

## **ORDINANCE NO. 485**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES BY AMENDING CHAPTER 58, ZONING, BY REPEALING THE PROVISIONS OF DIVISION 9, AIRPORT REGULATIONS, AND ADDING IN ITS PLACE AND STEAD NEW REGULATIONS PURSUANT TO CHAPTER 333, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CORRECTION OF SCRIVENERS' ERRORS; PROVIDING FOR AN EFFECTIVE DATE AND OTHER PURPOSES.**

**WHEREAS**, the Town of Haverhill, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to zoning regulations; and

**WHEREAS**, Chapter 333, Fla. Stat., 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(s); 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 Town of Haverhill; and

**WHEREAS**, the Town of Haverhill intends to enter into an Interlocal Agreement with Palm Beach County, pursuant to Chapters 163 and 333, Fla. Stat., for coordinated enforcement of regulations; and

**WHEREAS**, this proposed ordinance modifies the Town Code by incorporating portions of Palm Beach County's Airport Zoning Ordinance by reference to ensure consistent enforcement of regulations; and

**WHEREAS**, all requirements of the applicable state statutes and Town Charter with regards to the preparation and adoption of this amendment have been met; and

**WHEREAS**, the notice and hearing requirements of the Town Code and Florida law have been satisfied; and

**WHEREAS**, the Town Council has considered the evidence and testimony presented by the Town Staff, and other interested parties; and

**WHEREAS**, this amendment is consistent with the requirements of the Comprehensive Plan, as amended, and with the Zoning Code; and

**WHEREAS**, this amendment promotes the public health, safety and welfare of the residents of the Town and is in the best interest of the Town:

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

**Section 1. Recitals.** The “WHEREAS” clauses are incorporated herein as true and correct and as the legislative findings of the Town Council.

**Section 2. Amendment to Chapter 58, Zoning:** That the Code of Ordinances of the Town of Haverhill, Florida, is hereby amended by amending Chapter 58, Zoning, as follows:

**See Exhibit A to Ordinance No. 485 attached hereto and incorporated herein by reference.**

**Section 3. Codification.** The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida*; provided, however, that Sections 3, 4, 5, 6 and 7 of this Ordinance shall not be codified. For purposes of codification of any existing section of the Haverhill Town Code herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**Section 4. Severability.** 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 portions thereof.

**Section 5. Repeal of laws in conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6. Modification.** Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "Section", "Article", or any other appropriate word. In addition, typographical and/or scriveners' errors, which do not affect the intent of this Ordinance, may be corrected by the Town Administrator, or his or her designee, without the necessity of public hearing, or Town Council approval, by filing the corrected or re-codified copy of the same with the Town Clerk.

**Section 7. Effective Date.** This Ordinance shall take effect immediately upon adoption.

**PASSED AND APPROVED ON FIRST READING** this 24<sup>th</sup> day of June, 2021.

**THE SECOND AND FINAL READING** was held this 22<sup>nd</sup> day of July, 2021. Council member Johnson offered the foregoing Ordinance and moved its adoption. The Motion was seconded by Council member Withington, and upon being put to a vote, the vote was as follows:

**JAY G. FOY, Mayor**

**LAWRENCE GORDON, Vice Mayor**

**DENNIS WITHINGTON, Council Member**

**RAYMOND CARANCI, Council Member**

**DR. TERESA JOHNSON, Council Member**

Aye  
Aye  
Aye  
Absent  
Aye

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

**Attest:**

**TOWN OF HAVERHILL, FLORIDA**

Janice C. Rutan, Town Admin.

Jay G. Foy, Mayor

## TOWN OF HAVERHILL

Exhibit "A" to Ordinance No. 485

### **REPEAL OF EXISTING AIRPORT REGULATIONS:**

Section 58-461, Definitions, Section 58-462 Overlay Zones and Limitations, and Section 58-463, Administration processes, of Division 9, Airport Regulations, of Article IX, Supplemental District Regulations, of Chapter 58, Zoning, is hereby repealed and in its place and stead, the following is added:

#### **Sec. 58-461. – 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 Town; to promote the maximum safety of residents and property in areas surrounding Palm Beach County's airports; to promote the full utility of Palm Beach 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.

#### **Sec 58-462. - . County Ordinance Adopted by Reference; Definition of Terms**

(a) Except as provided in this subdivision, and in addition to any other requirements of this Code, the Palm Beach County "Airport Zoning Ordinance" contained in their Unified Land Development Code at Article 16, Airport Regulations, is hereby incorporated by reference.

(b) 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.

## **Sec 58-463. – Town Requirements and Administration**

(a) The Town plans to enter into an Interlocal Agreement with Palm Beach County, pursuant to Chapters 163 and 333, Florida Statutes, for coordinated administration and enforcement of airport zoning regulations to prevent encroachment into airport operational areas or airspace surfaces.

(b) All new construction, reconstruction or land alteration that adds height to any obstruction within areas shown on the "Airspace Notification Map" 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 Town development review and approval processes, and permitting requirements.

(1) No Permit for Obstruction will be issued if all FAA, County DOA, and FDOT comments are not addressed to the satisfaction of the Town Administrator. 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.

(2) An application for the construction, reconstruction or alteration of any obstruction within the municipal limits of the Town must be reviewed in accordance with the site plan review procedures contained in the Town 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 Town, with input from the County DOA, FAA 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 (f) below.

(c) 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 Town 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 Article 6 of the Town Code. All areas defined as an RPZ or Airport Land Use Noise Zone (ALUNZ) are subject to review and technical analysis by the Town and County DOA, in accordance with the regulations for RPZ and ALUNZ and Town Code. Prior to approval of a site plan, special exception authorization, or issuance of a building

permit, the Town and County DOA shall review the application for compliance with ALUNZ standards.

(d) The Town 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, FAA and FDOT, as applicable, and pursuant to the procedures outlined in the Interlocal Agreement to be entered into between the Town and Palm Beach County.

(e) Any violation or non-compliance of airport regulations on a property within the Town of Haverhill municipal limits shall be deemed a violation of Town Code and shall be subject to the Town's code compliance process as well as any other legal action available to the Town including, but not limited to, injunctive relief.

(f) Appeals. Any person aggrieved by the decision of the Town in the administration of this subdivision may appeal the decision pursuant to the procedures contained in Sec. 58-6(e).

(g) Uses and structures nonconforming to the County Airport Zoning Ordinance shall be administered in accordance with Town Code, Division 7, Nonconformities, of Article IX of Chapter 58.

(h) Variances may not be granted from the County Airport Zoning Ordinance, pursuant to Chapter 333, F.S.

(i) Any person seeking to develop property within the Town which shall be subject to these airport zoning regulations, shall pay an administrative fee to the Town in an amount as determined by the Town from time to time.