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ORDINANCE NO.: 2015 - 3

AN ORDINANCE AMENDING CHAPTER III OF THE HERNANDO COUNTY CODE; ESTABLISHING PROCEDURE PURSUANT TO WHICH APPLICATIONS TO BE OPERATORS AT THE BROOKSVILLE-TAMPA BAY REGIONAL AIRPORT WILL BE EVALUATED AND ACTED-UPON; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hernando County Board of County Commissioners approved restated Minimum Operating Standards for what was then known as the Hernando County Airport on May 13, 2004; and,

WHEREAS, the Board voted to rename the Hernando County Airport to the Brooksville-Tampa Bay Regional Airport on July 24, 2012; and,

WHEREAS, September 23, 2014, the Board of County Commissioners voted to delay the adoption of new Minimum Operating Standards and Rules & Regulations for the Brooksville-Tampa Bay Regional Airport; and,

WHEREAS, the Board abolished the Hernando County Aviation Authority on December 16, 2014; and,

WHEREAS, Hernando County and its consultant are still working on drafting up-to-date Minimum Operating Standards; and,

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1 WHEREAS, as a result of the foregoing, Hernando County’s procedures for evaluating
2 applications to be “operators” at the Brooksville-Tampa Bay Regional Airport are anachronistic; and,

3 WHEREAS, this ordinance provides a procedural mechanism pursuant to which Hernando
4 County may implement and augment the standards for operators that are contained in the
5 Brooksville-Tampa Bay Regional Airport's Minimum Operating Standards and its adopted Rules and
6 Regulations, however, this ordinance shall control over any conflicting provisions contained within
7 the above-referenced documents; and,

8 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
9 COMMISSIONERS OF HERNANDO COUNTY:

10 **Section 1.** A new Article IV of Chapter 3 of the Hernando County Code, to be titled
11 “Application and Review of Qualifications of Potential Operators,” is hereby created to read as
12 follows:

13 DEFINITIONS

14 The following words, as used herein, shall have the following meanings:

15 “County” shall refer to Hernando County, Florida.

16 “Operator” shall refer to any person involved in any commercial aeronautical activity or
17 providing any aeronautical service within the airport, or which contributes to, or is required for the
18 safe conduct and utility of aircraft operations, the purpose of such activity being to generate or secure
19 earnings, income, compensation, services, goods, like-kind exchange, or profit of any kind, whether
20 or not such results are accomplished.

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1 GENERAL REQUIREMENTS

- 2 A. Any person deemed qualified and selected as an operator under the terms of this Ordinance
3 shall, as a condition of operation, enter into a written lease or agreement defining permitted
4 activity, which is negotiated by the Airport Manager, or his or her designee, drafted or
5 approved by the County Attorney's Office, and approved by the Board of County
6 Commissioners.
- 7 B. Upon executing a written lease or agreement, and paying of the prescribed fees and rental
8 charges, an Operator shall have the right and privilege of conducting the operation specified
9 for so long as Operator complies with the terms and conditions of their written lease or
10 agreement, and this Ordinance, and relevant Federal and State laws, rules and regulations.
- 11 C. Nothing contained herein shall limit the right of any aircraft operator to use the Airport or
12 the right of an aircraft owner or employees of aircraft owner to maintain and repair aircraft
13 to the extent authorized by Federal or State laws, rules or regulations.
- 14 D. The granting of any right and privilege under this Ordinance, however shall not be construed
15 in any way as affording the Operator the exclusive right or privilege of use of the Airport,
16 other than the land or facilities which may be leased or reserved exclusively to them, and
17 then only to the extent provided in the written lease or agreement. The County reserves and
18 retains the right for the use of the Airport by others, pursuant to this Ordinance and
19 applicable Federal and State laws, rules and regulations. The County reserves the further
20 right to designate the specific Airport areas in which services may be conducted. Such

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1 designation shall give consideration to the nature and extent of the operation and the lands
2 and facilities available for such purpose, which must be consistent with the safe and efficient
3 operation and orderly development of Airport.

4 APPLICATION PROCESS

5 Any person or entity applying to be an operator at the Brooksville-Tampa Bay Regional Airport shall
6 make and file a written application for such operation and submit to a review of their qualifications
7 as hereinafter provided. The application shall:

- 8 1. Be fully, completely, accurately, legibly and truthfully completed.
- 9 2. Be on forms designated by the County, where and to the extent available.
- 10 3. Contain a business plan that, at a minimum, sets forth:
 - 11 a. All services that the applicant will offer; and,
 - 12 b. The amount of land that the applicant desires to lease, or if an existing tenant,
13 a detailed site plan demonstrating how the applicant intends to use the leased
14 property; and,
 - 15 c. A detailed description of any improvements or structures that the applicant
16 proposes to construct in conjunction with its proposed operation; and,
 - 17 d. The number of aircraft, if any, that the applicant proposes to use as part of its
18 proposed operation; and,
 - 19 e. The equipment and special tooling, if any, that the applicant proposes to use
20 as part of its proposed operation; and,

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- 1 f. The number of employees that the applicant proposes to use as part of its
2 proposed operation; and,
- 3 g. A short resume for each of the applicant's owners and/or financial backers:
4 and,
- 5 h. A short resume for the manager of the business, if different from sub-
6 category (g) above, including the manager's experience and background in
7 managing a business of this nature; and,
- 8 i. The proposed periods (days and hours) of operation; and,
- 9 j. Copy(ies) of the applicant's insurance company letter of intent of liability
10 coverage for the business operation, flight operations, itinerant aircraft and
11 operators and premises insurance; and,
- 12 k. Evidence supporting the projections for the proposed operation's first five
13 years of operation; and,
- 14 l. Evidence of sufficient capitalization to carry-out the proposed operations first
15 five years of operation, as set forth in response to sub-category (k) above.
- 16 m. The methods pursuant to which the applicant plans to use to attract new
17 business (advertising and incentives); and,
- 18 n. The amenities, if any, that the applicant intends to utilize to attract new
19 business.

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- 1 o. Plans for physical expansion, if the proposed operation warrants such an
2 expansion.
- 3 p. The applicant's current financial statement, together with financial projection
4 for the first five years of operation, as prepared or certified by a Certified
5 Public Accountant (CPA). An applicant may, in lieu of providing the
6 above-enumerated documents to the Airport, make its original books and
7 financial records available for review, inspection, copying, examination, or
8 audit by a CPA retained by the Airport for that purpose. If the applicant opts
9 to have its records reviewed, the applicant shall permit the Airport's
10 accountant to perform an inspection at the location where the applicant's
11 books and records are located. If the applicant elects to have the Airport
12 perform a records review, the applicant shall reimburse the Airport for all of
13 the costs that may be incurred. Those costs may include the accountant's
14 fees, reasonable air and ground transportation, mileage, food, lodging and
15 other miscellaneous costs associated with the review. After the review is
16 completed, the Airport shall bill the applicant for the costs incurred. The
17 failure of the applicant to pay said costs within thirty (30) days of being billed
18 shall result in the automatic rejection of the applicable application.
- 19 4. The name, address, telephone number and e-mail address of the applicant.
- 20 5. The organizational structure of the applicant, to wit:

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- 1 A. If the applicant is a corporation, include the names, addresses and telephone
2 numbers of the corporation's officers and managers and the names and
3 addresses of all shareholders having a five (5%) percent or greater ownership
4 interest in the corporation.
- 5 B. If the applicant is a limited liability company, include the names, addresses,
6 and telephone numbers of the members and managers of the limited liability
7 company (including, as applicable, what percentage each member and
8 manager has of the ownership interest in the limited liability company).
- 9 C. If the applicant is a general partnership, include the names, addresses and
10 telephone numbers of all the general partners.
- 11 D. If the applicant is a limited partnership, include the names, addresses, and
12 telephone numbers of the general partners and any limited partners of the
13 limited partnership who have an ownership interest in the limited partnership
14 which exceeds five (5%).
- 15 E. If the applicant is a trust, the name, addresses, and telephone numbers of the
16 trustees of the trust.
- 17 F. If the applicant is an individual, the name, address, and telephone number of
18 the individual applicant.
- 19 G. With regard to any other entity, such disclosure as the County deems
20 appropriate.

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- 1 H. Applicants shall also disclose if any officer, manager, partner or individual
2 holding a disclosed interest in the applicant is also an officer, manager,
3 partner or person holding a controlling interest in any activity presently
4 located or operating within the Airport.
- 5 6. A sample signature must be provided for all parties whose names will appear on any
6 lease, operating agreement, license, and/or permit.
- 7 7. A current credit report for each party owning or having ten (10%) percent or more
8 financial interest in the business and a credit report on the business itself covering all
9 geographical areas in which it has done business in the ten-year period immediately
10 prior to such application.
- 11 8. Copies of all licenses, certifications and permits processed by the applicant and its
12 key employees to be based at the leased premises that are necessary or required to
13 perform the proposed services.
- 14 9. An agreement to provide bond or suitable guarantee of adequate funds to the airport
15 to be used to defray any expenses and fees normally paid by the operator between the
16 estimated time the operator may default and a new lease is executed and another
17 operator takes over.
- 18 10. A written authorization for the FAA, any aviation or aeronautics commissions,
19 administrators and departments of all states in which the applicant has engaged in
20 aviation business to release information in their files relating to the applicant or its

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1 operation [the applicant will execute such forms, releases or releases as may be
2 required by those agencies].

3 11. Any other information the County may reasonably require to evaluate the
4 application.

5 COUNTY RIGHTS RESERVED

6 The County, in reviewing an application, reserves the right to:

7 1. Independently verify an applicant's representations, financial condition, and business
8 background.

9 2. Obtain a credit report on an applicant.

10 3. Require preliminary approval of any proposed financing.

11 4. Request additional information, data, and reports.

12 5. Decline to review an incomplete application.

13 6. Suspend or terminate review of an application at any time it does not have the full
14 cooperation of an applicant, including but not limited to, providing required or
15 requested information, and attendance of the applicant at meetings of the Board of
16 County Commissioners.

17 TIME FOR REVIEW OF APPLICATION

18 All Applications shall be submitted to the airport manager. The airport manager will review and
19 make a recommendation within ninety (90) days from the receipt of a fully completed application,
20 but time is not of the essence. If an application is not complete, the airport manager will send a letter

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1 to the applicant delineating all deficiencies within thirty (30) days. The Board of County
2 Commissioners, upon receipt of such an application, will act thereon as soon as practical.

3 STANDARD OF REVIEW

4 Basis for Approval. An application may be approved when in the best interest of Airport.

5 Basis for Denial. Applications may be denied for one or more of the following reasons:

- 6 1. The applicant cannot demonstrate that they can fully meet the qualifications,
7 standards and requirements established by the Airport's minimum operating
8 standards.
- 9 2. The applicant's proposed operation or construction would create a safety hazard on
10 the Airport.
- 11 3. The granting of the application will require the expenditure of local funds, labor or
12 materials on the facilities described in or related to the application, or the operation
13 will result in a financial loss to the airport.
- 14 4. There is no appropriate or adequate available space or building on the airport to
15 accommodate the entire activity of the applicant at the time of application.
- 16 5. The proposed operation, airport development or construction does not comply with
17 the Land Use Ordinance or Airport Layout Plan.
- 18 6. The development or use of the area requested will result in a congestion of aircraft
19 or buildings, or will result in unduly interfering with the operations of any present
20 FBO on the airport, such as problems in preventing free access and egress to the

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- 1 existing FBO area, or will result in depriving an existing FBO of portions of its
2 leased area in which it is operating.
- 3 7. Any party applying, or interested in the business, has supplied false information, or
4 has misrepresented any material fact in the application or in supporting documents,
5 or has failed to make full disclosure on the application.
- 6 8. Any party applying, or having an interest in the business, has a record of violating the
7 Rules and Regulations of any other airport, Civil Air Regulations, Federal Aviation
8 Regulations or any other rules and regulations applicable to this or any other airport.
- 9 9. Any party applying, or having an interest in the business, has defaulted in the
10 performance of any lease or other agreement with Hernando County or any lease or
11 other agreement at any other airport.
- 12 10. Any party applying, or having an interest in the business, is not sufficiently credit
13 worthy and responsible in the judgment of the County to provide and maintain the
14 business to which the application relates.
- 15 11. The applicant does not have the financial capitalization necessary to conduct the
16 proposed operation.
- 17 12. The Applicant has failed to make full disclosure in the application or supporting
18 documents or has made a false or misleading disclosure.
- 19 13. The applicant has committed a crime or violated a local ordinance, rule or regulation,
20 which adversely reflects on its ability to conduct the operation for which the

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- 1 applicant applied.
- 2 14. The proposed activity or activities would create an unfair advantage to the
- 3 prospective tenant and/or financial hardship to existing airport tenants that are in
- 4 good standing with the County.
- 5 15. The applicant does not have the technical capabilities or experience or financial
- 6 resources to properly conduct the proposed activities.
- 7 16. The applicant has failed to pay taxes or is otherwise subject to a tax deficiency.

8 OTHER REQUIREMENTS

9 An applicant whose application was approved by the Board of County Commissioners may not

10 commence construction of improvements or operations at the Airport until:

- 11 1. A lease, contract, license, or permit has been approved by the Board of County
- 12 Commissioners and has been fully executed by the applicable parties; and,
- 13 2. The applicant has procured the required insurance coverages and filed a certificate
- 14 of insurance, naming the Board of County Commissioners as an additional insured,
- 15 with the County's Risk Management Department; and,
- 16 3. The applicant has posted any required bonds and assurances; and,
- 17 4. The Applicant has obtained any required land use, occupancy and building permits,
- 18 and any other required governmental permits and approvals.

19 **Section 2. Severability.**

20 It is declared to be the intent of the Board of County Commissioners that if any section,

BK: 3183 PG: 1055

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1 subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held
2 unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining
3 portions of this ordinance.

4 **Section 3. Inclusion in the Code.**

5 It is the intention of the Board of County Commissioners of Hernando County, Florida, and
6 it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the
7 Code of Ordinances of Hernando County, Florida. To this end, the section of this Ordinance may be
8 renumbered or relettered to accomplish such intention, and that the word "ordinance" may be
9 changed to "section, "article," or other appropriate designation.

10 **Section 4. Conflicting Provisions Repealed.**

11 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are
12 hereby repealed.

13 **Section 5. Effective Date.**

14 This ordinance shall take effect immediately upon receipt of official acknowledgment from
15 the office of the Secretary of State of Florida that this ordinance has been filed with said office.

BK: 3183 PG: 1056

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1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 HERNANDO COUNTY in Regular Session this 24th day of FEBRUARY 2015



3 BOARD OF COUNTY COMMISSIONERS
4 HERNANDO COUNTY, FLORIDA

5
6
7 Attest: [Signature]
8 DONALD C. BARRIEE, JR.
9 Clerk

By: [Signature]
NICHOLAS W. NICHOLSON
Chairman

10
11 Approved for Form and Legal Sufficiency

12
13
14
15 [Signature]
16 Deputy County Attorney