

**Village of Royal Palm Beach  
Village Council  
Agenda Item Summary**

**Agenda Item:**

**PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 980, AMENDING CHAPTER 26. ZONING. AT ARTICLE IV. SUPPLEMENTAL REGULATIONS. BY ADDING AN ENTIRELY NEW SEC. 26-75.6 AIRPORT OBSTRUCTIONS AND INCOMPATIBLE LAND USES WITHIN THE VILLAGE. IN ORDER TO IMPOSE REQUIREMENTS ON SUCH OBSTRUCTIONS AND LAND USES IN ACCORDANCE WITH CHAPTER 333, FLORIDA STATUTES. BY VILLAGE ATTORNEY KEITH W. DAVIS, ESQ.**

**Issue:**

Chapter 333, Florida Statutes, requires all local governments having an airport hazard area within its territorial limits to adopt, administer, and enforce airport protection zoning regulations for such airport hazard area. The Palm Beach County Department of Airports has identified airport hazard areas for Palm Beach International Airport as being located within the municipal limits of the Village of Royal Palm Beach ("Village"). The Village and Palm Beach County have agreed to and have entered into an Interlocal Agreement, pursuant to Chapters 163 and 333, Florida Statutes, for coordinated enforcement of airport protection zoning regulations.

Village Staff desires to update its Zoning Code to incorporate portions of Palm Beach County's Airport Zoning Ordinance by reference to ensure consistent enforcement of regulations and to meet the requirements of Chapter 333, Florida Statutes. Village Staff is proposing to amend Chapter 26. Zoning. at Article IV. Supplemental Regulations. to add an entirely new Sec. 26-75.6. Airport obstructions and incompatible land uses within the village. to impose requirements on such obstructions and land uses in accordance with Chapter 333, Florida Statutes. Specifically, Sec. 26-75.6:

- Sets forth the purpose of the regulations which is generally to regulate permitted construction to promote maximum aircraft safety and Village-resident safety;
- Adopts Palm Beach County's ordinance by reference; and
- Creates Village-specific requirements and administration relative to the development application and approval process and permitting.

**Recommended Action:**

Staff recommends Approval of Ordinance No. 980 on Second Reading.

Initiator:	Village Manager	Agenda Date	Village Council
Village Attorney	Approval	3-17-2022	Action

**ORDINANCE NO. 980**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 26. ZONING. OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROYAL PALM BEACH AT ARTICLE IV. SUPPLEMENTAL REGULATIONS. BY ADDING AN ENTIRELY NEW SEC. 26-75.6. AIRPORT OBSTRUCTIONS AND INCOMPATIBLE LAND USES WITHIN THE VILLAGE. IN ORDER TO IMPOSE REQUIREMENTS ON SUCH OBSTRUCTIONS AND LAND USES IN ACCORDANCE WITH CHAPTER 333, FLORIDA STATUTES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 26. ZONING. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village of Royal Palm Beach, Florida (the “Village”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Chapter 333, Florida Statutes, requires all local governments having an airport hazard area within its territorial limits to adopt, administer, and enforce airport protection zoning regulations for such airport hazard area; and

WHEREAS, the Palm Beach County Department of Airports has identified airport hazard areas for Palm Beach International Airport as being located within the municipal limits of the Village; and

WHEREAS, the Village and Palm Beach County have agreed to enter into an Interlocal Agreement, pursuant to Chapters 163 and 333, Florida Statutes, for coordinated enforcement of airport protection zoning regulations; and

WHEREAS, the Village Council further desires to update its zoning by incorporating portions of Palm Beach County’s Airport Zoning Ordinance by reference to ensure consistent enforcement of regulations and to meet the requirements of Chapter 333, Florida Statutes; and

WHEREAS, the Village of Royal Palm Beach has held all required public hearings and has provided public notice in accordance with applicable State statutes and Village ordinances; and

WHEREAS, the Village Council of the Village of Royal Palm Beach has determined that the proposed revisions to Chapter 26. are in the best interests of the general welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

**Section 1:** Chapter 26. Zoning. of the Code of Ordinances of the Village of Royal Palm

Beach is hereby amended at Article IV. Supplemental Regulations. by adding an entirely new Sec. 26-75.6. Airport obstructions and incompatible land uses within the village. in order to impose requirements on such obstructions and land uses in accordance with Chapter 333, Florida Statutes; providing that new Sec. 26-75.6. shall hereafter read as follows:

**Sec. 26-75.6. – Airport obstructions and incompatible land uses within the village.**

(a) Purpose. These provisions are intended to regulate permitted construction to promote maximum safety of aircraft arriving and departing from the publicly-owned airports within proximity to the village; to promote the maximum safety of residents and property in areas surrounding the county's airports; to promote the full utility of the county's airports; to provide structure height standards for airport hazards and uses within airport primary, horizontal, conical, approach and transitional surfaces so as to encourage and promote compatible development of land beneath said areas; and to provide administrative procedures for the efficient and uniform regulation of all development proposals within said zones.

(b) County ordinance adopted by reference; definition of terms.

(1) Except as provided in this subdivision, and in addition to any other requirements of village code, the Palm Beach County "Airport Zoning Ordinance" contained in its Unified Land Development Code at article 16, Airport Regulations, as adopted by Ordinance No. 2017-025 and amended by Ordinance No. 2019-005, and as further amended from time to time, is hereby incorporated by reference.

(2) For the purposes of this subdivision, the terms defined in the county airport zoning ordinance shall have the meaning given therein, except the following terms shall have the meaning given in this subdivision:

DOA means the Palm Beach County Department of Airports.

FDOT means the Florida Department of Transportation.

ULDC means the Palm Beach County Unified Land Development Code.

(c) Village requirements and administration.

(1) The village and the county have entered into an interlocal agreement, pursuant to F.S. chs. 163 and 333 for coordinated administration and enforcement of airport zoning regulations to prevent encroachment into airport operational areas or airspace surfaces.

(2) All new construction, reconstruction or land alteration that adds height to any obstruction within areas shown on the "Airspace Notification Map", appendix 1 of the county ULDC, shall be reviewed for compliance with the standards of the county airport zoning ordinance. Airspace Height Review Procedures outlined in

ULDC article 16.B.1.H are replaced with standard village development review and approval processes, and permitting requirements.

- a. No permit for obstruction will be issued if all FAA, county DOA, and FDOT comments are not addressed to the satisfaction of the village engineer. No development permit application shall be issued if the proposed construction or alteration exceeds an obstruction standard of the Federal Aviation Regulations, Part 77, or other applicable federal or state rules or regulations.
  - b. An application for the construction, reconstruction or alteration of any obstruction must be reviewed in accordance with the site plan review procedures contained in the village code prior to issuance of a building permit for a permanent or temporary obstruction located within area regulation by this subdivision, and shall require the FAA finding of aeronautical affect. The village engineer, with input from the county DOA and FDOT, may recommend approval of a development application with or without conditions of approval, including obstruction lighting and marking conditions, or recommend issuance or denial of a building permit. Denial of a proposed obstruction shall state the reasons for denial and inform the applicant that they may appeal the decision pursuant to paragraph (6) below.
- (3) No use may be made of land or water within a runway protection zone (RPZ) in such manner as to interfere with the operation of an airborne aircraft. Review procedures outlined in ULDC article 16.C.1 are replaced with standard village development review and approval processes, and permitting requirements. The off-airport land use compatibility schedule, appendix 8 of the county ULDC, shall be used to determine additional land development requirements for permitted or special exception uses identified in chapter 26 of village code. All areas defined as an RPZ or airport land use noise zone (ALUNZ) or "zone 3" are subject to review and technical analysis by the village and county DOA, in accordance with the regulations for RPZ, ALUNZ, zone 3, and village code. Prior to approval of a site plan, special exception use, or building permit, the village engineer and county DOA shall review the application for compliance with RPZ, ALUNZ and zone 3 standards.
  - (4) The village engineer shall administer the review of development applications and building permits for compliance with the county airport zoning regulations within the municipal limits, in consultation with county DOA and FDOT, as applicable, and pursuant to the procedures outlined in the interlocal agreement.
  - (5) Failure to comply with the requirements of this section or any permit or approval granted or authorized hereunder shall constitute a violation of this code. The village may issue a cease and desist order, suspend or revoke a permit or other approval, withhold a certificate of occupancy, bring a code enforcement action against the violator in accordance with Chapter 162, F.S., and Chapter 2 of the village code, or pursue any other remedy available at law or in equity including, but not limited to, injunctive relief in order to fully enforce the provisions of this section.
  - (6) Appeals. Any person, firm, corporation or entity claiming to be injured or aggrieved by action of the village engineer under this section may appeal such action to the planning and zoning commission. Appeals must be submitted in

writing to the village clerk within ten (10) days of the village engineer's decision. The planning and zoning commission will then convene a hearing in order to make a final determination. Per F.S. ch. 333, an appeal of the planning and zoning commission's final determination may be made to the Circuit Court of Palm Beach County by petition for writ of certiorari, as provided for under the Florida Rules of Appellate Procedure. Such petition shall be presented to the court within thirty (30) days after the date of such final action by the planning and zoning commission. The village may assess a reasonable fee for the preparation of the record to be paid by the petitioner in accordance with Sec. 119.07, F.S., as amended from time to time.

- (7) Uses and structures nonconforming to the county airport zoning ordinance shall be administered in accordance with chapter 26 of village code.
- (8) Variances may not be granted from the county airport zoning ordinance, pursuant to F.S. ch. 333.

**Section 2:** Each and every other Section and Sub-section of Chapter 26. Zoning. shall remain in full force and effect as previously enacted.

**Section 3:** All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

**Section 4:** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**Section 5:** Specific authority is hereby granted to codify this Ordinance.

**Section 6:** This Ordinance shall take effect immediately upon passage.

FIRST READING this 17<sup>th</sup> day of February, 2022.

SECOND AND FINAL READING this 17<sup>th</sup> day of March, 2022.

VILLAGE OF ROYAL PALM BEACH

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MAYOR FRED PINTO

ATTEST:

(Seal)

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DIANE DISANTO, VILLAGE CLERK