navigation Aids. The FAA owns and operates navigation aids at MCO, ORL, and off airport property. These include, but are not limited to, Airport Surveillance Radar (ASR), Terminal Doppler Radar (TDR), Low Level Wind Shear Alert System (LLWAS), Omnidirectional Range Beacon/Tactical Air Navigation System (VORTAC), and Automated Surface Observation System (ASOS). The FAA provides guidance on the required clear areas around navigational aids ("navaid"). Any structure or object of natural growth within the vicinity of an FAA navaid must be evaluated by the FAA for interference with the navaid. If the FAA determines that such proposed structure or object of natural growth will adversely affect the utilization of the navaid, the Airport Zoning Director shall take the determination into account when reviewing the application.

3.8 Criteria for Approval or Disapproval of Airport Height Zoning Permit Application

- A. Criteria. In determining whether to issue or deny an Airport Height Zoning Permit, the City of Belle Isle must consider:
1. The safety of persons on the ground and in the air;

2. The safe and efficient use of navigable airspace;
 3. The nature of the terrain and height of existing structures;
 4. The effect of the construction or alteration of an obstruction on the state licensing standards for a public-use airport contained in Chapter 330, Florida Statutes, and rules adopted thereunder;
 5. The character of existing and planned flight operations and developments at public-use airports;
 6. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA;
 7. The effect of the construction or alteration of an obstruction on the minimum descent altitude or the decision height at the affected airport; and
 8. The cumulative effect on navigable airspace of all existing obstructions and all known proposed obstructions in the area.
- B. Approval. A permit application for the construction or alteration of an obstruction may not be approved unless the applicant submits documentation showing both compliance with the federal requirement for notification of proposed construction or alteration and a valid aeronautical study, as defined in 14 CFR Part 77. A permit may not be approved solely on the basis that the FAA determined that such proposed structure or object of natural growth will not exceed federal obstruction standards and was not an airport hazard, as contained in 14 CFR Part 77, or any other federal aviation regulation(s). Upon consideration of the above requirements, as set forth in Section 333.025, Florida Statutes, and if the FAA has issued a determination that the proposed structure will not constitute an airspace hazard and the applicant has established by clear and convincing evidence provided to the Airport Zoning Director that the proposed structure or object of natural growth will not exceed the height limits established for the airspace surfaces as set

forth in section 3.5 and the standards referenced in sections 3.6 and 3.7, and will not otherwise constitute an airspace hazard, the Airport Zoning Director may approve an application for an airport height zoning permit. In the event of approval, the permit will be issued within fourteen (14) business days. No airport zoning height permit will be issued after the expiration date indicated on the FAA's final determination. Each airport height zoning permit will specify an expiration date as a condition. Development authorized by the permit must commence prior to the permit's expiration date and must continue without interruption in good faith until development is complete; otherwise it shall lapse. After a permit has been issued, no change, modification, alteration or deviation may be made from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit.

- C. Disapproval. The Airport Zoning Director will not approve an application for an airport height zoning permit if the FAA has issued a determination that the proposed structure would constitute an airspace hazard or the Airport Zoning Director has determined that the proposed structure or object of natural growth would exceed the height limits established for the airspace surfaces as set forth in section 3.5 or the standards referenced in sections 3.6, 3.7 or otherwise would constitute an airspace hazard. Any decision of the Airport Zoning Director disapproving an airport height zoning permit application may be appealed as prescribed in section 6.4 herein.

3.9 Hazard Marking and Lighting

If a structure or object of natural growth meets the specifications set forth in Advisory Circular 70-7460-1L, Change 1 or otherwise as recommended by the FAA, the Airport Zoning Director shall require, as a condition of approval of an application for an airport height zoning permit, the applicant to install prior to the issuance of a certificate of occupancy, and to operate and maintain, at the applicant's own expense, such marking and/or lighting on the permitted structure as may be necessary to indicate to aircraft pilots

the presence of the structure or object of natural growth. Such marking and lighting must conform to the specific standards in FAA Advisory Circular 70-7460-1L, Change 1, entitled Obstruction Marking and Lighting and Section 14-60.009, Florida Administrative Code.

3.10 Permit Required in Addition to Those Issued by Other Agencies

A permit required by these regulations is in addition to any other building, zoning, environmental or occupancy permits required by any other governmental agency or jurisdiction. Pursuant to Section 125.022, Florida Statutes, issuance of a airport height zoning permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3.11 Rules of Interpretation

An area located in more than one of the described airport height zones or airspace surfaces must comply with the most restrictive height limit or surface. In the event a conflict arises between an Airspace Surface and the regulations as set forth in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23; terminal instrument procedures as contained in FAA Order 8260.3c and Order 8260.58A entitled United States Standards for Terminal Instrument Procedures and federal regulations for turbine powered aircraft as contained in 14 CFR § 121.189, the most restrictive regulation will prevail, and any other FAA Advisory Circulars or guidelines relating to airspace.

SECTION 4

EXISTING NONCONFORMING USE

4.1 Existing Nonconforming Use

Any structure, object of natural growth, or use of land existing on the effective date of these regulations, which exceeds any height limit established herein or otherwise fails to comply with any provision of these regulations, is hereby declared to be an existing nonconforming use and in violation of these regulations.

4.2 Change of Existing Nonconforming Use

No existing nonconforming use may be enlarged, increased in height, expanded, replaced, substantially altered or repaired at a cost which exceeds fifty percent (50%) of the value of the existing nonconforming use, rebuilt, or allowed to grow higher or to be replanted, unless the Airport Zoning Director has issued an airport height zoning permit in conformance with these regulations.

4.3 Continuance of Existing Nonconforming Uses

- A. Existing Nonconforming Uses. Except as provided in sections 4.2 or 4.4 herein, nothing in these regulations will be construed to require removal, lowering, alteration, sound conditioning or other change to or interference with a nonconforming use in existence before the effective date of these Regulations. That continuation of any existing nonconforming use will be governed by the City of Belle Isle airport zoning regulations in effect on the date of the creation of the existing nonconforming use, except as provided in sections 4.2 or 4.4 herein.
- B. Existing Nonconforming Educational Facilities. Except as provided in sections 4.4 herein, nothing in these Regulations will be construed to require removal, alteration, sound conditioning, or other change to or interference with the continued use, modification, or adjacent expansion of any educational facility in existence on or before July 1, 1993, or be construed to prohibit the construction of any new educational facility for which a site has been determined as provided in former Section 235.19, Florida Statutes as of July 1, 1993.

4.4 Abandoned or Deteriorated Existing Nonconforming Use

- A. Declaration of Abandoned or Deteriorated Existing Nonconforming Use. In the event the Airport Zoning Director determines an existing nonconforming use is abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, no permit will be issued that would allow such existing nonconforming use to exceed the applicable height limit or otherwise deviate from these regulations; and whether application is made for a permit under these regulations or not, the Airport Zoning Director may petition the Airport Board of Adjustment, upon due notice to the owner of the existing nonconforming use or the owner of the real property on which it is located, to compel the owner to lower, remove, reconstruct, equip, or otherwise alter the abandoned, destroyed, deteriorated, or decayed nonconforming use as may be necessary to conform to these regulations. Upon receipt of such petition, the Airport Board of Adjustment will conduct a public hearing pursuant to these regulations after due notice to the owner. If, after a public hearing, the Airport Board of Adjustment determines the existing nonconforming use to be abandoned, or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, the Airport Board of Adjustment may compel the owner, at the owner's own expense to lower, remove, reconstruct, equip, or otherwise alter the existing nonconforming use as may be necessary to conform to these regulations.
- B. Failure to Remove Abandoned or Deteriorated Existing Nonconforming Use. If the owner neglects or refuses to comply with such order within thirty (30) calendar days after notice thereof, the City of Belle Isle may proceed to lower, remove, reconstruct, equip, or otherwise alter the structure or use and assess the cost and expense thereof on the structure or the real property whereon it is or was located.

SECTION 5

ADMINISTRATION, ENFORCEMENT, AND REMEDIES

5.1 Administration

The provisions of these regulations will be interpreted, administered, and enforced by the Airport Zoning Director, with input provided by the Authority Planning Director or other experts from the Authority. The duties of the Airport Zoning Director shall include that of hearing and deciding all permits and all other matters under these regulations except any of the duties or powers herein delegated to the Airport Board of Adjustment. The Airport Zoning Director shall coordinate the administration of these regulations with the Authority Planning Director and appropriate departments of the Authority, the FAA, the City of Belle Isle and the FDOT.

5.2 Enforcement

In the event of a violation of these regulations or an order, ruling, or permit issued hereunder, the Airport Zoning Director shall request that the Code Enforcement Manager provide a citation in writing to the owner of the real property on which the violation is located. Such notice will indicate the nature of the violation and order the owner to lower, remove, reconstruct, equip, or otherwise alter the structure or object of natural growth in order to correct or abate the violation within a period of time set forth in the citation.

5.3 Remedies

- A. Penalty. Each violation of a regulation, order, ruling, or permit issued hereunder cited by the Airport Zoning Director constitutes a misdemeanor of the second degree punishable as provided in Florida Statutes. Each day a violation continues to exist will constitute a separate offense. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of these regulations, an order, ruling, or permit issued hereunder, upon conviction in the county court, will be fined not more than five hundred dollars (\$500.00) for each offense, or by imprisonment in the county jail for not more than sixty (60) days, or by both fine and imprisonment.

- B. Judicial Relief. In addition to the provisions of section 5.3(A), the General Counsel of the [Insert Local Government] is hereby authorized to institute in any court of competent jurisdiction an action on behalf of the City of Belle Isle to prevent, restrain, correct, or abate any violation of these regulations, or of any order or ruling made in connection with the administration or enforcement of these regulations, and request that the court adjudge to the City of Belle Isle such relief, by way of injunction or otherwise, which may be mandatory or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of these Regulations and any order or ruling made pursuant thereto.
- C. Cumulative Penalties. The remedies provided in this section are cumulative in nature such that seeking civil penalty pursuant to section 5.3(A) does not preclude the City of Belle Isle from seeking alternative relief, including an order for abatement or injunctive relief pursuant to section 5.3(B), in the same or separate action.

SECTION 6

AIRPORT BOARD OF ADJUSTMENT

6.1 Appointment

The City of Belle Isle Planning and Zoning Board will serve as the Airport Board of Adjustment within the jurisdictional limits of the City of Belle Isle. The Authority Planning Director, or his designee, shall serve as an ex-officio, non-voting member and shall provide an analysis of each appeal along with a recommendation on behalf of the Authority. The Airport Board of Adjustment will have and exercise all the powers permitted by the provisions of Chapter 333, Florida Statutes, this section and all other laws governing its activities and procedures. City of Belle Isle Council may establish such rules of procedure or other processes to assist the Airport Board of Adjustment in carrying out its obligation hereunder,

including but not limited to the creation of an appropriately qualified Hearing Officer or Hearing Master to receive and analyze the submission of evidence and to provide a report on same to the Airport Board of Adjustment. Such Hearing Officer or Hearing Master may be appropriately compensated, if permitted by applicable law. Such process may result in limitations on the public hearing process before the Airport Board of Adjustment, but only if the Hearing Officer or Hearing Master process has a full and open public hearing in taking evidence and testimony to be used in determining its recommendations to the Airport Board of Adjustment.

6.2 Administrative Assistance

The Airport Zoning Director and the Authority Planning Director will provide such technical, administrative, and clerical assistance as is required by the Airport Board of Adjustment to carry out its function under these regulations.

6.3 Powers and Duties

The Airport Board of Adjustment will have the following powers and duties:

- A. Appeals. To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Director in the application or enforcement of these Regulations.
- B. Abandoned or Deteriorated Uses. To hear and decide petitions to declare an existing nonconforming use abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed.

6.4 Appeals

Any applicant, land owner, or other lawful participant in such proceeding, who is affected by any decision of the Airport Zoning Director made in the administration of these regulations, or any governing body of a political subdivision, which is of the opinion that a decision of the Airport Zoning Director is an improper application of these Regulations, may appeal to the Airport Board of Adjustment. Such appeals must be filed no later than ten (10) calendar days after the date of notification of the decision appealed from by

filing with the Airport Zoning Director a notice of appeal specifying the grounds therefor. The Airport Zoning Director will transmit to the Airport Board of Adjustment copies of the record of the action appealed. An appeal stays all proceedings in furtherance of the action appealed from, unless the Airport Zoning Director certifies to the Airport Board of Adjustment after the notice of appeal has been filed that, by reason of facts stated in the certificate, a stay would result in imminent peril to life and property. In such case, proceedings will not be stayed other than by order by the Airport Board of Adjustment or by a court of competent jurisdiction, or notice to the Airport Zoning Director, and on due cause shown.

6.5 Abandoned or Deteriorated Uses

Upon petition by the Airport Zoning Director, or upon its own motion, the Airport Board of Adjustment may review any existing nonconforming use to determine if it is abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated or decayed. Upon declaring an existing nonconforming use abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, the Airport Board of Adjustment will proceed in accordance with the provisions set forth in section 4.4 of these regulations.

6.6 Forms

Appeals and petitions will be made on forms provided by the City of Belle Isle therefor, and all information required on said forms must be provided by the appellant or petitioner. Forms will be filed with the Airport Zoning Director, and the appellant or petitioner must pay for expenses incidental to the appeal or petition. No form will be accepted unless it contains all pertinent information and is accompanied by any required fee.

6.7 Calendar of Appeals

Appeals and petitions filed in proper form will be numbered serially, docketed and placed upon the calendar of the Airport Board of Adjustment. The calendar of appeals or petitions to be heard will be

posted conspicuously on the City of Belle Isle's notice board at 1600 Nela Avenue, Belle Isle, Florida, 32809, fifteen (15) calendar days before such hearing date.

6.8 Judicial Review

Judicial review of any decision of the Airport Board of Adjustment will be in the manner provided by Section 333.11, Florida Statutes.

SECTION 7 AMENDMENT

These regulations, including the Airport Height Zoning Map, may be amended by the City of Belle Isle on its own motion, so long as said amendment is in conformance with the Interlocal Agreement and Chapter 333, Florida Statutes. Before adopting an amendment to these regulations, the City of Belle Isle will give public notice and hold a public hearing as provided by Section 333.05, Florida Statutes.

SECTION 8 CONFLICT WITH OTHER LAWS OR REGULATIONS

In the event of conflict between these regulations and any other laws and regulations applicable to the same area, whether the conflict be with respect to the height of the structures or objects of natural growth, the use of land or any other matter, and whether such laws or regulations were adopted by the City of Belle Isle or by some other political subdivision, the more stringent limitation or requirement will govern and prevail.

SECTION 9

SEVERABILITY

If any section, clause, provision or portion of these regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding will not affect any other section, clause or portion of these regulations which is not itself declared by a court of competent jurisdiction to be invalid or unconstitutional.

SECTION 10

REPEAL OF CONFLICTING PROVISIONS

All previous ordinances, resolutions or motions of the City of Belle Isle which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except as provided herein.

SECTION 11

AMENDMENT OF LAWS

All laws, ordinances, rules, regulations, advisory circulars or orders referenced in these regulations will include any applicable amendments thereto.

SECTION 12

EFFECTIVE DATE

These Airport Zoning Regulations will take effect and be enforced from and after this **19th** day of **September, 2017**.

First Reading held this 5th day of September, 2017

Second Reading held this 19th day of September, 2017

Advertised for Second Reading on the 9th day of September, 2017.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Jeremy Weinsier	_____	_____	_____
Bobby Lance	_____	_____	_____
Harvey Readey	_____	_____	_____
Lenny Mosse	_____	_____	_____
Sue Nielsen	_____	_____	_____

ATTEST: _____

Yolanda Quiceno, CMC-City Clerk

LYDIA PISANO, MAYOR

Approved as to form and legality City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 17-10 was duly and legally passed by the Belle Isle City Council, in session assembled on the _____ day of _____, 2017, at which session a quorum of its members were present.

Yolanda Quiceno, CMC-City Clerk

EXHIBIT "A" - The "Airports"



