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Memorandum

To: Members of the JLUS Implementation Policy and Technical Committees
cc: Marc Finlayson, ACT Project Manager
From: Tyson Smith, AICP, Team Project Manager
Date: August 27, 2019
Re: Military Influence Overlays and Memorandum of Understanding – Draft Deliverables

Please find attached a packet of materials that includes:

1. The Military Planning & Coordination Agreement (or “MOU”);
2. The “Sample,” generally-applicable, Military Influence Overlay (MIOD) Template; and
3. Jurisdiction-Specific Military Influence Overlays, for all participating jurisdictions

These have been prepared in accordance with the Recommendations Framework the Committee received in May and which we discussed at our June 11, 2019 meeting. Comments received at the meeting and since then are reflected in these drafts. Overviews of these documents start on page 2 of this Memorandum.

Please note, we have 6 major military installations or facilities, 20 local governments, areas that are zoned, and areas that are not zoned. However, once the materials have been reviewed, the program is fairly straight forward and consistent with conventional base- and overlay-zoning programs in your jurisdictions already.

Please review your jurisdiction’s Military Influence Overlay and the Military Planning & Coordination Agreement prior to our meeting on September 9th (at noon, Havelock City Hall, *lunch served*). This will be our last meeting prior to the final presentation of materials. We recommend that you “scenario test” the requirements applicable in your jurisdiction, including:

1. “Potentially Incompatible Developments” (defined in the documents) anywhere in the jurisdiction;
2. Land use deemed incompatible in an APZ, Clear Zone, or Noise Zone (if applicable); and
3. Coordination with MCAS per both the MIOD and MOU.

If you have any questions prior to the meeting, please let me know and we’ll get on the phone one-on-one to discuss. We are happy to assist you as you incorporate these provisions into your existing codes.

Military Planning & Coordination Agreement

This “Memorandum of Understanding” includes all the jurisdictions, MCAS Cherry Point, Allies for Cherry Point’s Tomorrow (ACT), and both general aviation airports. The “MPCA” formalizes procedures in the zoning overlays and “fills the gaps” in areas of the counties that don’t have zoning. The draft MPCA is footnoted heavily, at this point, to facilitate understanding and discussions at our next meeting. Most of these will be removed when the document is finalized.

A “Sample” Military Influence Overlay

This is a template that includes all military and civilian impacts found throughout the four-county study area. This comprehensive, big-picture view is intended to give a frame of reference, but does not apply to any particular jurisdiction. In essence, this Sample was the guiding document from which created each jurisdiction’s tailored ordinance. This document also is heavily footnoted in draft form. The source documents for our mapping and other compatibility criteria are described below.

Jurisdiction-Specific Military Influence Overlays.

From the Sample, we tailored an individual Military Influence Overlay for each of the twenty (20) local government jurisdiction participating in the Study. Each is attached here and designated by jurisdiction. You can search and review your jurisdiction’s MIOD, as well as review others. The draft MIODs also contain footnotes for now, which will be removed when the document is finalized.

Although Jones County, Pamlico County, and areas within the other counties are not zoned or regulated (or are not subject to municipal extraterritorial jurisdiction zoning), a draft ordinance has been prepared in the event these areas are considered for zoning in the future.

To the extent a jurisdiction currently regulates military-related land uses currently, the sample Military Influence Overlay represents a baseline for repealing, supplementing, or revising existing regulation. Havelock already has an overlay so an overlay for Havelock was not part of the Scope of Work.

To give perspective on the entire Study Area, consider the categories of regulation that apply to the jurisdictions. Not all “military influences” affect every jurisdiction (e.g., accident potential or noise zones). However, Cherry Point will review all “potentially incompatible developments” (PIDs) on a case-by-case basis within and throughout all jurisdictions.

As far as overall military influences, the jurisdictions fall into several categories of regulations, as follows.

Accident Potential, Noise, and Imaginary Surfaces Areas of Special Concern (50' and below)

These jurisdictions have overlays for Accident Potential Zones, Noise Zones, Areas of Special Concern that are very close to an installation.

- a) Craven County
- b) Jones County (currently unzoned)
- c) Carteret County

Accident Potential and Noise Zones

- a) Bogue
- b) Cape Carteret
- c) Emerald Isle

Noise Zones

- a) Pamlico County (currently unzoned)
- b) Minnesott Beach

No Influence Overlays

Though “potential incompatible developments” and other regional and state coordination requirements still apply

- a) Atlantic Beach
- b) Beaufort
- c) Bridgeton
- d) Cedar Point
- e) Morehead City
- f) New Bern
- g) Newport
- h) Oriental
- i) Pine Knoll Shores
- j) Peletier
- k) Pollocksville
- l) Trent Woods

Data Sources

1. APZ and noise data are all from the 2001 AICUZ for MCAS Cherry Point, with the GIS data provided to us by Carteret County, except for the data for Oak Grove, which was derived from the 2011 Oak Grove AICUZ.
2. Imaginary surfaces were developed by Benchmark using the standards for each runway type as communicated to us by MCAS Cherry Point aviation staff and based on the standards for imaginary surfaces as set forth in the February 2019 edition of the Unified Facilities Criteria for Airport and Heliport Planning and Design (UFC 3-260-01O).
3. The 5-mile notification area boundaries were developed by Benchmark based on a military installation boundary data set provided to us by Carteret County.
4. Restricted airspace, terrain flight buffers, and rotary wing corridors were all provided to us by Carteret County.

Military Planning & Coordination Agreement¹

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¹ Also referred to as the “JLUS Memorandum of Understanding” or “MOU.”

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This Military Planning & Coordination Agreement (the “Agreement”) is entered into by and between Marine Corps Air Station Cherry Point, Allies for Cherry Point’s Tomorrow (ACT), Coastal Carolina Regional Airport, Michael J. Smith Airport, Carteret County, Craven County, Pamlico County, Jones County, Atlantic Beach, Beaufort, Bogue, Cape Carteret, Cedar Point, Emerald Isle, Morehead City, Newport, Peletier, Pine Knoll Shores, Bridgeton, Havelock, New Bern, Trent Woods, Pollocksville, Minnesott Beach, and Oriental.

WHEREAS, Marine Corps Air Station Cherry Point (“MCAS Cherry Point”), the Local Governments, and the community have historically cooperated to ensure the sustainability of the ongoing mission of MCAS Cherry Point and its local installations and the preservation of quality of life for citizens and businesses in the region; and

WHEREAS, the ongoing presence and operation of MCAS Cherry Point is critical to the nation’s defense, the protection and well-being of the citizens of North Carolina, and to the common good of this community; and

WHEREAS, the Cherry Point Regional Joint Land Use Study (2016) recognized the importance of the ongoing input of community members affected by military land uses; and

WHEREAS, the Parties to this Agreement wish to establish a consistent regulatory and coordination framework among the jurisdictions around MCAS Cherry Point; and

WHEREAS, Recommendation 3.6 of the 2016 JLUS recommended a “memorandum of agreement” to establish a process to ensure timely and consistent notification and cooperation between parties; and

WHEREAS, Recommendation 3.6 of the 2016 JLUS recommended reestablishing the “MCAS Regional JLUS Technical Advisory Committee” as the “Allies for Cherry Point’s Tomorrow Planning Committee” (the “ACT Planning Committee”); and

WHEREAS, the Parties wish to adopt a Military Coordination & Planning Agreement in order to fulfill these recommendations from the 2016 JLUS and to further formalize the procedures guiding coordination among them; and

NOW THEREFORE, the Parties voluntarily agree to participate in this Agreement for the purpose of formalizing the procedures guiding public outreach and coordination efforts related to military planning and training impacts within the jurisdictions of the Local Governments named herein as Parties.

1.0 Generally

1.1. Designated Coordinating Officials for the Parties

Attachment A to this Agreement identifies the designated Coordinating Officials for each jurisdiction that is an original Party to this Agreement and members of the ACT Planning Committee. As Coordinating Officials and contact information change over the duration of this Agreement, the ACT Planning Committee Chair will maintain a list of names and contact information for Parties to this Agreement.

1.2. Applicability of Local Laws & Ordinances

This Agreement has been developed in coordination with, and to work in conjunction with, a series of Military Influence Ordinances adopted or pending adoption by some or all Local Governments at the time of its execution. In addition, several Local Governments have or will adopt other military-related ordinances or laws in efforts to protect the training and operational mission of MCAS Cherry Point in this region. The terms of this Agreement apply to proposed developments and coordination activities as provided herein, in addition to and not instead of, any military-related ordinances or laws adopted by a Local Government Party to this Agreement.

1.3. Commitment of the Parties

This Agreement represents the Parties' commitment to maintain a dialogue and a specific coordination effort regarding civilian and military land uses in the jurisdictions of the Parties. Though not legally binding in a court of law, the Parties have entered into the Agreement after discussion and recommendations from the JLUS Policy and Technical Advisory Committees and each Party intends to pursue its commitments under this Agreement in good faith.

2.0 Definitions

INCREASED MILITARY IMPACTS: Sound, vibration, noise, traffic, or other off-base impacts that are greater than those typically experienced by the community, and which may result from training operations and activities at a Major Military Installation over and above those that existed as of the Effective Date of this Agreement. "Increased Military Impacts" may result from, among other things, significant increases or changes in personnel or training operations, permanent changes in on-base aircraft, new squadrons, and military or other events held on-base.

LAND USE ACTION: A Local Government approval or application that requires coordination and an opportunity for comment by the MCAS Cherry Point base commander. Land Use Actions include:

1. Potential Incompatible Developments; and
2. If within 5 miles of a Major Military Installation, modifications to local zoning maps and changes that affect the permitted uses for a property, as required by N.C.G.S. § 160D-6-1(b), including changes to zoning and subdivision ordinances and comprehensive plans.

LOCAL GOVERNMENT COORDINATING OFFICIAL: The official designated by a Local Government Party to serve as the liaison to the MCAS Cherry Point Coordinating Official.

MAJOR MILITARY INSTALLATION: MCAS Cherry Point, Bogue ALF, Oak Grove OLF, Atlantic OLF, BT-9 Brant Shoal, and BT-11 Piney Island.²

² Based on the definition of "major military installation," during the Study, MCAS Cherry Point indicated it had "oversight and control" over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.*

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Local Government Coordinating Officials for the purposes of coordination under the provisions of this Agreement and local government ordinances. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Land Use Actions and as otherwise required by this Agreement, local ordinances, or state law.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed within the jurisdiction of a Local Government Party to this Agreement:

1. Land uses or structures proposed on lands situated under the MCAS Cherry Point, Bogue ALF, Oak Grove OLF, or Atlantic OLF imaginary surfaces, at less than the 50' contour, as shown in Attachment D to this Agreement;
2. Buildings or structures of 50' in height or greater; and
3. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;³
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure a Local Government Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations at a Major Military Installation.

WIND ENERGY FACILITY⁴: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

³ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited in all jurisdictions, as the MIOs are currently drafted.

⁴ This definition is taken the City of Havelock's Unified Development Ordinance (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

3.0 Coordination Between MCAS Cherry Point & Local Governments Exercising Land Use Controls⁵

3.1. Generally

1. In order to advance the Parties' mutual interest in protecting and enhancing compatibility between military and civilian land uses in the region, Local Government Parties and MCAS Cherry Point will continue to coordinate when a Land Use Action is proposed within the jurisdiction of a Local Government Party.
2. Such coordination is provided by Local Government ordinance and state law, and the provisions of this Agreement are intended to create a formalized and consistent means of coordinating between MCAS Cherry Point and its surrounding Local Governments.
3. To the extent there is a conflict between the terms of the Agreement and state law, state law governs.

3.2. Applicability

Local Government Parties will provide notice and an opportunity to comment to MCAS Cherry Point when a Land Use Action requires coordination between the Parties by this Agreement, local ordinance, or state law.

3.3. When Provided

Notice required by this section will be provided by the Local Government not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the public hearing on the proposed Land Use Action. If no public hearing is required by the Local Government, notification shall occur before a recommendation, action, or decision is made regarding the proposed Land Use Action.

3.4. To Whom

Notice will be provided to the Cherry Point MCAS base commander, as provided below.

3.5. Form of Notice

1. **Notice by email.** Except as provided under paragraph 2., notice by the Local Government Coordinating Official shall be by email to the MCAS Cherry Point base commander and the MCAS Cherry Point Coordinating Official.
2. **Notice by certified mail.** If the Land Use Action involves modifications to local zoning maps or changes that affect the permitted uses for a property within 5 miles of a Major Military Installation, notice by the Local Government Coordinating Official shall be by certified mail, return receipt requested, to the MCAS Cherry Point base

⁵ This section of the Agreement applies to any areas of a jurisdiction, which are zoned or otherwise subject to land use or police power regulations under state law. Jones County and the areas within the other counties that are not zoned or regulated (or subject to municipal extraterritorial jurisdiction zoning) will coordinate through the non-regulatory provisions in Section 4.0 of the Agreement.

commander, as required by N.C.G.S. 160D-6-1(b). The Local Government Coordinating Official will also provide email notice to the base commander and the MCAS Cherry Point Coordinating Official of the certified notice.

3.6. Contents of Notice

The notice will include:

1. the type of Land Use Action proposed;
2. the specific property location and parcel number;
3. a general description of the proposed land use action;
4. an area map showing the location of the proposed action;
5. the date on which the Local Government Party will hold a hearing, take action, make a recommendation, or make a decision on the proposed land use action; and
6. a request of the MCAS Cherry Point base commander for written recommendations and supporting facts relating to the compatibility of the Land Use Action with military operations and other local and state requirements.

3.7. Review Procedure

1. Upon receipt of notice from the Local Government Coordinating Official, by mail and/or email, as provided in Subsection 3.5:
 - (a) the MCAS Cherry Point Coordinating Official will confirm via email receipt of the notice from the Local Government Coordinating Official;
 - (b) the MCAS Cherry Point Coordinating Official will immediately coordinate with the base commander and other MCAS personal to evaluate the compatibility of the proposed Land Use Action with military operations at MCAS Cherry Point or other Major Military Installation, based on federal, local, or state requirements and guidelines;
 - (c) prior to the local government public hearing, recommendation, decision, or other action, the commander will determine whether:
 - (i) a Potential Incompatible Development creates an airport obstruction or interference, as provided by local ordinance; or
 - (ii) a zoning map or permitted use modification under N.C.G.S. § 160-D-6-1(b) is compatible with military operations at the impacted Major Military Installation;
2. Upon making his or her determination, the base commander will instruct the MCAS Cherry Point Coordinating Official to provide the Local Government either:
 - (a) Written notice that MCAS Cherry Point does not object to the proposed Land Use Action; or
 - (b) Written notice that the proposed Land Use Action creates an airport obstruction or interference or is incompatible with military base operations, based on federal, local, or state requirements; and written comments and analysis supporting such a determination.

- (c) In addition, the MCAS Cherry Point Coordinating Official may:
 - (i) Detail mitigation or modifications to the proposed Land Use Action that would achieve or improve compatibility between military and civilian land uses;
 - (ii) Request to meet with the applicant, property owner, or Local Government staff; or
 - (iii) Request to appear before the Local Government officials, committees, or governing bodies to present comments and analysis.
 3. If the Local Government does not receive a written response as provided in paragraph 2. by the date provided in the notice to MCAS Cherry Point, the Local Government will assume MCAS Cherry Point does not object to the proposed Land Use Action.
- 3.8. Local Government Consideration of MCAS Cherry Point Determinations**
1. Upon the receipt of comments or analysis from MCAS Cherry Point, the Local Government Coordinating Official will forward comments and analyses to the officials, committees, boards, or other decision-makers in the Local Government to whom MCAS Cherry Point's determination is relevant under local or state law; and
 2. In specific compliance with N.C.G.S. § 160D-6-1(b), the local governing body will take into consideration any comments or analysis regarding the compatibility of the proposed ordinance or land development regulation before making a final determination on the proposed Land Use Action.

4.0 Coordination Between MCAS Cherry Point & Local Governments Not Exercising Jurisdiction-Wide Land Use Controls

4.1. Generally

1. Several Local Government Parties do not exercise land development regulations, zoning, or other land use controls, under N.C.G.S. § 160D or other authority, within their jurisdiction or within portions of their jurisdictions.
2. Therefore, in order to protect lands in these areas from incompatible land uses, the Local Government Parties and MCAS Cherry Point will coordinate as follows as to Land Use Actions on such lands.

4.2. Protocol

1. If a Local Government Party becomes aware that a parcel of land within an area of the jurisdiction not subject to land use controls, is being prepared for, considered for, or developed as a Potential Incompatible Development or Wind Energy Facility, the Local Government Coordinating Official will mail the property owner of record to inform them of the potential incompatibility. The letter will contain the information listed in Subsection 4.3.

2. The Local Government Party will send the letter to the property owner of record according to the county's property record files.
3. The Local Government Party has no further responsibility under this provision, but will be available to answer questions from the property owner or the property owner's representative and to participate in discussions with the owner, their representative, and the MCAS Coordinating Official, upon request.

4.3. Content of Letter

The letter from the Local Government Party will contain the following information, as well as any other information deemed helpful to the property owner:

1. That the Local Government has entered into a cooperative agreement with MCAS Cherry Point to avoid future encroachment or incompatibilities with military training and operations;
2. That, since the property is located in an area of the jurisdiction without applicable land use controls, the letter is being sent as part of that cooperative effort and to provide information the property owner may find useful and which may protect the quality of life of future occupants of the property and the ability of MCAS installations to operate and train; and
3. Contact information for the Local Government Coordinating Official and the MCAS Cherry Point Coordinating Official.

5.0 Local Government Notice of Growth-Inducing Infrastructure

1. **Growth-inducing infrastructure.** If a Local Government Party, or a third-party with whom the Local Government Party is coordinating, plans to extend or fund water, sewer, or transportation infrastructure into a Major Military Installation's Accident Potential Zone, Clear Zone, Noise Zone, or area designated in Attachment D of this Agreement, the Local Government Coordinating Official will notify the MCAS Cherry Point Coordinating Official of such plans and request input from the base commander regarding the impact of the planned extension on military training and operations.
2. Such notice will be provided by certified mail, return receipt requested to the base commander and by email to the MCAS Cherry Point Coordinating Official.
3. If the Local Government Party is the agency responsible for the planned extension or funding, notice will be given in sufficient time for the base commander to provide comments and analysis before a final decision is made to extend or fund the infrastructure.
4. If a party other than the Local Government Party is the agency responsible for the planned extension or funding, notice will include the name of responsible agency and contact information.

6.0 Procedures for Compliance & Coordination Requirements Under State Law⁶

6.1. Generally.

The North Carolina General Statutes include several areas related to military land use compatibility and coordination between the state's military installations and local governments. The following provisions were adopted at the time this Agreement was executed to facilitate and supplement the statutory requirements as they existed at that time. However, additional coordination requirements may apply pursuant to the terms of this Agreement or state law, as may be amended.

6.2. State Approval Required for Certain Tall Structures

1. **In general.** The “Military Lands Protection Act of 2013” (see N.C.G.S. 143-151.70, *et seq.*) prohibits cities and counties in the state from authorizing construction of a “tall building or structure,” or of utilities serving non-complying buildings and structures, in the vicinity of major military installations, unless
 - (a) the State Construction Office (SCO) has issued a letter of endorsement; or
 - (b) proof is shown that the SCO failed to act within the time provided to it to act, as provided by statute (90 days from SCO’s request to MCAS Cherry Point for a compatibility determination).
2. **Applicability.**
 - (a) **Tall building or structure defined.** Compliance with this Subsection 6.2 is required for buildings, structures, or units within a multi-unit building that are more than 200' in height, as defined by statute, except as exempt in subparagraph (b) below.
 - (b) **Exempt buildings and structures.** Compliance with this Subsection 6.2 is not required for buildings or structures listed individually or as contributing resources within a district listed in the National Register of Historic Places; wind energy facilities and expansions;⁷ or certain temporary and replacement cellular, radio, and television facilities as provided by statute.
3. **Limited lands affected.** As shown in Attachment B, Local Government Parties to this Agreement will comply with statutory requirements under this Subsection 6.2, as to any non-exempt building or structure proposed within five (5) miles of a Major Military Installation, regardless of whether such lands are subject to zoning or other land development regulations.

⁶ Statutory references and requirements are as of the date of this document and are subject to change.

⁷ However, note the applicability and requirements of N.C.G.S §§ 143.215.115 through 143.215.126 to wind energy facilities in addition to the terms of this Agreement and any local laws and regulations.

4. Compliance.

(a) **Local Governments.** The Local Government parties to this Agreement agree as follows:

- (i) Not to authorize construction of any non-exempt tall structure or building within five miles of a Major Military Installation, unless the Local Government is in receipt of
 - a letter of endorsement issued to the applicant from the SCO; or
 - proof that the SCO failed to act on the application within applicable statutory timeframes.
- (ii) If the Local Government is aware of the construction or planned construction of a non-exempt tall building or structure that is not in compliance with the statutes noted above, the Local Government will notify the property owner that the property is out of compliance with state law and that civil penalties may apply. No further action by the Local Government is required.
- (iii) The Local Government will not authorize the provision of electricity, telephone, gas, water, sewer, or septic systems to serve any non-exempt building or structure not in compliance with the Military Lands Protection Act.

(b) **MCAS Cherry Point.**

- (i) MCAS Cherry Point will maintain a point of contact with the SCO and will continue to support and participate expeditiously with the SCO in its review of non-exempt tall buildings and structures in affected areas.
- (ii) MCAS Cherry Point also will work informally, upon request, with property owners and the Local Governments to achieve compatibility with military operations as required by the Military Lands Protection Act, as amended.
- (iii) MCAS Cherry Point will provide copies of the following to affected Local Government Coordinating Officials, as provided in Attachment A:
 - An applicant's notice of a proposed tall building or structure, within the jurisdiction or jurisdictions, that is subject to the Military Lands Protection Act;
 - A copy of any final determinations issued by the Federal Aviation Administration; and
 - Any written determinations issued to the SCO by MCAS Cherry Point regarding a proposed tall building or structure.

6.3. Wind-Energy Facilities Requiring State Approval⁸

1. **In general.** N.C.G.S. § 143-215.115, *et seq.* requires wind energy facilities proposed in the state to receive approval by the Department of Environmental Quality (DEQ).
2. **Participation.** Both the Local Government Parties and MCAS Cherry Point will continue to participate in these processes, upon notice by the DEQ of an application, if any such applications are made.⁹

7.0 Public Awareness & Notice by MCAS Cherry Point

7.1. Regular Briefings to Local Government Elected Officials

At least once each year, the commanding officer or his or her designee will arrange to appear at a regular meeting of the governing bodies of the Local Government Parties, in order to update local officials on current events, compatibility efforts, and anticipated changes in mission or operations; and to answer questions of the officials related to MCAS Cherry Point or its outlying facilities in the region. These briefings may be held jointly or in conjunction with the briefings and workshops described in Subsections 7.2 and 7.3.

7.2. Briefings to Planning Officials

Upon request, the MCAS Cherry Point Coordinating Official will meet with local planning boards to answer questions, give updates, and to provide background information regarding the civilian/military land use framework in the community. It is anticipated that these briefings may be requested when new planning officials are appointed. These briefings may be held jointly or in conjunction with the briefings and workshops described in Subsections 7.1 and 7.3.

7.3. Community Workshops

Twice each year, the MCAS Coordinating Official will plan and arrange for a community workshop to be held on-base or in the Local Government Jurisdictions, on a rotating basis, in order to answer questions, give updates, and to provide background information regarding the civilian/military land use framework in the community. These workshops may be held jointly or in conjunction with the briefings described in Subsections 7.1 and 7.2.

⁸ Under the proposed MIOD, Wind Energy Facilities would be prohibited within the entirety of each jurisdiction, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly's Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps. Therefore, unless a local government elects to retain or implement a policy allowing Wind Energy Facilities, this section of the Agreement would not apply and should be stricken. (For example, Pamlico County currently allows Wind Energy Facilities, up to 500' in height, unless the proposed facility would encroach upon or otherwise have a significant adverse impact on MCAS Cherry Point [see Pamlico County Wind Energy Ordinance, section 1.9(9)(a)].) This section of the Agreement is included here only for the sake of completeness regarding state-required coordination.

⁹ N.C.G.S. § 143-215.117(b)(5) requires wind energy facility applicant to disclose in its application materials, "federal, State, and local agencies from which approvals will be obtained...in order to authorize the construction...of the proposed wind energy facility."

7.4. Notice of Significant Operational Changes

1. MCAS Cherry Point will give 90-days emailed notice to the Coordinating Officials and members of the ACT Planning Committee, listed in Attachment A, as amended, of known Increased Military Impacts associated with any Major Military Installation.
2. If MCAS Cherry Point becomes aware of potential Increased Military Impacts less than 90 days prior to their anticipated occurrence, MCAS Cherry Point will give emailed notice as soon as is reasonably possible.
3. MCAS Cherry Point is not expected to give notice of any Increased Military Impacts when to do so would require disclosure of information it deems classified or sensitive.

7.5. Community Member Inquiries

1. MCAS Cherry Point will maintain and continue a transparent procedure for receiving and resolving inquiries regarding noise and other military impacts from members of the community.
2. Contact information and an explanation of the process MCAS Cherry Point uses to resolve such inquiries will be maintained on the MCAS Cherry Point webpage.
3. MCAS Cherry Point will maintain a protocol for routing inquiries from the community related to operations at installations other than MCAS Cherry Point and other Major Military Installations under its oversight and control.

7.6. Coordination Regarding Operations on Radio Island

The MCAS Cherry Point Coordinating Official will work with the Morehead City Coordinating Official to develop a protocol for coordination regarding proposed developments on Radio Island and any proposed land use or other changes that could impact MCAS Cherry Point access or operations on Radio Island.

8.0 Public Awareness & Notice by Local Government Parties

8.1. Application Notice by Local Governments

1. **Applicability.** Local Governments will include notice, in language similar to that in paragraph 2., on the following Local Government applications and approval documents:
 - (a) Preliminary and final subdivision or plat approvals;
 - (b) Applicant-requested revisions to zoning text or maps and comprehensive plans and maps;
 - (c) Building and construction permits;
 - (d) Certificates of occupancy;
 - (e) Conditional or special use approvals;
 - (f) Variance approvals; and
 - (g) Any other authorizations for a residential dwelling, including mobile or manufactured homes.

2. Approval notice language.

“Properties located in *<insert name of applicable jurisdiction>* will experience training and operational impacts associated with MCAS Cherry Point and other military installations in the region. Therefore, please be advised that noise, vibration, odors, flight safety hazards, and other military training impacts may be present on or near the property subject to this approval and that additional limitations on the use of the property may apply.

Please contact *<insert name of applicable Local Government Coordinating Official>* at *<insert name of applicable jurisdiction>* and *<insert name of MCAS Cherry Point Coordinating Official>* at MCAS Cherry Point for more information or to ask any questions you have.”

8.2. Property Records & GIS

The Local Government Parties will coordinate to ensure their geographic information systems (GIS) and property records indicate:

1. whether a property is located, in whole or in part, within:
 - (a) An Aircraft Safety Zone; or
 - (b) An Aircraft Noise Zone; and
2. that state and local height restrictions will apply to buildings and structures on the property, to ensure compatibility with local military operations.

8.3. Real Estate Disclosure of Military Training & Operational Impacts

1. The Parties to this Agreement will make Real Estate Disclosure Forms available to the public, real estate associations, business groups, developers, and other private parties interested in increasing awareness among purchasers and lessors of property in the community of potential military training and operational impacts.
2. A Sample Real Estate Disclosure Form is included at Attachment C.
3. Local Government Parties may also require a Real Estate Disclosure by local ordinance.¹⁰

8.4. Public Awareness Materials

The Parties to this Agreement will make the following available in hardcopy, upon request, and on their websites, in order to expand public awareness, disseminate important information, and keep the public informed of related emerging issues:

¹⁰ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission’s standard real estate disclosure form, nonetheless, does require some, but not all, impacts from “military sources,” be disclosed. Jurisdictions should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

1. Flyers, brochures, and other information disseminated during the JLUS Implementation process, and as amended;
2. Other public information materials and weblinks created or provided by MCAS Cherry Point or the Allies for Cherry Point's Tomorrow related to ongoing compatibility efforts;
3. Party points of contact; and
4. Other information prepared or provided by the ACT Planning Committee.

8.5. Roadway Signage

1. The ACT Planning Committee will evaluate the processes, benefits, and potential costs of creating roadway signage that would put the public on notice of the general location of documented impact areas, including Accident Potential Zones and Noise Zones, and the nature of the impacts that may be experienced in these areas.
2. The Committee or its designated members will coordinate with the North Carolina Department of Transportation in its evaluation, as applicable.
3. Upon the completion of its evaluation, the ACT Planning Committee will consider whether to move forward with roadway signage and, if so, recommend a plan for funding and creating appropriate signage with the responsible agencies.

9.0 Coordination of MCAS Cherry Point & General Aviation Airport Operators

1. The MCAS Cherry Point Coordinating Official and the Coordinating Officials for Michael J. Smith Airport and the Coastal Carolina Regional Airport will continue to facilitate coordination between military and general aviation pilots and air traffic control personnel.
2. These parties will maintain points of contact within their agencies or, as appropriate, other entities, including MCAS New River and Marine Corps Installations East (MCIEast).

10.0 ACT Planning Committee

10.1. Generally

1. Pursuant to Recommendation 3.6 of the 2016 JLUS, the “MCAS Regional JLUS Technical Advisory Committee” is hereby reestablished as the “Allies for Cherry Point’s Tomorrow Planning Committee” (the “ACT Planning Committee”).
2. The ACT Planning Committee will serve as a “standing” committee committed to maintaining ongoing coordination between the Local Governments, MCAS Cherry Point, other parties to this Agreement, and the community.

10.2. Committee Duties

1. The Committee will convene as provided below to discuss any land use applications, changes, or trends anticipated within the jurisdictions of the Local Government

- Parties or at MCAS Cherry Point that could impact the use of off-base lands or that could negatively impact training or operations at the Major Military Installations.
2. The Committee will monitor land use trends and advise the other Parties to this Agreement, or necessary third parties, if additional actions, policies, strategies, outreach materials, or other steps are needed to maintain land use compatibility within the jurisdictions of the Parties.
 3. The Committee will serve as the clearinghouse or point of contact for elected officials and other agencies with business or questions related to land use compatibility in the region or the provisions of this Agreement.
 4. Based on the input of the Parties, the ACT Planning Committee will oversee and maintain the JLUS Implementation Website and its content.
 5. The ACT Committee will facilitate the recurring review of this Agreement and applicable state law, and will make recommendations for revisions to this Agreement or local ordinances, as appropriate and necessary.
 6. The Committee may seek outside input from subject matter experts in order to inform its decision-making and formulate its recommendations to other appointed and elected bodies, as provided herein.

10.3. Committee Members

1. The ACT Planning Committee will be comprised of those individual and agencies set forth in Attachment A.
2. By majority vote of the Parties to this Agreement, additional members or agencies may be appointed to the ACT Planning Committee at any time, whether or not they are a Party to this Agreement.

10.4. Committee Chair

1. The ACT Planning Committee Chair will be a Local Government Coordinating Official, selected by the other committee members for a one-year term.
2. The committee Chair will have the duty to:
 - (a) Act as the point of contact for:
 - (i) Members of the community;
 - (ii) Elected Officials; and
 - (iii) other relevant agencies.
 - (b) Prepare meeting agendas and coordinate committee meetings and activities;
 - (c) Call meetings of the ACT Planning Committee, as provided below, or as requested by committee members or as needed based on direction from a Party to this Agreement.

10.5. Committee Meetings

1. The ACT Planning Committee will meet at least twice a year, but may meet as frequently as needed.

2. All committee meetings will be held in a central location and should be in-person, except when special circumstances warrant a teleconference meeting.

11.0 Miscellaneous

11.1. Nature of Agreement

This Agreement is not legally binding on the parties and may not be enforced in a court of law. However, it does reflect the Parties' commitments related to a consistent and coordinated effort to maintain land use compatibility between privately held properties within the Local Government jurisdictions and the Major Military Installations.

11.2. Review

1. At least every twenty-four (24) months, starting from the Effective Date, the ACT Committee will review and make recommendations for modifications to this Agreement as provided herein.
2. Review by the Parties should consider, in addition to any other related matters:
 - (a) the need for additional protections against incompatible land uses and developments as trends change in the vicinity of the Major Military Installations;
 - (b) clarification of administrative procedures;
 - (c) updated contact information for the Coordinating Officials and members of the ACT Planning Committee listed in Attachment A;
 - (d) addressing significant changes in the missions or impacts of the Major Military Installations;
 - (e) the need for additional studies;
 - (f) the need to invite additional Parties to join this Agreement.

11.3. Modification

Modifications to this Agreement, including the addition of new Parties, shall be valid only when reduced to writing and duly signed by all Parties. However, the ACT Planning Committee Chair may maintain and disseminate revised points of contact under Attachment A as needed, without the need to modify the Agreement.

11.4. Withdrawal

1. After the Effective Date, any Party may withdraw from participation in the Agreement, without the consent of the other Parties.
2. A Party's withdrawal will be effective upon receipt of emailed notice to all remaining Parties to the Agreement.
3. Following a Party's withdrawal, all commitments of the withdrawing Party as stated herein shall cease, as shall all commitments of the remaining Parties to the withdrawing Party.

4. Withdrawal of a Party does not terminate the commitments of the remaining Parties to the terms of this Agreement.
5. Upon withdrawal of a Party, the remaining Parties will execute an amended Agreement in order to reflect the withdrawn Party.

11.5. Severability

Regardless of whether any provision of this Agreement becomes irrelevant or impossible for a Party to perform, the Parties wish the remaining provisions to continue, unless to do so would prevent the accomplishment of the original intent of the Agreement or contradict state or federal law or local ordinance.

11.6. Duration

Unless the Agreement is terminated by all Parties, the term of the Agreement is five (5) years from the Effective Date. However, by emailed notice by each Party to all other Parties, the Agreement will be extended for additional five (5) year terms for all Parties giving such notice. If a Party does not indicate an interest to remain in the Agreement, the ACT Planning Committee Chair will facilitate a modification as provided in Subsections [11.3](#) and [11.4](#) above.

11.7. Effective Date

This Agreement is effective upon execution by all Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates below written.

<signature bars to be inserted>

<ORGANIZATION>

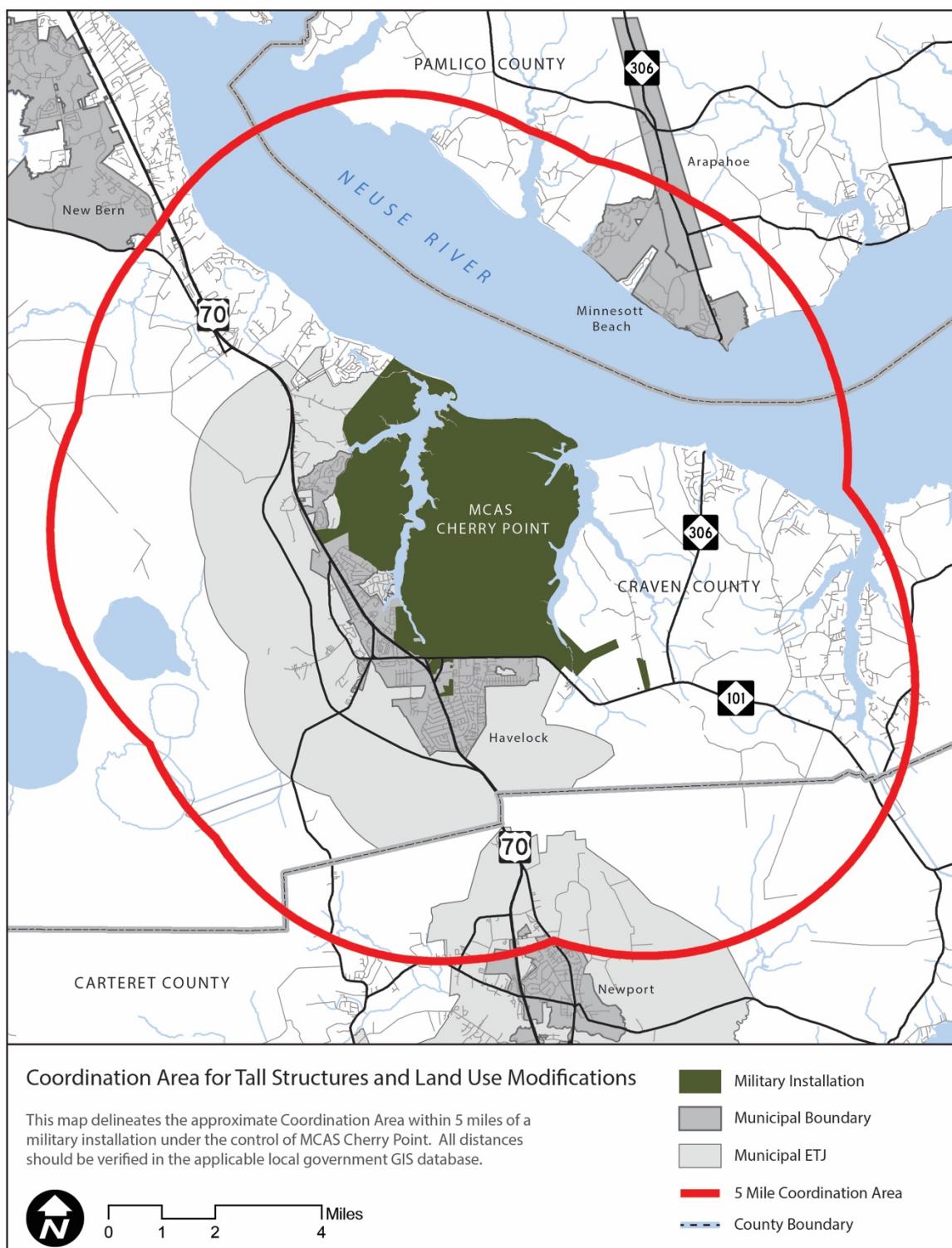
The _____ day of _____, 2019

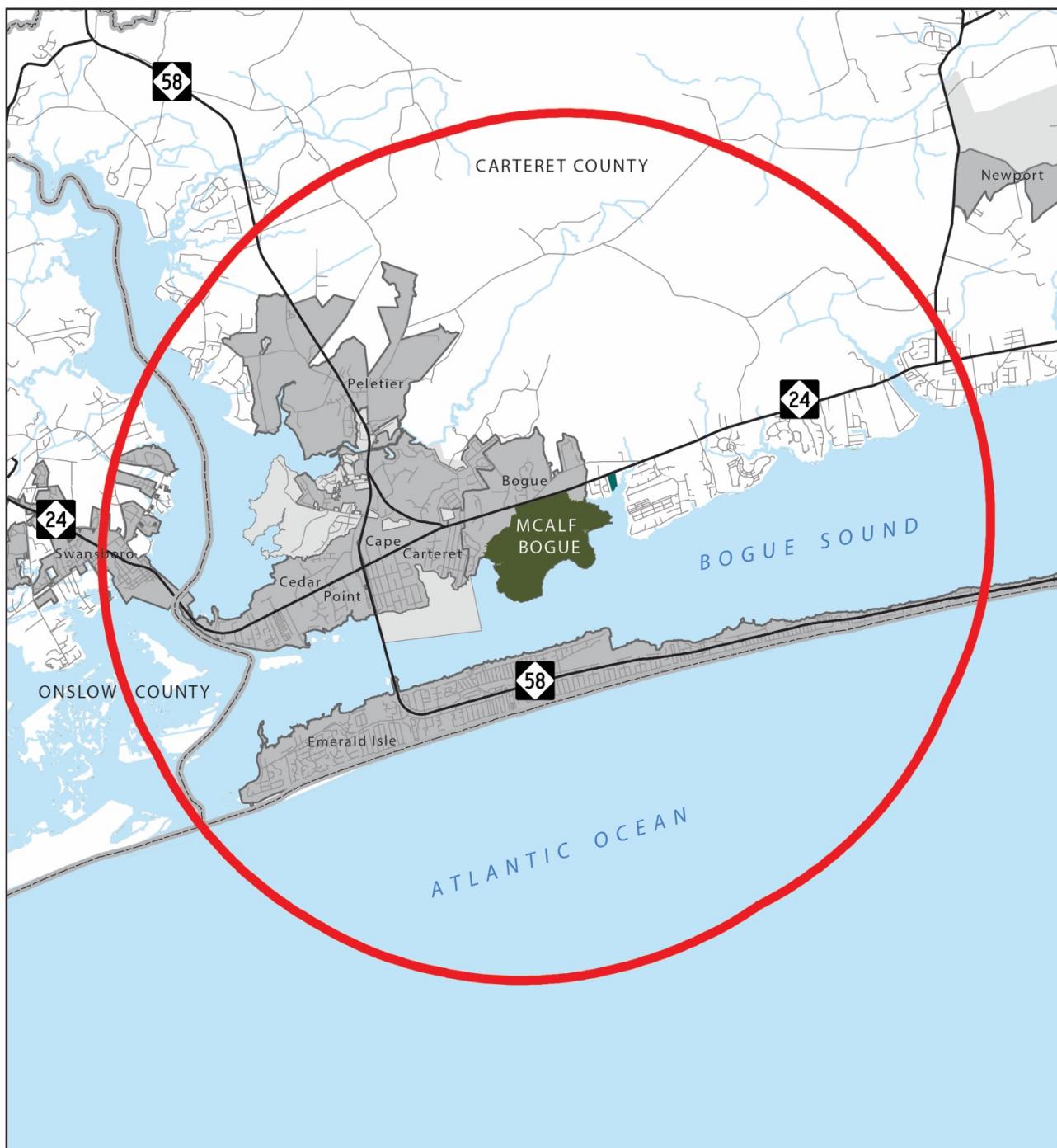
_____ **<name>, <title>**

Attachment A: ACT Planning Committee & Coordinating Officials

Jurisdiction	ACT Planning Committee Member	Member Email Address
Havelock	Katrina Marshall (Planning Director)	KMarshall@havelocknc.us
Newport	Robert Will (Planner)	rwill@townofnewport.com
Morehead City	Sandi Watkins (Planning Director)	sandi.watkins@moreheadcitync.org
Bogue	Elizabeth Sweeney (Town Clerk)	boguetown@bizec.rr.com
Carteret County	Eugene Foxworth (Planning Director & ACM)	Eugene.Foxworth@carteretcountync.gov
Pamlico County	Beth Bucksot (Economic Developer)	beth.bucksot@pamlicounty.org
Craven County	Don Baumgardner (Planning Director)	dbaumgardner@cravencountync.gov
Jones County	Franky Howard (Manager)	fhoward@jonescountync.gov
Oriental	Diane Miller (Manager)	manager@townoforiental.com
Minnesott Beach	Carolyn Braly (Manager)	minnesottbeach.gov@gmail.com
Emerald Isle	Josh Edmonson (Planning Director)	jedmondson@emeraldisle-nc.org
Atlantic Beach	Michelle Eitner (Planning Director)	planner2@atlanticbeach-nc.com
Pine Knoll Shores	Kevin Reed (Planning Director)	kreed@townofpks.com
Pollocksville	Jay Bender (Mayor)	jaybender@ec.rr.com
Cape Carteret	Zach Steffey (Manager)	zsteffey@capecarteret.org
Cedar Point	Chris Seaberg (Town Administrator)	cdseaberg@cedarpointnc.org
Peletier	Dale Sowers (Mayor)	sowersdale@gmail.com
Beaufort	Kyle Garner (Planning Director)	k.garner@beaufortnc.org
New Bern	Jeff Ruggieri (Planning Director)	ruggierij@newbernncc.gov
Trent Woods	Michael Haber (Planning Director)	maintenance@trentwoodsncc.org
Bridgeton	Information Request Pending	Information Request Pending
MCAS Cherry Point	Rhonda Murray (CPLO)	rhonda.murray@usmc.mil
ACT	Tyler Harris (ACT Board Member)	tyler.S2000@gmail.com
Michael J Smith Airport	Renee Rogers (Airport Manager)	kmrhairs@embarqmail.com
Coastal Carolina Regional Airport	Andy Shorter (Airport Director)	ashorter@newbernaireport.com

Attachment B: Coordination Areas for Tall Structures and Land Use & Zoning Modifications Under State Law





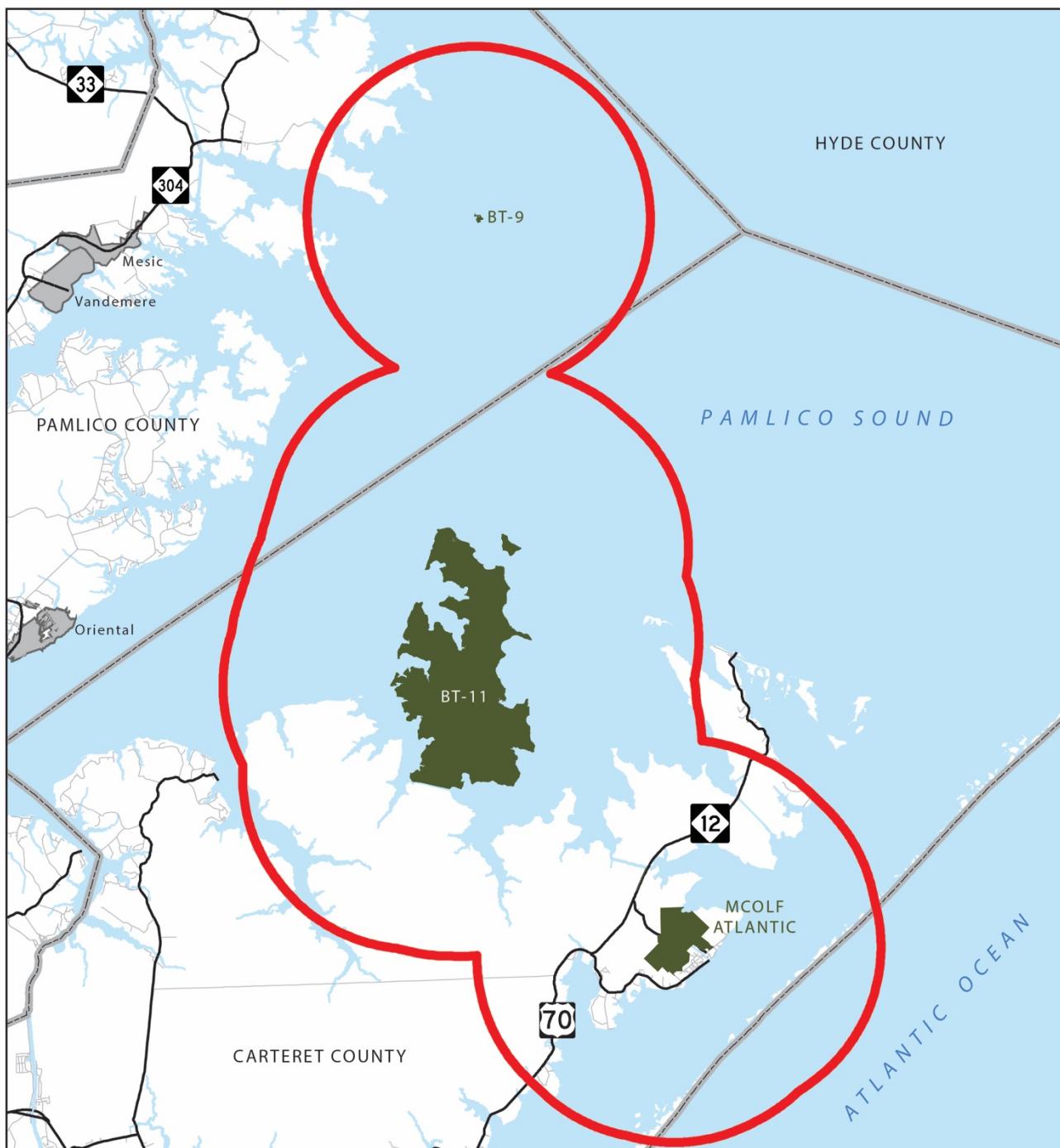
Coordination Area for Tall Structures and Land Use Modifications

This map delineates the approximate Coordination Area within 5 miles of a military installation under the control of MCAS Cherry Point. All distances should be verified in the applicable local government GIS database.

- Military Installation
- Municipal Boundary
- Municipal ETJ
- 5 Mile Coordination Area
- County Boundary



0 1 2 Miles



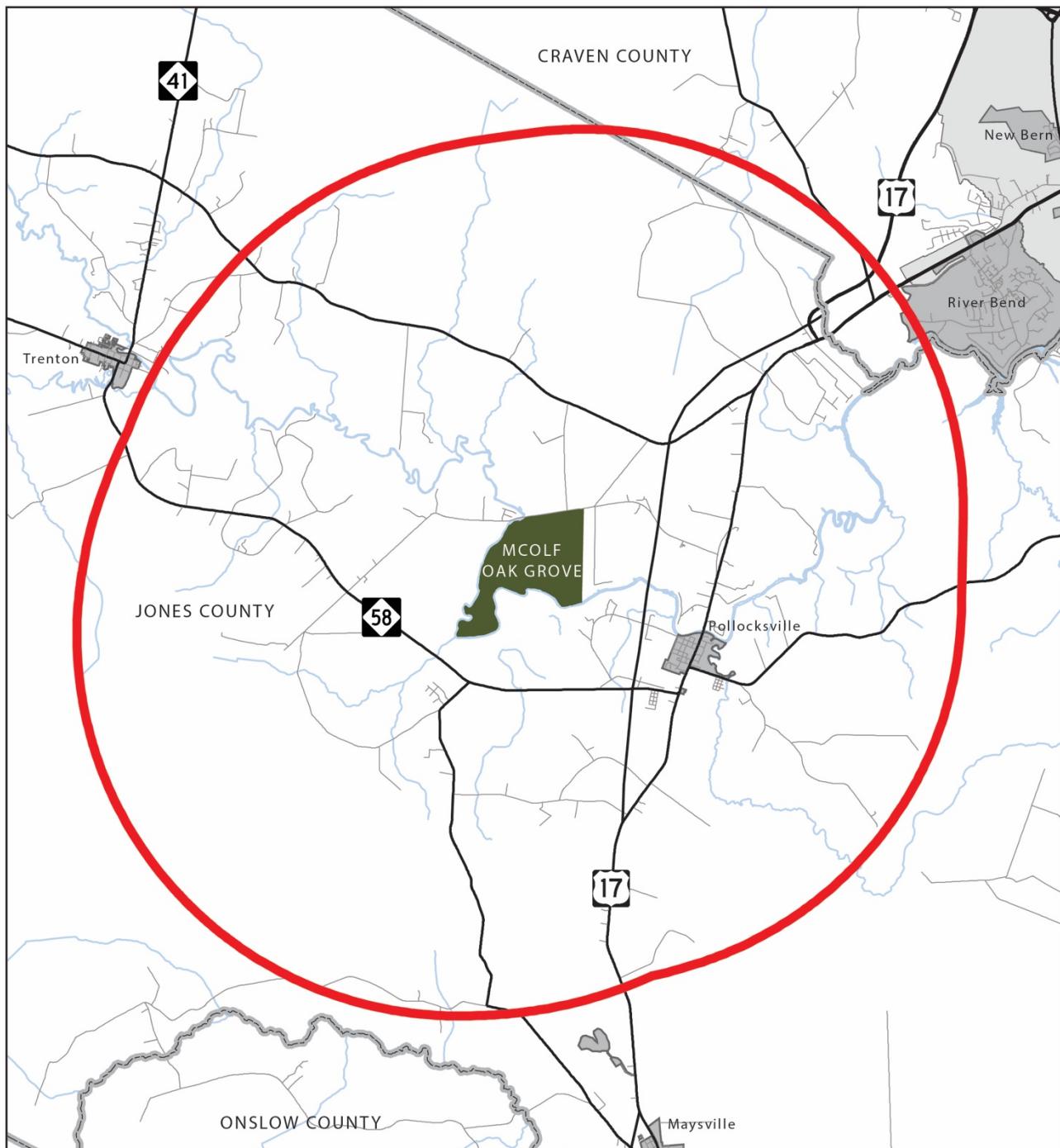
Coordination Area for Tall Structures and Land Use Modifications

This map delineates the approximate Coordination Area within 5 miles of a military installation under the control of MCAS Cherry Point. All distances should be verified in the applicable local government GIS database.



0 2 4 8 Miles

- Military Installation
- Municipal Boundary
- Municipal ETJ
- 5 Mile Coordination Area
- County Boundary



Coordination Area for Tall Structures and Land Use Modifications

This map delineates the approximate Coordination Area within 5 miles of a military installation under the control of MCAS Cherry Point. All distances should be verified in the applicable local government GIS database.

- Military Installation
- Municipal Boundary
- Municipal ETJ
- 5 Mile Coordination Area
- - - County Boundary



0 1 2 4 Miles

Attachment C: Sample Real Estate Disclosure Form

Real Estate Disclosure Form MCAS Cherry Point and Outlying Installations

If you are contemplating leasing, renting, buying, or selling a property in *<insert name of jurisdiction>*, please be aware the property may be subject to military training impacts, including impacts related to noise, vibration, odors, flight safety hazards, and other impacts related to operations associated with MCAS Cherry Point and other military installations and facilities in the community.

Cherry Point's history extends back to the 1940s, and new occupants or residents moving to the community should realize they could experience the above conditions resulting from living near busy military installations.

Additional information concerning MCAS Cherry Point and its outlying installations, including the *2016 Regional Joint Land Use Study*, is available from the local government within which your property is located, or the Allies for Cherry Point's Tomorrow website: www.alliesforcherrypoint.com.

BUYER/LESSEE UNDERSTANDS & ACKNOWLEDGES
HAVING READ THIS ENTIRE STATEMENT.

Buyer/Lessee #1
Signature: _____

Print Name: _____

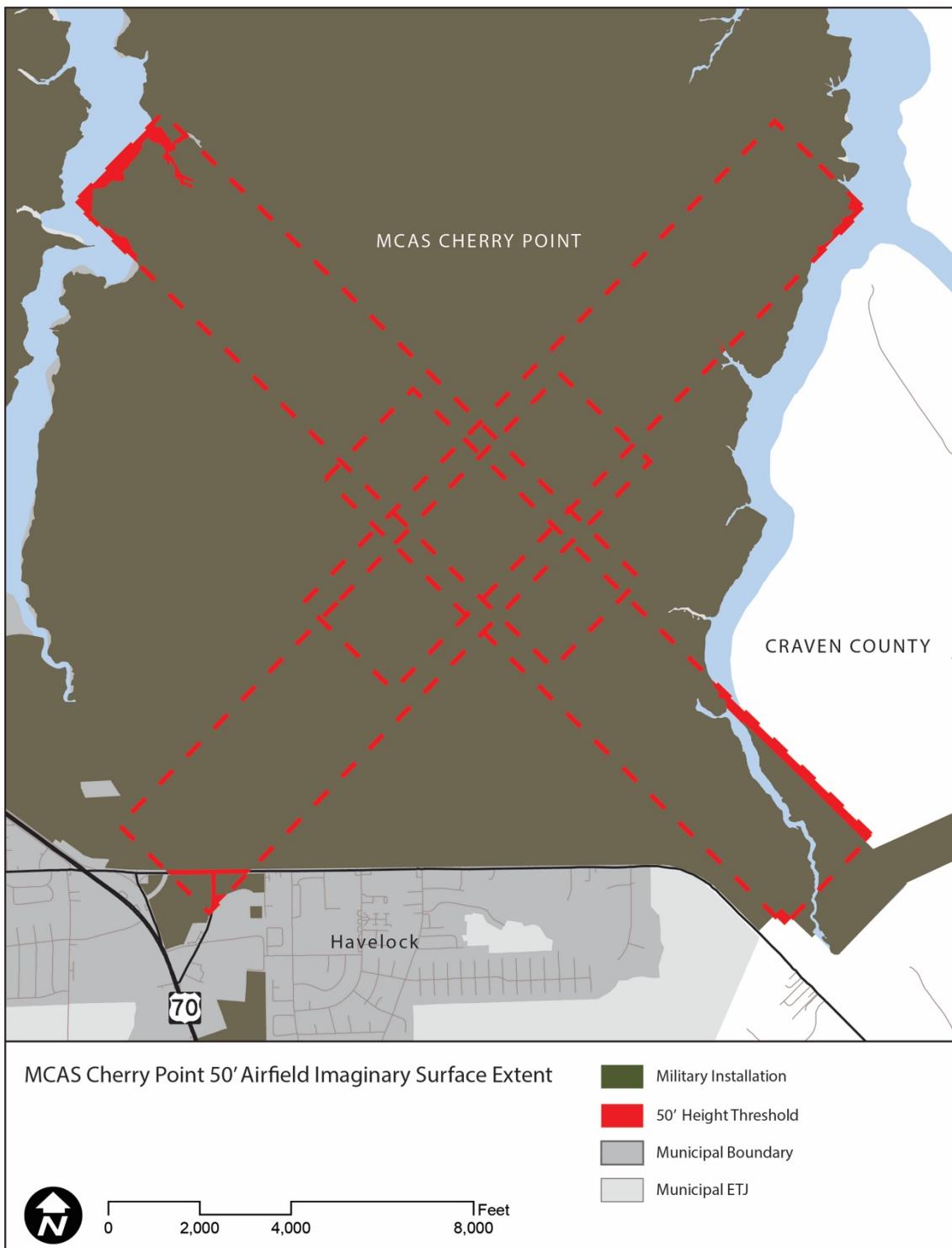
Date: _____

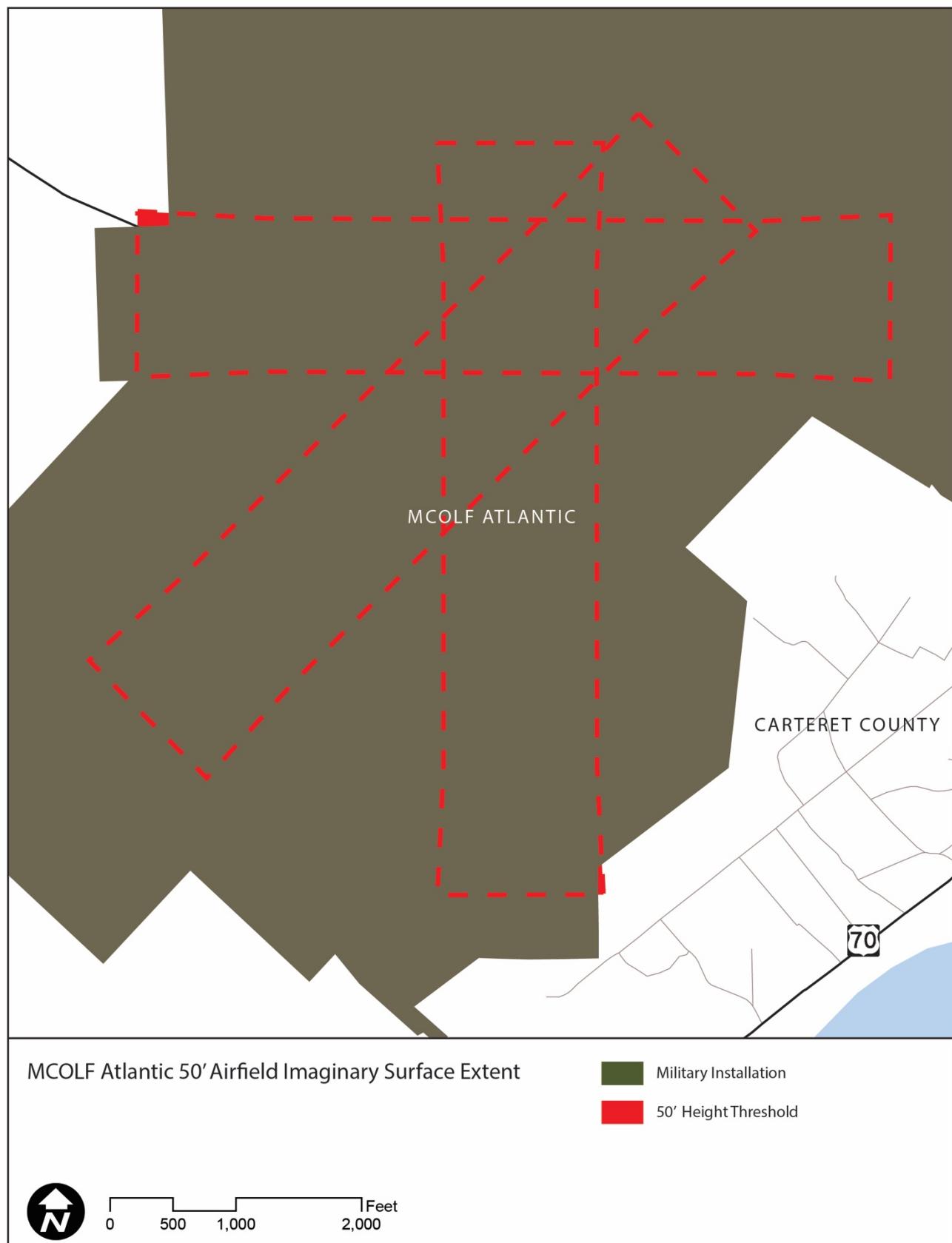
Buyer/Lessee #2
Signature: _____

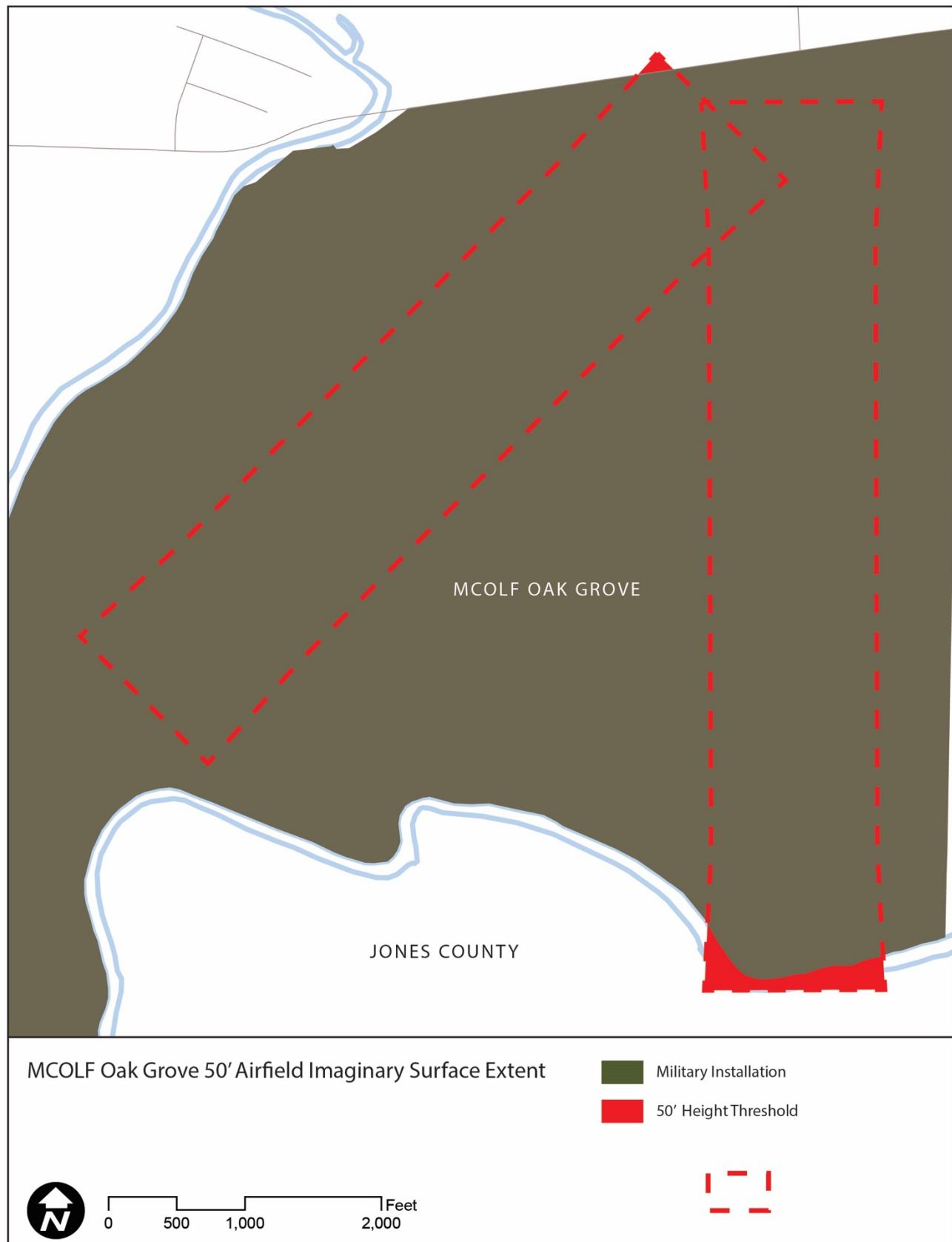
Print Name: _____

Date: _____

Attachment D: Lands of Special Concern Adjacent to Major Military Installations







Sample Military Influence Ordinance¹

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¹ To the extent a jurisdiction currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the *<insert name of jurisdiction>* and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the *<insert name of jurisdiction>* and MCAS Cherry Point; and
 - (3) reasonable regulations within *<insert name of jurisdiction>* including, where applicable, the Aircraft Safety Zones Overlay and Aircraft Noise Zones Overlay, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority²

- (A) This Ordinance is adopted pursuant to _____.³
 - (B) In addition, *<insert name of jurisdiction>* is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination
-

² This Ordinance applies to any areas of the jurisdiction that are zoned or otherwise subject to land use or police power regulations under state law. Areas within the jurisdiction that are not zoned or regulated (or subject to municipal extraterritorial jurisdiction zoning) will coordinate through the Military Planning and Coordination Agreement (see Section 4.0) to protect compatibility.

³ Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation. Each jurisdiction's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other.

Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years⁴ or more.
- (C) If a parcel is partially located within an Aircraft Safety Zone, Aircraft Noise Zone, or lands designated in Figure 3, this Ordinance applies only to that portion of the parcel located within the Aircraft Safety Zone, Aircraft Noise Zone, or lands designated in Figure 3.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of *<insert name of jurisdiction's code of ordinances>*.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

ACCIDENT POTENTIAL ZONE (APZ) I: APZ-I lies beyond the Clear Zone, and is located in an area of lower, but still considerable, aircraft accident potential. *<insert name of applicable installation>* APZs are depicted in Figure 1.

ACCIDENT POTENTIAL ZONE (APZ) II: APZ-II is beyond APZ-I and possesses less aircraft accident potential than APZ-I, but the potential is still high enough to warrant land use restrictions. *<insert name of applicable installation>* APZs are depicted in Figure 1.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study or Studies, which identify the Clear Zones and Accident Potential Zones associated with MCAS Cherry Point, Bogue ALF, Atlantic OLF, and Oak Grove OLF; maps the noise contours associated with aircraft operations and training; and identifies types of development considered incompatible with aircraft operations and training at MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Studies for MCAS Cherry Point facilities include:

⁴ This timeframe may be consistent with a jurisdiction's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, a jurisdiction may opt to require that only new structures and land uses comply with this Ordinance.

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001; and

“Air Installations Compatible Use Zones Report for Marine Corps Outlying Landing Field Oak Grove, North Carolina,” dated June 2011.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. *<insert name of applicable installation>* Noise Zones are depicted in Figure 2.

AIRCRAFT SAFETY ZONES: Refers to any one or more of the following: Clear Zone, Accident Potential Zone I, and Accident Potential Zone II.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

<INSERT NAME OF JURISDICTION>: The *<insert name of jurisdiction> <insert name of governing body>* or an administrative designee of the *<insert name of governing body>*.

<INSERT NAME OF JURISDICTION> COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*’s designee.

CLEAR ZONE (CZ): The Clear Zone (CZ) begins at the end of the runway and is the area of highest aircraft accident potential; it has few uses that are compatible. The CZ starts at the end of the runway, and its dimensions are specified by the Department of Defense based on the type of aircraft and runway. CZs associated with the *<insert name of applicable installation>* in *<insert name of jurisdiction>* are depicted in Figure 1.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, Bogue ALF, Atlantic OLF, and Oak Grove OLF, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: MCAS Cherry Point, Bogue ALF, Oak Grove OLF, Atlantic OLF, BT-9 Brant Shoal, and BT-11 Piney Island.⁵

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with *<insert name of jurisdiction>* for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in *<insert name of jurisdiction>* and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the *<insert name of jurisdiction>*, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in *<insert name of jurisdiction>*:

1. Land uses or structures proposed on lands situated under the *<insert name of applicable installation>* imaginary surfaces, at less than the 50' contour, as shown in Figure 3;
2. Buildings or structures of 50' in height or greater; and
3. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁶
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the *<insert name of jurisdiction>* Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

⁵ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.*

⁶ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

RENEWABLE ENERGY FACILITY⁷: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

WIND ENERGY FACILITY⁸: a structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The *<insert name of jurisdiction>* *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, *<insert name of jurisdiction>* and MCAS Cherry Point will designate and maintain the following positions:

- (A) *<insert name of jurisdiction>* Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Aircraft Safety Zones Overlay

- (A) Certain parcels within the *<insert name of jurisdiction>* are located within the *<insert name of applicable installation>* Clear Zones and Accident Potential Zones as indicated in Figure 1.⁹
- (B) The Aircraft Safety Zones Overlay includes all parcels or portions of parcels located in the CZs and APZs associated with *<insert name of applicable installation>*.
- (C) According to the AICUZ Studies and current Navy guidance, certain land uses in CZs and APZs are not compatible with air operations at *<insert name of applicable installation>*, given the increased potential of aircraft accidents in these areas.

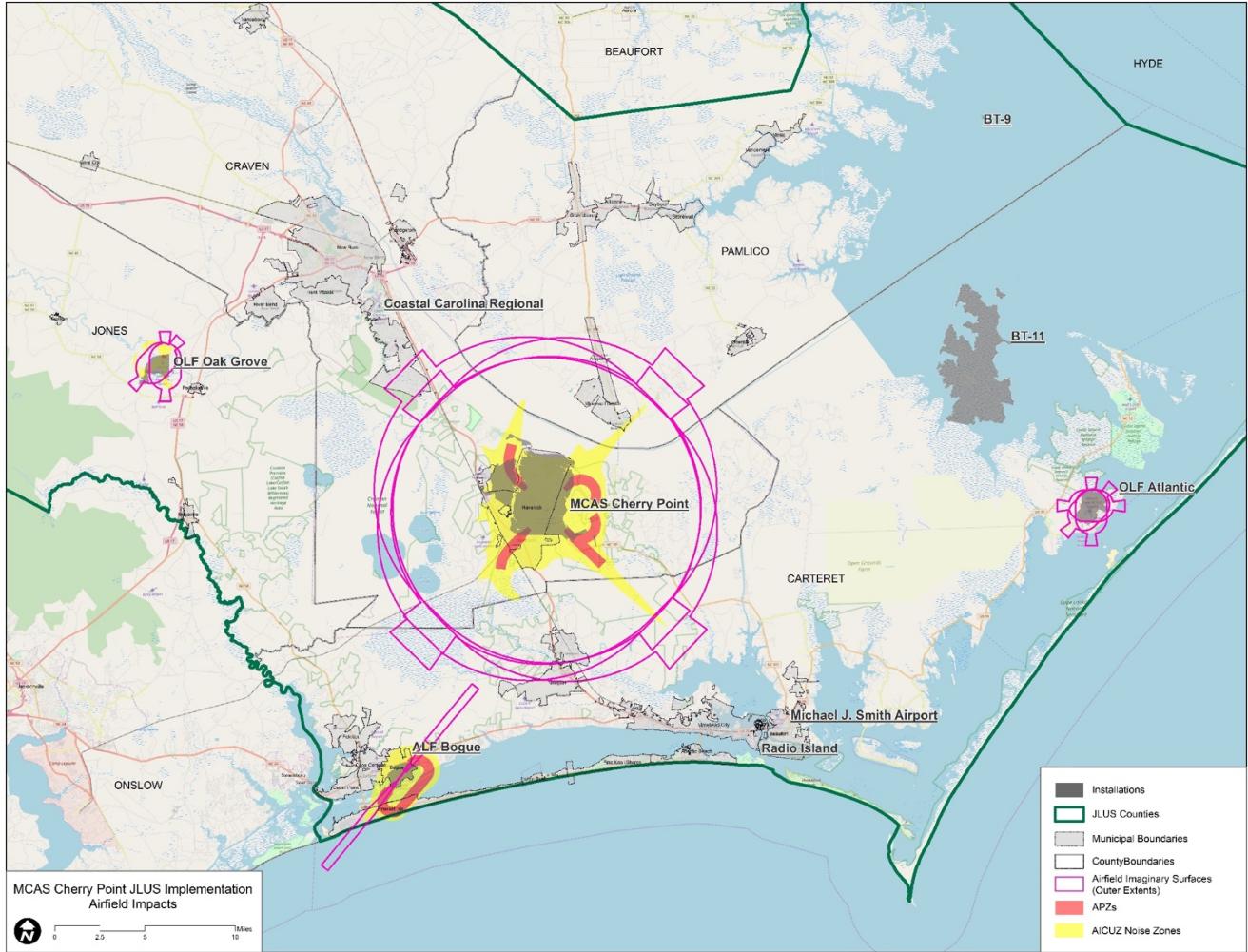
⁷ This definition is taken from N.C.G.S. §62-133.8(a)(7).

⁸ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁹ Figure 1 is replaced with jurisdiction-specific APZ/CZ maps. The consultant will provide GIS data to the jurisdictions following completion of the study.

- (D) Unless expressly exempt¹⁰, all development proposed within the *<insert name of applicable installation>* CZs and APZs shall be consistent with Appendix A: Land Use Compatibility Recommendations for APZs.¹¹

Figure 1. Clear Zones & Accident Potential Zones



¹⁰ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Safety Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹¹ The Navy **safety zone** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

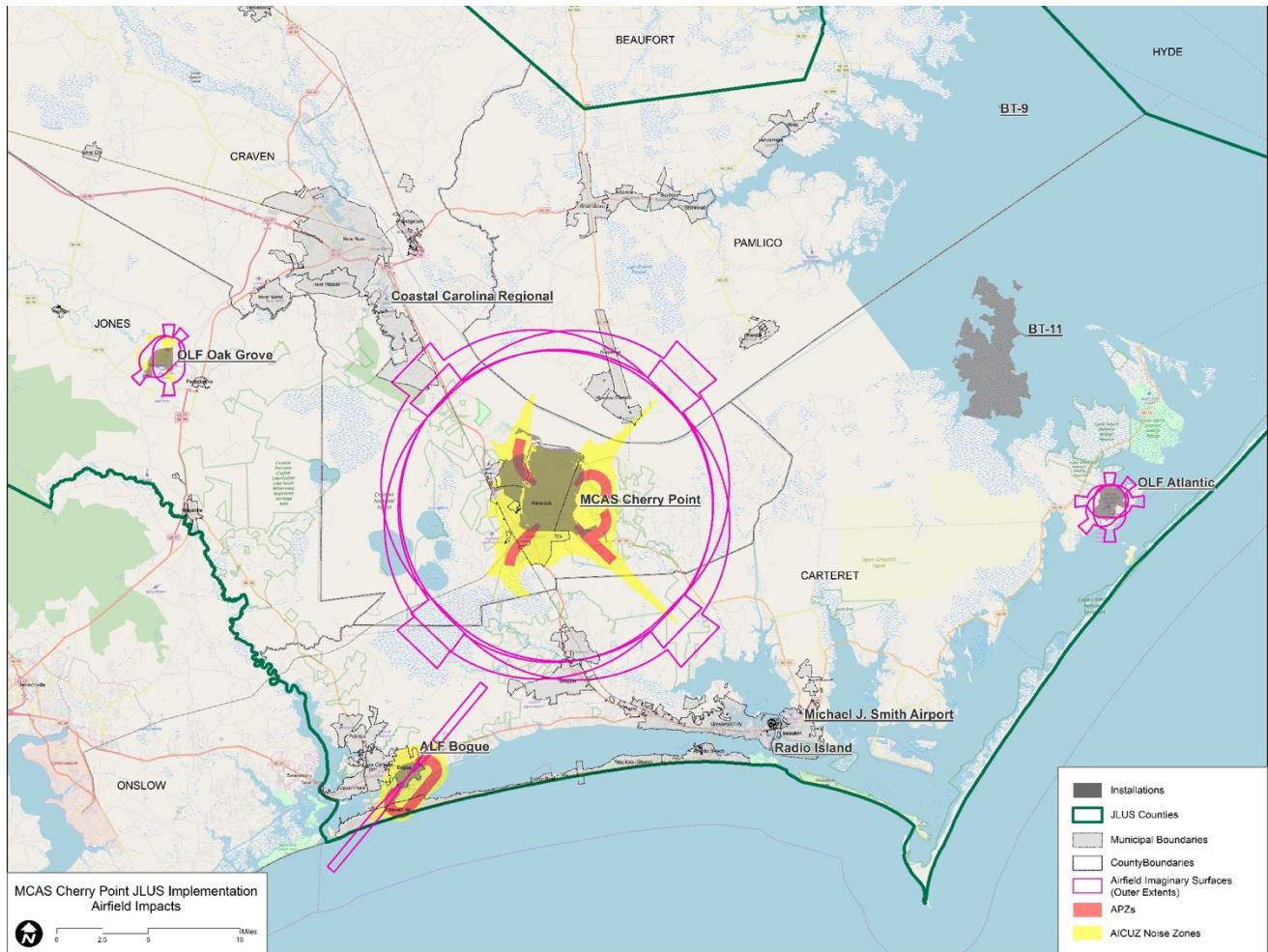
7.2. Aircraft Noise Zones Overlay

- (A) Certain parcels within the *<insert name of jurisdiction>* are located within the *<insert name of applicable installation>* Aircraft Noise Zones as indicated in Figure 2.¹²
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with *<insert name of applicable installation>*.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Studies.
- (D) According to the AICUZ Studies and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at *<insert name of applicable installation>*.

¹² Figure 2 is replaced with a jurisdiction-specific Noise Zones map. The consultant will provide GIS data to the jurisdictions at the end of the study.

- (E) Unless expressly exempt¹³, all development proposed within the Aircraft Noise Zones associated with *<insert name of applicable installation>*, therefore, shall be consistent with Appendix B: Recommended Land Use Compatibility for Noise Zones.¹⁴

Figure 2. Aircraft Noise Zones



¹³ Appendix B provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹⁴ The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

7.3. Limitations on Incompatible and Potential Incompatible Developments¹⁵

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.3.
- (B) **Wind Energy Facilities.**¹⁶ Wind Energy Facilities are prohibited in within *<insert name of jurisdiction>*.¹⁷
- (C) **Airport Obstructions or Interference prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this section 7.3 shall be pursuant to the process in Section 8.0.

7.4. Limitations on Height of Structures¹⁸

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in *<insert name of jurisdiction>*.
 - (B) **Proposed Structures Less Than 50 feet in Height.** Except as required by subsection (C) below, a determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed *<insert name of jurisdiction>* that are less than 50 feet in height.
 - (C) **Buildings and structures on adjacent lands.**
 - (1) Figure 3¹⁹ indicates (*in red*) lands adjacent to *<insert name of applicable installation>* that are situated under the *<insert name of applicable installation>* imaginary surfaces, at less than the 50' contour.
-

¹⁵ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.3(C) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹⁶ Under the proposed MIOD, Wind Energy Facilities are prohibited within the jurisdiction, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

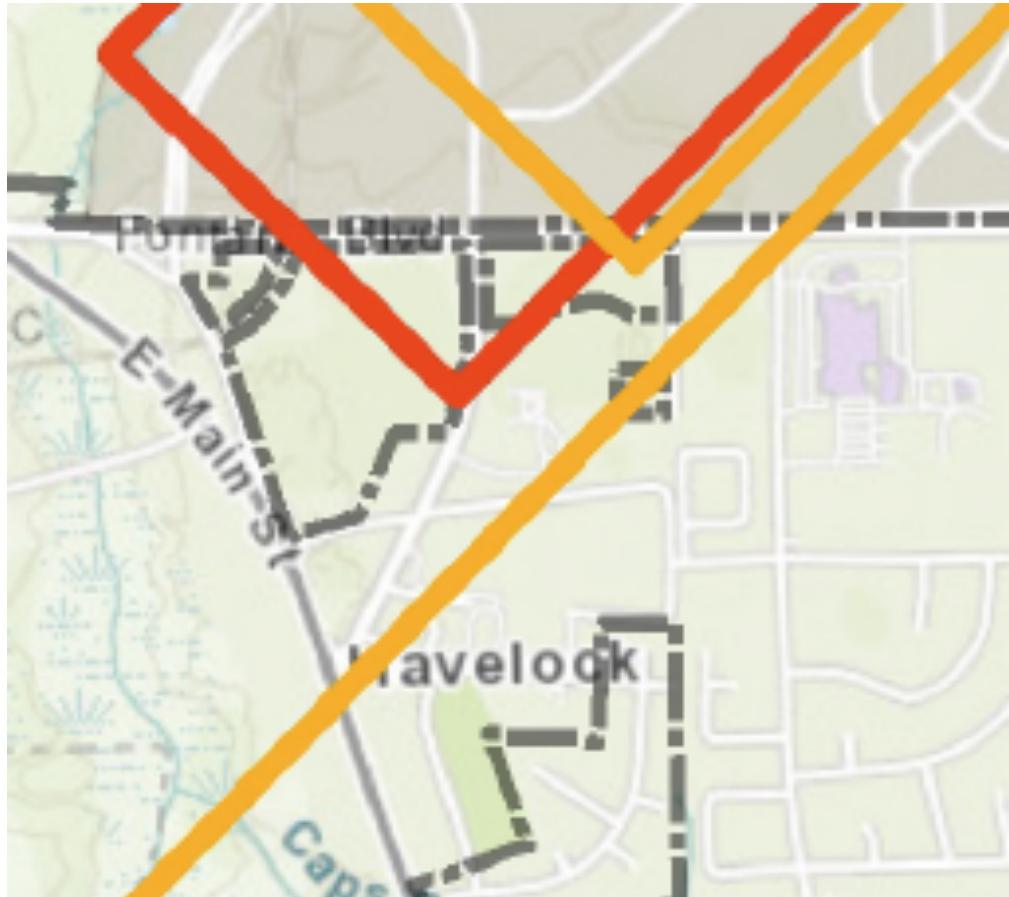
¹⁷ The jurisdiction may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁸ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.4(C) and (D) (**height**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹⁹ Figure 3 is replaced with individualized and labeled maps showing the areas in a jurisdiction and the applicable airfield, which are within the 50' imaginary surface areas.

- (2) Due to the proximity of these lands to active military runways, the base commander will make a determination, on a case-by-case basis, of whether a structure proposed on these lands will create an Airport Obstruction or Interference.
 - (3) Any building or structure proposed on lands indicated in Figure 3, for which the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, is prohibited.
- (D) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, *<insert name of jurisdiction>* will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of MCAS Cherry Point

Figure 3. Lands of Special Concern Adjacent to <insert name of applicable installation>



Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).

- (E) **Procedures.** Coordination under this section 7.4 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The *<insert name of jurisdiction>* Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of *<insert name of jurisdiction>* staff and other decision-makers, regarding Potential Incompatible Development proposed within *<insert name of jurisdiction>*, as provided in Sections 7.3 and 7.4, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which *<insert name of jurisdiction>* is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
- (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);²⁰
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (*see N.C.G.S. 143-215.115, et seq.*)
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land²¹

- (A) Pursuant to N.C.G.S. § 160D-6-1, *<insert name of jurisdiction>* will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or

²⁰ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

²¹ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement, and may apply to both areas that are subject to zoning and land development regulations and those that are not.

- final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
 - (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application notice.** The *<insert name of jurisdiction>* will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real estate disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.²²

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in *<insert name of jurisdiction>*.²³

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

²² N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. Jurisdictions should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

²³ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the jurisdiction will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The jurisdiction's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

SAMPLE MILITARY INFLUENCE ORDINANCEORDINANCE
APPENDIX A

Appendix A: Land Use Compatibility Recommendations for Clear Zones and APZs²⁴

OPNAVINST 11010.36C
MCO 11010.16
09 OCT 2008

TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES ¹					
SLUCH NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ-I Recommendation	APZ-II Recommendation	Density Recommendation
10 Residential					
11 Household Units					
11.11 Single units: detached	N	N	Y ²		Max density of 1-2 Du/Ac
11.12 Single units: semidetached	N	N	N		
11.13 Single units: attached row	N	N	N		
11.21 Two units: side-by-side	N	N	N		
11.22 Two units: one above the other	N	N	N		
11.31 Apartments: walk-up	N	N	N		
11.32 Apartment: elevator	N	N	N		
12 Group quarters	N	N	N		
13 Residential Hotels	N	N	N		
14 Mobile home parks or courts	N	N	N		
15 Transient lodgings	N	N	N		
16 Other residential	N	N	N		
20 Manufacturing ³					
21 Food & kindred products; manufacturing	N	N	Y		Max FAR 0.56 in APZ II
22 Textile mill products; manufacturing	N	N	Y		Same as above
23 Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	N	N	N		
24 Lumber and wood products (except furniture); manufacturing	N	Y	Y		Max FAR of 0.28 in APZ I & 0.56 in APZ II
25 Furniture and fixtures; manufacturing	N	Y	Y		Same as above
26 Paper and allied products; manufacturing	N	Y	Y		Same as above
27 Printing, publishing, and allied industries	N	Y	Y		Same as above
28 Chemicals and allied products; manufacturing	N	N	N		
29 Petroleum refining and related industries	N	N	N		
30 Manufacturing ³ (continued)					

²⁴ These tables are replaced with tailored land use tables by jurisdiction.

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TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES
SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES¹

SLICM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ-I Recommendation	APZ-II Recommendation	Density Recommendation
31	Rubber and misc. plastic products; manufacturing	N	N	N	
32	Stone, clay and glass products; manufacturing	N	N	Y	Max FAR 0.56 in APZ II
33	Primary metal products; manufacturing	N	N	Y	Same as above
34	Fabricated metal-products; manufacturing	N	N	Y	Same as above
35	Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	N	N	
39	Miscellaneous manufacturing	N	Y	Y	Max FAR of 0.28 in APZ I & 0.56 in APZ II
40	Transportation, communication and utilities^{2,3}				
41	Railroad, rapid rail transit, and street railway transportation	N	Y ²	Y	Same as above
42	Motor vehicle transportation	N	Y ²	Y	Same as above
43	Aircraft transportation	N	Y ²	Y	Same as above
44	Marine craft transportation	N	Y ²	Y	Same as above
45	Highway and street right-of-way	N	Y ²	Y	Same as above
46	Auto parking	N	Y ²	Y	Same as above
47	Communication	N	Y ²	Y	Same as above
48	Utilities	N	Y ²	Y	Same as above
485	Solid waste disposal (Landfills, incineration, etc.)	N	N	N	
49	Other transport, comm, and utilities	N	Y ²	Y	See Note 5 below
50	Trade				
51	Wholesale trade	N	Y	Y	Max FAR of 0.28 in APZ I & .56 in APZ II
52	Retail trade - building materials, hardware and farm equipment	N	Y	Y	See Note 6 below
53	Retail trade - Shopping centers, Home Improvement Store, Discount Club, Electronics Superstore	N	N	Y	Max FAR of 0.16 in APZ II
54	Retail trade - food	N	N	Y	Max FAR of 0.24 in APZ II

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MCO 11010.16
09 OCT 2006

TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES ¹					
SLUCH NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ-I Recommendation	APZ-II Recommendation	Density Recommendation
55	Retail trade - automotive, marine craft, aircraft and accessories	N	Y	Y	Max FAR of 0.14 in APZ I & 0.28 in APZ II
56	Retail trade - apparel and accessories	N	N	Y	Max FAR 0.28 in APZ II
57	Retail trade - furniture, home, furnishings and equipment	N	N	Y	Same as above
58	Retail trade - eating and drinking establishments	N	N	N	
59	Other retail trade	N	N	Y	Max FAR of 0.16 in APZ II
60	<i>Services²</i>				
61	Finance, insurance and real estate services	N	N	Y	Max FAR of 0.22 for "General Office/Office park" in APZ II
62	Personal services	N	N	Y	Office uses only. Max FAR of 0.22 in APZ II.
62.4	Cemeteries	N	Y ³	Y ³	
63	Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	N	Y	Max FAR of 0.22 in APZ II
63.7	Warehousing and storage services	N	Y	Y	Max FAR 1.0 APZ I; 2.0 in APZ II
64	Repair Services	N	Y	Y	Max FAR of 0.11 APZ I; 0.22 in APZ II
65	Professional services	N	N	Y	Max FAR of 0.22 in APZ II
65.1	Hospitals, nursing homes	N	N	N	
65.1	Other medical facilities	N	N	N	
66	Contract construction services	N	Y	Y	Max FAR of 0.11 APZ I; 0.22 in APZ II
67	Government Services	N	N	Y	Max FAR of 0.24 in APZ II
68	Educational services	N	N	N	
69	Miscellaneous	N	N	Y	Max FAR of 0.22 in APZ II
70	<i>Cultural, entertainment and recreational</i>				
71	Cultural activities	N	N	N	
71.2	Nature exhibits	N	Y ³	Y ³	
72	Public assembly	N	N	N	
72.1	Auditoriums, concert halls	N	N	N	
72.11	Outdoor music shells, amphitheaters	N	N	N	

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TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES ¹					
SLICM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ-I Recommendation	APZ-II Recommendation	Density Recommendation
72.2	Outdoor sports arenas, spectator sports	N	N	N	
73	Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc	N	N	Y	
74	Recreational activities (including golf courses, riding stables, water recreation)	N	Y ¹¹	Y ¹¹	Max FAR of 0.11 APZ I, 0.22 in APZ II
75	Resorts and group camps	N	N	N	
76	Parks	N	Y ¹³	Y ¹³	Same as 74
79	Other cultural, entertainment and recreation	N	Y ³	Y ³	Same as 74
80	Resource production and extraction				
81	Agriculture (except live stock)	Y ⁴	Y ¹¹	Y ¹¹	
81.5, 81.7	Livestock farming and breeding	N	Y ^{11,13}	Y ^{11,13}	
82	Agriculture related activities	N	Y ¹¹	Y ¹¹	Max FAR of 0.28 APZ I; 0.56 APZ II no activity which produces smoke, glare, or involves explosives
83	Forestry Activities ¹¹	N	Y	Y	Same as Above
84	Fishing Activities ¹⁴	N ¹⁴	Y	Y	Same as Above
85	Mining Activities	N	Y	Y	Same as Above
89	Other resource production or extraction	N	Y	Y	Same as Above
90	Other				
91	Undeveloped Land	Y	Y	Y	
93	Water Areas	N ¹⁵	N ¹⁵	N ¹⁵	

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**TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES
SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES¹**

SLCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ-I Recommendation	APZ-II Recommendation	Density Recommendation
72.2	Outdoor sports arenas, spectator sports	N	N	N	
73	Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc	N	N	Y	
74	Recreational activities (including golf courses, riding stables, water recreation)	N	Y ¹¹	Y ¹¹	Max FAR of 0.11 APZ I, 0.22 in APZ II
75	Resorts and group camps	N	N	N	
76	Parks	N	Y ¹³	Y ¹³	Same as 74
79	Other cultural, entertainment and recreation	N	Y ³	Y ³	Same as 74
80	Resource production and extraction				
81	Agriculture (except live stock)	Y ⁴	Y ¹¹	Y ¹¹	
81.5, 81.7	Livestock farming and breeding	N	Y ^{11,13}	Y ^{11,13}	
82	Agriculture related activities	N	Y ¹¹	Y ¹¹	Max FAR of 0.28 APZ I; 0.56 APZ II no activity which produces smoke, glare, or involves explosives
83	Forestry Activities ¹¹	N	Y	Y	Same as Above
84	Fishing Activities ¹⁴	N ¹⁴	Y	Y	Same as Above
85	Mining Activities	N	Y	Y	Same as Above
89	Other resource production or extraction	N	Y	Y	Same as Above
90	Other				
91	Undeveloped Land	Y	Y	Y	
93	Water Areas	N ¹⁵	N ¹⁵	N ¹⁵	

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KEY TO TABLE 2 - SUGGESTED LAND USE COMPATIBILITY
IN ACCIDENT POTENTIAL ZONES

SLUCM -	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (Yes) -	Land use and related structures are normally compatible without restriction.
N (No) -	Land use and related structures are not normally compatible and should be prohibited.
Yx - (Yes with restrictions)	The land use and related structures are generally compatible. However, see notes indicated by the superscript.
Nx - (No with exceptions)	The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR - Floor Area Ratio	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Du/Ac - Dwelling Units per Acre	This metric is customarily used to measure residential densities.

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**NOTES FOR TABLE 2 - SUGGESTED LAND USE COMPATIBILITY
IN ACCIDENT POTENTIAL ZONES**

The following notes refer to Table 2.

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to FARs are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ I, and 50 per acre in APZ II are the range of occupancy levels, including employees, considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per acre in APZ I, and Maximum (Max) assemblies of 50 people per acre in APZ II.
2. The suggested Max density for detached single-family housing is one to two Du/Ac. In a Planned Unit Development (PUD) of single family detached units where clustered housing development results in large open areas, this density could possibly be increased provided the amount of surface area covered by structures does not exceed 20 percent of the PUD total area. PUD encourages clustered development that leaves large open areas.
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air-pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or aboveground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See UFC 3-260-01, "Airfield and Heliport Planning and Design" dated 10 November 2001 for specific design details.
5. No passenger terminals and no major above ground transmission lines in APZ I.

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6. Within SLUCM Code 52, Max FARs for lumber yards (SLUCM Code 521) are 0.20 in APZ-I and 0.40 in APZ-II. For hardware/paint and farm equipment stores, SLUCM Code 525, the Max FARs are 0.12 in APZ-I and 0.24 in APZ-II.

7. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, or managed as a unit. Shopping center types include strip, neighborhood, community, regional, and super regional facilities anchored by small businesses, supermarket or drug store, discount retailer, department store, or several department stores, respectively. Included in this category are such uses as big box discount clubs, home improvement superstores, office supply superstores, and electronics superstores. The Max recommended FAR for SLUCM 53 should be applied to the gross leasable area of the shopping center rather than attempting to use other recommended FARs listed in Table 2 under "Retail" or "Trade."

8. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc., are not recommended.

9. No chapels are allowed within APZ I or APZ II.

10. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not recommended.

11. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.

12. Includes feedlots and intensive animal husbandry.

13. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DoD Natural Resources instructions.

14. Controlled hunting and fishing may be permitted for the purpose of wildlife management.

15. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

Appendix B: Recommended Land Use Compatibility for Noise Zones²⁵

OPNAVINST 11010.36C
MCO 11010.16
09 OCT 2016

**TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES
SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES**

Land Use		Suggested Land Use Compatibility						
		Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)		
SL/UCM NO	LAND USE NAME	< 55	55- 64	65 - 69	70 - 74	75- 79	80 - 84	85+
10 Residential								
11	Household Units	Y	Y ¹	N ¹	N ¹	N	N	N
11.11	Single units: detached	Y	Y ¹	N ¹	N ¹	N	N	N
11.12	Single units: semidetached	Y	Y ¹	N ¹	N ¹	N	N	N
11.13	Single units: attached row	Y	Y ¹	N ¹	N ¹	N	N	N
11.21	Two units: side-by-side	Y	Y ¹	N ¹	N ¹	N	N	N
11.22	Two units: one above the other	Y	Y ¹	N ¹	N ¹	N	N	N
11.31	Apartments: walk-up	Y	Y ¹	N ¹	N ¹	N	N	N
11.32	Apartment: elevator	Y	Y ¹	N ¹	N ¹	N	N	N
12	Group quarters	Y	Y ¹	N ¹	N ¹	N	N	N
13	Residential Hotels	Y	Y ¹	N ¹	N ¹	N	N	N
14	Mobile home parks or courts	Y	Y ¹	N	N	N	N	N
15	Transient lodgings	Y	Y ¹	N ¹	N ¹	N ¹	N	N
16	Other residential	Y	Y ¹	N ¹	N ¹	N	N	N
20 Manufacturing								
21	Food & kindred products; manufacturing	Y	Y	Y	Y ²	Y ²	Y ²	N
22	Textile mill products; manufacturing	Y	Y	Y	Y ²	Y ²	Y ²	N
23	Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	Y	Y	Y	Y ²	Y ²	Y ²	N
24	Lumber and wood products (except furniture); manufacturing	Y	Y	Y	Y ²	Y ²	Y ²	N
25	Furniture and fixtures; manufacturing	Y	Y	Y	Y ²	Y ²	Y ²	N
26	Paper and allied products; manufacturing	Y	Y	Y	Y ²	Y ²	Y ²	N
27	Printing, publishing, and allied industries	Y	Y	Y	Y ²	Y ²	Y ²	N
28	Chemicals and allied products; manufacturing	Y	Y	Y	Y ²	Y ²	Y ²	N
29	Petroleum refining and related industries	Y	Y	Y	Y ²	Y ²	Y ²	N

²⁵ These tables are replaced with tailored land use tables by jurisdiction.

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**TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES
SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES (Continued)**

Land Use		Suggested Land Use Compatibility						
		Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)		
SLICM NO.	LAND USE NAME	< 55	55- 64	65 - 69	70 - 74	75- 79	80 - 84	85+
30 Manufacturing (continued)								
31	Rubber and misc. plastic products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
32	Stone, clay and glass products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
33	Primary metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
34	Fabricated metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
35	Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y	Y	Y	25	30	N	N
39	Miscellaneous manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
40 Transportation, communication and utilities								
41	Railroad, rapid rail transit, and street railway transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
42	Motor vehicle transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
43	Aircraft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
44	Marine craft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
45	Highway and street right-of-way	Y	Y	Y	Y ²	Y ³	Y ⁴	N
46	Automobile parking	Y	Y	Y	Y ³	Y ³	Y ⁴	N
47	Communication	Y	Y	Y	25 ⁵	30 ⁵	N	N
48	Utilities	Y	Y	Y	Y ²	Y ³	Y ⁴	N
49	Other transportation, communication and utilities	Y	Y	Y	25 ⁵	30 ⁵	N	N
50 Trade								
51	Wholesale trade	Y	Y	Y	Y ²	Y ³	Y ⁴	N
52	Retail trade - building materials, hardware and farm equipment	Y	Y	Y	Y ²	Y ³	Y ⁴	N
53	Retail trade - shopping centers	Y	Y	Y	25	30	N	N
54	Retail trade - food	Y	Y	Y	25	30	N	N
55	Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Y	25	30	N	N
56	Retail trade - apparel and accessories	Y	Y	Y	25	30	N	N

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**TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES
SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES (Continued)**

Land Use		Suggested Land Use Compatibility						
		Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)		
SL/UCM NO.	LAND USE NAME	< 55	55- 64	65 - 69	70 - 74	75- 79	80 - 84	85+
57	Retail trade - furniture, home, furnishings and equipment	Y	Y	Y	25	30	N	N
58	Retail trade - eating and drinking establishments	Y	Y	Y	25	30	N	N
59	Other retail trade	Y	Y	Y	25	30	N	N
60	Services							
61	Finance, insurance and real estate services	Y	Y	Y	25	30	N	N
62	Personal services	Y	Y	Y	25	30	N	N
62.4	Cemeteries	Y	Y	Y	Y ²	Y ³	Y ⁴⁻¹¹	Y ⁴⁻¹¹
63	Business services	Y	Y	Y	25	30	N	N
63.7	Warehousing and storage	Y	Y	Y	Y ²	Y ³	Y ⁴	N
64	Repair Services	Y	Y	Y	Y ²	Y ³	Y ⁴	N
65	Professional services	Y	Y	Y	25	30	N	N
65.1	Hospitals, other medical fac.	Y	Y ¹	25	30	N	N	N
65.16	Nursing Homes	Y	Y	N ¹	N ²	N	N	N
66	Contract construction services	Y	Y	Y	25	30	N	N
67	Government Services	Y	Y ¹	Y ¹	25	30	N	N
68	Educational services	Y	Y ¹	25	30	N	N	N
69	Miscellaneous	Y	Y	Y	25	30	N	N
70	Cultural, entertainment and recreational							
71	Cultural activities (& churches)	Y	Y ¹	25	30	N	N	N
71.2	Nature exhibits	Y	Y ¹	Y ¹	N	N	N	N
72	Public assembly	Y	Y ¹	Y	N	N	N	N
72.1	Auditoriums, concert halls	Y	Y	25	30	N	N	N
72.11	Outdoor music shells, amphitheaters	Y	Y ¹	N	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	Y	Y	Y ¹	Y ¹	N	N	N
73	Amusements	Y	Y	Y	Y	N	N	N
74	Recreational activities (include golf courses, riding stables, water rec.)	Y	Y ¹	Y ¹	25	30	N	N
75	Resorts and group camps	Y	Y ¹	Y ¹	Y ²	N	N	N
76	Parks	Y	Y ¹	Y ¹	Y ²	N	N	N
79	Other cultural, entertainment and recreation	Y	Y ¹	Y ¹	Y ²	N	N	N
80	Resource Production and Extraction							
81	Agriculture (except live stock)	Y	Y	Y ²	Y ³	Y ⁴	Y ⁴⁻¹¹	Y ⁴⁻¹¹

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**TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES
SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES (Continued)**

Land Use		Suggested Land Use Compatibility						
		Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)		
SLUCM NO.	LAND USE NAME	< 55	55- 64	65 - 69	70 - 74	75- 79	80 - 84	85+
81.5	Livestock farming	Y	Y	Y ¹	Y ²	N	N	N
81.7	Animal breeding	Y	Y	Y ³	Y ³	N	N	N
82	Agriculture related activities	Y	Y	Y ⁴	Y ⁵	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
83	Forestry Activities	Y	Y	Y ⁴	Y ⁵	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
84	Fishing Activities	Y	Y	Y	Y	Y	Y	Y
85	Mining Activities	Y	Y	Y	Y	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y	Y	Y	Y	Y

KEY TO TABLE 1 - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

- SLUCM Standard Land Use Coding Manual, U.S. Department of Transportation
- Y (Yes) Land Use and related structures compatible without restrictions.
- N (No) Land Use and related structures are not compatible and should be prohibited.
- Y^x (Yes with Restrictions) The land use and related structures are generally compatible. However, see note(s) indicated by the superscript.
- N^x (No with exceptions) The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
- NLR (Noise Level Reduction) NLR (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
- 25, 30, or 35 The numbers refer to NLR levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30 or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
- DNL Day Night Average Sound Level.
- CNEL Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
- Ldn Mathematical symbol for DNL.

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**NOTES FOR TABLE 1 - SUGGESTED LAND USE COMPATIBILITY
IN NOISE ZONES**

1. General

a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.

b. Where the community determines that these uses must be allowed measures to achieve and outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.

c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.

d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.

2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the

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public is received, office areas, noise sensitive areas or where the normal noise level is low.

4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.

6. No buildings.

7. Land use compatible provided special sound reinforcement systems are installed.

8. Residential buildings require a NLR of 25

9. Residential buildings require a NLR of 30.

10. Residential buildings not permitted.

11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

Military Influence Ordinance¹

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¹ To the extent the County currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, Carteret County and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between Carteret County and MCAS Cherry Point; and
 - (3) reasonable regulations within Carteret County including, where applicable, the Aircraft Safety Zones Overlay and Aircraft Noise Zones Overlay, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority²

- (A) This Ordinance is adopted pursuant to _____.³
-

² This Ordinance applies to any areas of the jurisdiction that are zoned or otherwise subject to land use or police power regulations under state law. Areas within the jurisdiction that are not zoned or regulated (or subject to municipal extraterritorial jurisdiction zoning) will coordinate through the Military Planning and Coordination Agreement (see Section 4.0) to protect compatibility.

³ The County's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

- (B) In addition, Carteret County is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years⁴ or more.
- (C) If a parcel is partially located within an Aircraft Safety Zone, Aircraft Noise Zone, or lands designated in Figure 4, this Ordinance applies only to that portion of the parcel located within the Aircraft Safety Zone, Aircraft Noise Zone, or lands designated in Figure 4.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Carteret County Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

ACCIDENT POTENTIAL ZONE (APZ) I: APZ-I lies beyond the Clear Zone, and is located in an area of lower, but still considerable, aircraft accident potential. Bogue ALF APZs are depicted in Figure 1.

ACCIDENT POTENTIAL ZONE (APZ) II: APZ-II is located beyond APZ-I and possesses less aircraft accident potential than APZ-I, but the potential is still high enough to warrant land use restrictions. Bogue ALF APZs are depicted in Figure 1.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the Clear Zones and Accident Potential Zones associated with Bogue ALF, maps the noise contours associated with aircraft operations and training, and identifies types of development considered incompatible with aircraft operations and training at

⁴ This timeframe may be consistent with the County's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the County may opt to require that only new structures and land uses comply with this Ordinance.

MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Study for Bogue ALF is:

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. Bogue ALF are depicted in Figure 2.

AIRCRAFT SAFETY ZONES: Refers to any one or more of the following: Clear Zone, Accident Potential Zone I, and Accident Potential Zone II.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

CARTERET COUNTY: The Carteret County Board of Commissioners or an administrative designee of the Board of Commissioners.

CARTERET COUNTY COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

CLEAR ZONE (CZ): The Clear Zone (CZ) begins at the end of the runway and is the area of highest aircraft accident potential; it has few uses that are compatible. The CZ starts at the end of the runway, and its dimensions are specified by the Department of Defense based on the type of aircraft and runway. CZs associated with Bogue ALF in Carteret County are depicted in Figure 1.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, Bogue ALF, and Atlantic OLF, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: MCAS Cherry Point, including BT-11 Piney Island; Bogue ALF; and Atlantic OLF.⁵

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with Carteret County for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in Carteret County and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between Carteret County, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in Carteret County:

1. Land uses or structures proposed on lands situated under the Bogue ALF imaginary surfaces, at less than the 50' contour, as shown in Figure 4;
2. Buildings or structures of 50' in height or greater; and
3. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁶
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Carteret County Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

⁵ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, unincorporated Carteret County had lands within five miles of Atlantic OLF, Bogue ALF, and MCAS Cherry Point (including BT-11 Piney Island).

⁶ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

RENEWABLE ENERGY FACILITY⁷: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

WIND ENERGY FACILITY⁸: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Carteret County *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, Carteret County and MCAS Cherry Point will designate and maintain the following positions:

- (A) Carteret County Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Aircraft Safety Zones Overlay

- (A) Certain parcels within Carteret County are located within the Bogue ALF Accident Potential Zones as indicated in Figure 1.⁹
- (B) The Aircraft Safety Zones Overlay includes all parcels or portions of parcels located in the CZs and APZs associated with Bogue ALF.
- (C) According to the AICUZ Study and current Navy guidance, certain land uses in CZs and APZs are not compatible with air operations at Bogue ALF, given the increased potential of aircraft accidents in these areas.

⁷ This definition is taken from N.C.G.S. §62-133.8(a)(7).

⁸ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

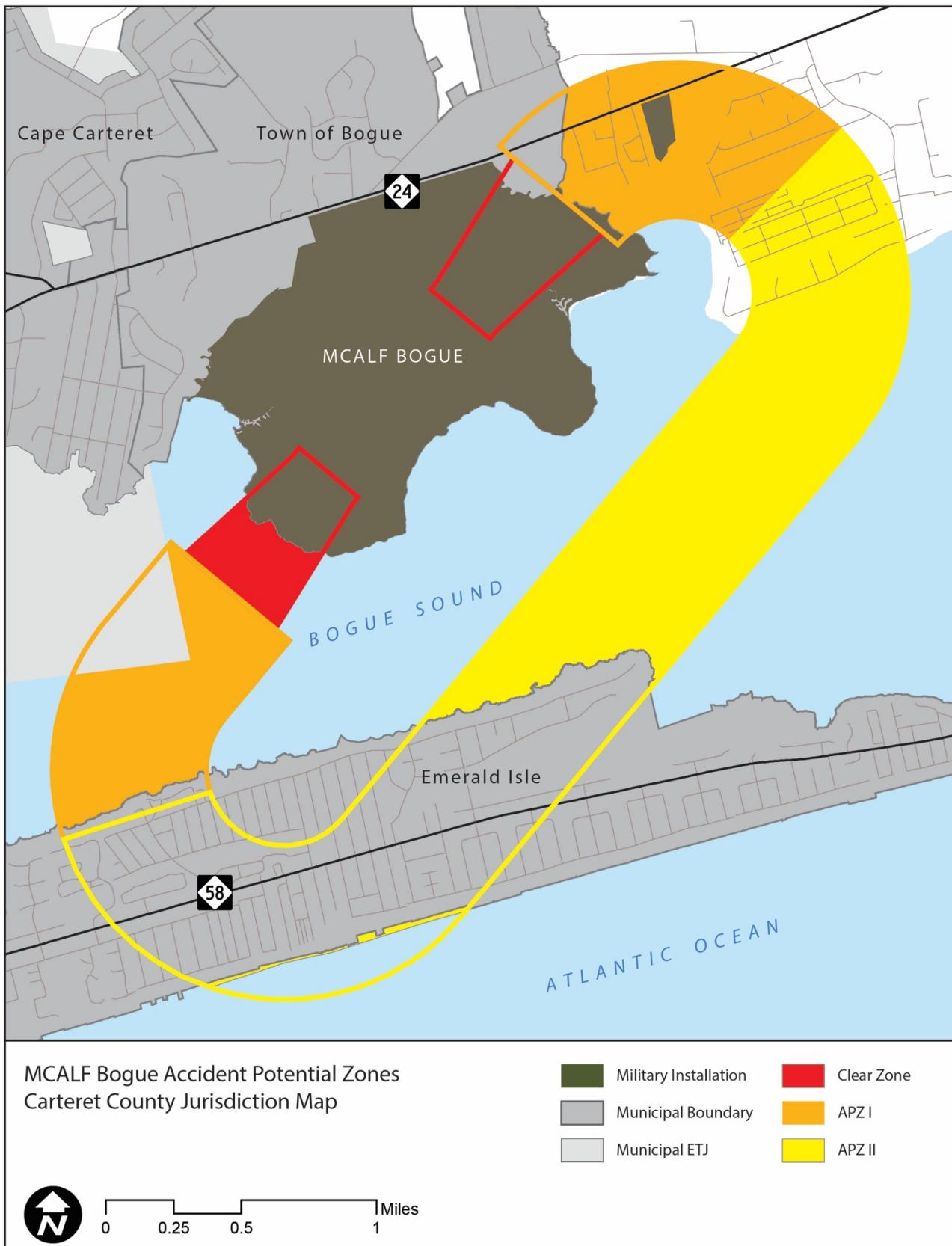
⁹ Note that about 5,000 square feet of the northeast Clear Zone for Bogue ALF extends into Carteret County, but the area is entirely overwater. For this reason, the draft Military Influence overlay does not include clear zone regulations. If the County or MCAS Cherry Point wishes to include them, the Sample Template or other jurisdictions' overlays include them for guidance (for example, see Craven County).

- (D) Unless expressly exempt¹⁰, all development proposed within the Bogue ALF APZs shall be consistent with Appendix A: Land Use Compatibility Recommendations for APZs.¹¹

¹⁰ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Safety Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹¹ The Navy **safety zone** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 1. Bogue ALF Clear Zones & Accident Potential Zones in Carteret County's Jurisdiction



7.2. Aircraft Noise Zones Overlay

- (A) Certain parcels within Carteret County are located within the Bogue ALF and MCAS Cherry Point Aircraft Noise Zones as indicated in Figure 2 and Figure 3.
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with Bogue ALF.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Study.
- (D) According to the AICUZ Study and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at Bogue ALF.¹²
- (E) Unless expressly exempt¹³, all development proposed within the Aircraft Noise Zones associated with Bogue ALF, therefore, shall be consistent with Appendix B: Recommended Land Use Compatibility for Noise Zones.¹⁴

¹² Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

¹³ Appendix B provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹⁴ The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

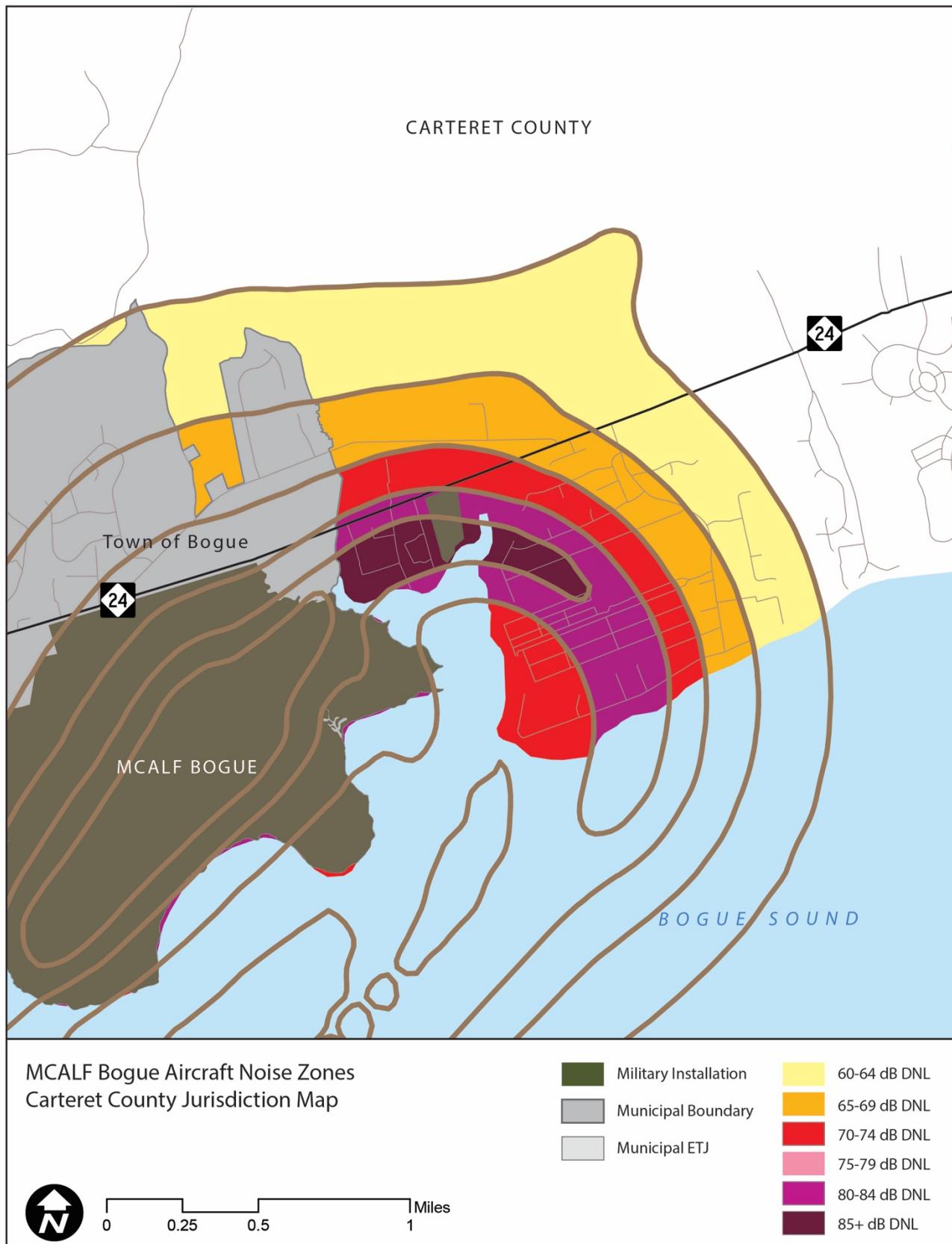
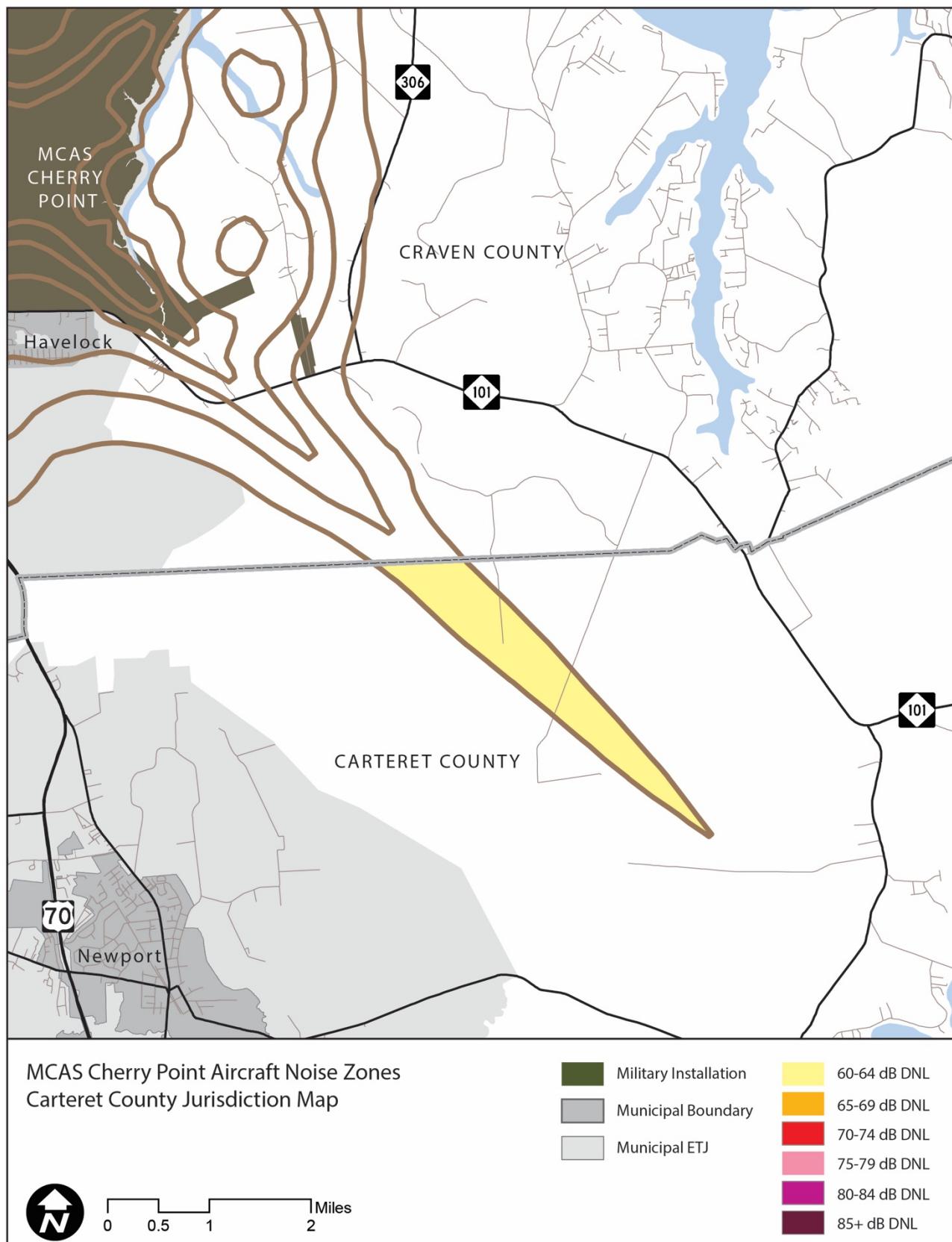
Figure 2. Bogue ALF Aircraft Noise Zones in Carteret County's Jurisdiction

Figure 3. MCAS Cherry Point Aircraft Noise Zones in Carteret County's Jurisdiction



7.3. Limitations on Incompatible and Potential Incompatible Developments¹⁵

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.3.
- (B) **Wind Energy Facilities.**¹⁶ Wind Energy Facilities are prohibited within Carteret County.¹⁷
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.3 shall be pursuant to the process in Section o.

7.4. Limitations on Height of Structures¹⁸

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in Carteret County.
- (B) **Proposed Structures Less Than 50 feet in Height.** Except as required by subsection (C) below, a determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in Carteret County that are less than 50 feet in height.
- (C) **Buildings and Structures on Adjacent Lands.**
 - (1) Figure 4 indicates lands adjacent to MCAS Cherry Point that are situated under the MCAS Cherry Point imaginary surfaces, at less than the 50' contour. Figure 5

¹⁵ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.3(C) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹⁶ Under the proposed MIOD, Wind Energy Facilities are prohibited within the county, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹⁷ The County may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁸ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.4(C) and (D) (**height**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

indicates lands adjacent to Atlantic OLF that are situated under the Atlantic OLF imaginary surfaces, at less than the 50' contour.

- (2) Due to the proximity of these lands to active military runways, the base commander will make a determination, on a case-by-case basis, of whether a structure proposed on these lands will create an Airport Obstruction or Interference.
 - (3) Any building or structure proposed on lands indicated in Figure 4, for which the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, is prohibited.
- (D) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, Carteret County will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (E) **Procedures.** Coordination under this Section 7.4 shall be pursuant to the process in Section o.

Figure 4. Lands of Special Concern Adjacent to MCAS Cherry Point

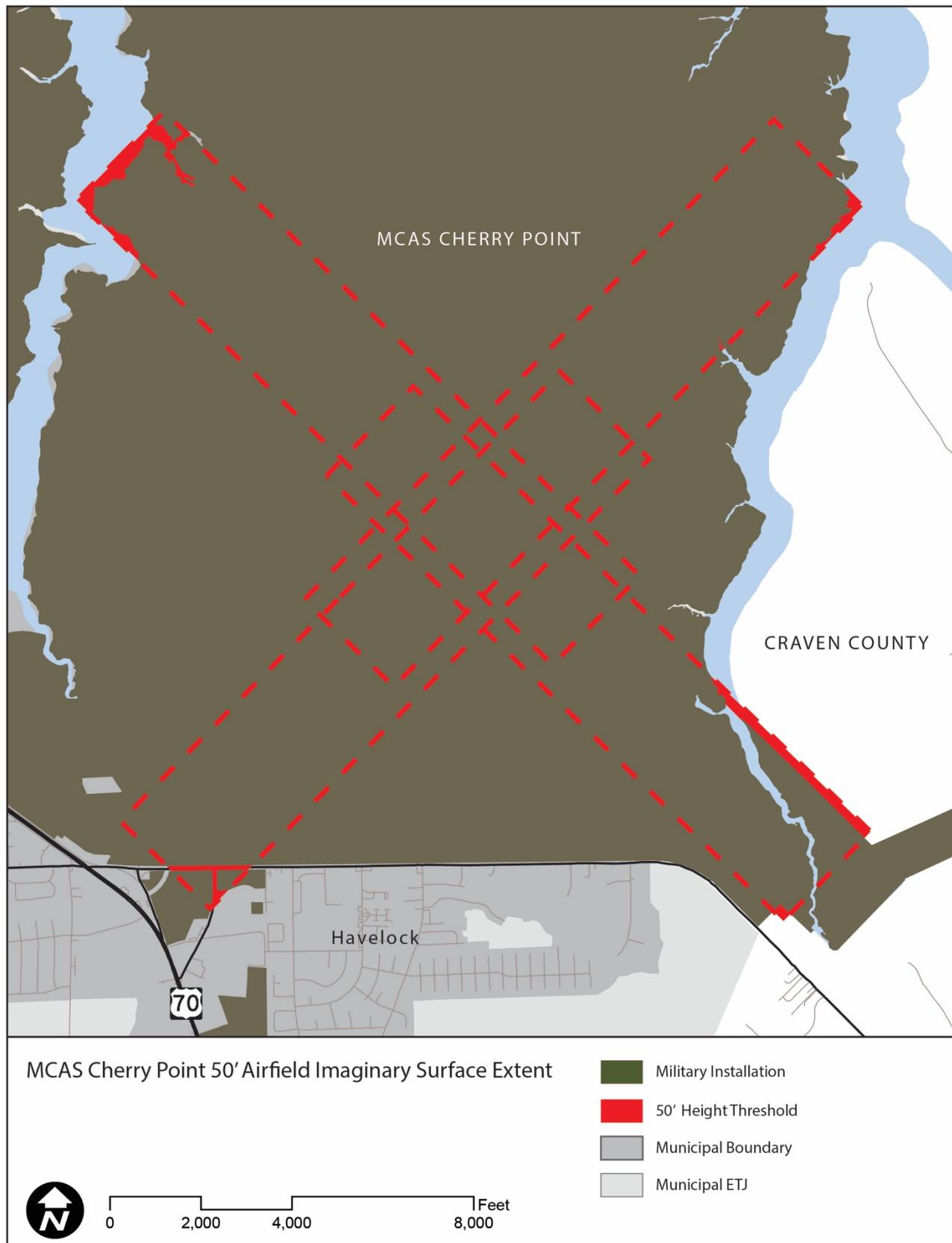
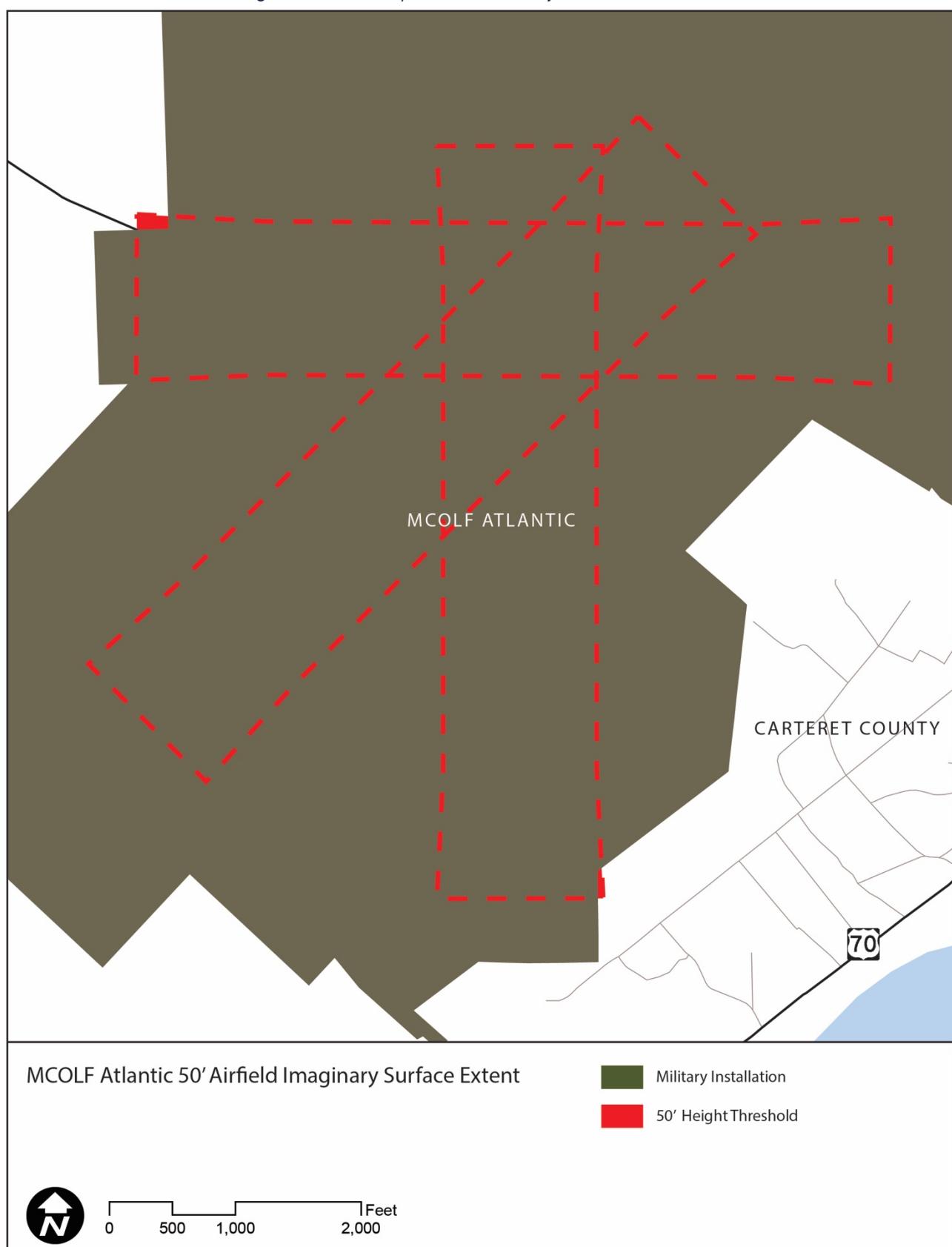


Figure 5. Lands of Special Concern Adjacent to Atlantic OLF

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Carteret County Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of Carteret County staff and other decision-makers, regarding Potential Incompatible Development proposed within Carteret County, as provided in Sections 7.3 and 7.4, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which Carteret County is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);¹⁹
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land²⁰

- (A) Pursuant to N.C.G.S. § 160D-6-1, Carteret County will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

¹⁹ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

²⁰ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement, and may apply to both areas that are subject to zoning and land development regulations and those that are not.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** Carteret County will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.²¹

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in Carteret County.²²

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

²¹ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The County should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

²² The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the County will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The County's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Appendix A: Land Use Compatibility Recommendations for APZs

Air Installations Compatible Use Zones

Suggested Land Use Compatibility In Accident Potential Zones¹

SLUCM NO	Land Use Name	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
10 Residential				
11 Household Units	N	Y ²	Max density of 1-2 Du/Ac	
11.11 Single units: detached	N	N		
11.12 Single units: semi-detached	N	N		
11.13 Single units: attached row	N	N		
11.21 Two units: side- by-side	N	N		
11.22 Two units: one above the other	N	N		
11.31 Apartments: Walk-up	N	N		
11.32 Apartments: Elevator	N	N		
12 Group quarters	N	N		
13 Residential Hotels	N	N		
14 Mobile home parks or courts	N	N		
15 Transient lodgings	N	N		
16 Other residential	N	N		
20 Manufacturing³				
21 Food & kindred products; manufacturing	N	Y	Max FAR 0.56 in APZ-II	
22 Textile mill products; manufacturing	N	Y	Max FAR 0.56 in APZ-II	
23 Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	N	N		
24 Lumber and wood products (except furniture); manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II	
25 Furniture and fixtures; manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II	
26 Paper and allied products; manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II	
27 Printing, publishing, and allied industries	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II	
28 Chemicals and allied products; manufacturing	N	N		
29 Petroleum refining and related industries	N	N		
31 Rubber and misc. plastic products; manufacturing	N	N		
32 Stone, clay and glass products; manufacturing	N	Y	Max FAR 0.56 in APZ-II	
33 Primary metal products; manufacturing	N	Y	Max FAR 0.56 in APZ-II	

SLUCM NO Land Use Name	APZ - I	APZ - II	Density Recommendation
	Recommendation	Recommendation	
34 Fabricated metal products; manufacturing	N	Y	Max FAR 0.56 in APZ-II
35 Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	N	
39 Miscellaneous Manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
40 Transportation, communication and utilities^{4,5}			
41 Railroad, rapid rail transit, and street railway transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
42 Motor vehicle transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
43 Aircraft transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
44 Marine craft transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
45 Highway and street right-of-way	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
46 Auto parking	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
47 Communication	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
48 Utilities	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
48.5 Solid Waste Disposal (landfills, Incineration, etc.)	N	N	
49 Other transport, comm. and utilities	Y ⁵	Y	See Note 5 below
50 Trade			
51 Wholesale trade	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
52 Retail trade - building materials, hardware and farm equipment	Y	Y	See Note 6 below
53 Retail trade ⁷ - Shopping centers, Home Improvement Store, Discount Club, Electronics Superstore	N	Y	Max FAR of 0.16 in APZ-II
54 Retail trade - food	N	Y	Max FAR of 0.24 in APZ-II
55 Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Max FAR of 0.14 in APZ-I & 0.28 in APZ-II
56 Retail trade - apparel and accessories	N	Y	Max FAR 0.28 in APZ-II
57 Retail trade - furniture, home, furnishings and equipment	N	Y	Max FAR 0.28 in APZ-II
58 Retail trade - eating and drinking establishments	N	N	
59 Other retail trade	N	Y	Max FAR of 0.16 in APZ-II
60 Services⁸			
61 Finance, Insurance and Real Estate Services	N	Y	Max Far of 0.22 for "General Office/Office Park" in APZ-II
62 Personal services	N	Y	Office uses only. Max FAR of 0.22 in APZ-II.

SLUCM NO	Land Use Name	APZ - I	APZ - II	Density Recommendation
		Recommendation	Recommendation	
62.4	Cemeteries	Y ⁹	Y ⁹	
63	Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	Y	Max FAR of 0.22 in APZ-II
63.7	Warehousing and storage services	Y	Y	Max FAR 1.0 in APZ-I; 2.0 in APZ-II
64	Repair Services	Y	Y	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
65	Professional services	N	Y	Max FAR of 0.22 in APZ-II
65.1	Hospitals, Nursing Home	N	N	
65.1	Other Medical Facilities	N	N	
66	Contract construction services	Y	Y	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
67	Government Services	N	Y	Max FAR of 0.24 in APZ-II
68	Educational services	N	N	
69	Miscellaneous	N	Y	Max FAR of 0.22 in APZ-II
70 Cultural, entertainment and recreational				
71	Cultural activities	N	N	
71.2	Nature exhibits	Y ¹⁰	Y ¹⁰	
72	Public assembly	N	N	
72.1	Auditoriums, Concert Halls	N	N	
72.11	Outdoor Music Shells, Amphitheaters	N	N	
72.2	Outdoor sports arenas, spectator sports	N	N	
73	Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc.	N	Y	
74	Recreational activities (including golf courses, riding stables, water recreation)	Y ¹⁰	Y ¹⁰	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
75	Resorts and group camps	N	N	
76	Parks	Y ¹⁰	Y ¹⁰	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
79	Other Cultural, Entertainment and Recreation	Y ⁹	Y ⁹	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
80 Resource Production and Extraction				
81	Agriculture (Except livestock)	Y ¹¹	Y ¹¹	
81.5, 81.7	Livestock Farming and Breeding	Y ^{11, 12}	Y ^{11, 12}	
82	Agriculture Related Activities	Y ¹¹	Y ¹¹	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
83	Forestry Activities ¹³	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
84	Fishing Activities ¹⁴	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.

SLUCM NO Land Use Name	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
	Y	Y	
85 Mining Activities	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
89 Other resource production or extraction	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
90 Other			
91 Undeveloped Land	Y	Y	
93 Water Areas	N ¹⁵	N ¹⁵	

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (YES)	Land use and related structures are normally compatible without restriction.
N (NO)	Land use and related structures are not normally compatible and should be prohibited.
Y ^X	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^X	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR (Floor Area Ratio)	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Du/Ac	Dwelling Units per Acre. This metric is customarily used to measure residential densities.

NOTES - SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to FARs are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ-I, and 50 per acre in APZ II are the range of occupancy levels, including employees, considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per acre in APZ-I, and Maximum (Max) assemblies of 50 people per acre in APZ-II.
2. The suggested Max density for detached single-family housing is one to two Du/Ac. In a Planned Unit Development (PUD) of single family detached units where clustered housing development results in large open areas, this density could possibly be increased provided the amount of surface area covered by structures does not exceed 20 percent of the PUD total area. PUD encourages clustered development that leaves large open areas.
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air-pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or above-ground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See UFC 3-260-01, "Airfield and Heliport Planning and Design" dated 10 November 2001 for specific design details.
5. No passenger terminals and no major above-ground transmission lines in APZ-I.
6. Within SLUCM Code 52, Max FARs for lumber yards (SLUCM Code 521) are 0.20 in APZ-I and 0.40 in APZ-II. For hardware/paint and farm equipment stores, SLUCM Code 525, the Max FARs are 0.12 in APZ-I and 0.24 in APZ-II.
7. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, or managed as a unit. Shopping center types include strip, neighborhood, community, regional, and super regional facilities anchored by small businesses, supermarket or drug store, discount retailer, department store, or several department stores, respectively. Included in this category are such uses as big box discount clubs, home improvement superstores, office supply superstores, and electronics superstores. The max recommended FAR for SLUCM 53 should be applied to the gross leasable area of the shopping center rather than attempting to use other recommended FARs listed in Table 2 under "Retail" or "Trade."
8. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc., are not recommended.
9. No chapels are allowed within APZ-I or APZ-II.
10. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not recommended.
11. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
12. Includes feedlots and intensive animal husbandry.
13. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DoD Natural Resources instructions.
14. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
15. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

Appendix B: Recommended Land Use Compatibility for Noise Zones

Air Installations Compatible Use Zones

Table 1: Suggested Land Use Compatibility In Noise Zones

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
10	Residential							
11	Household Units	Y	Y ¹	N ¹	N ¹	N	N	N
11.11	Single units: detached	Y	Y ¹	N ¹	N ¹	N	N	N
11.12	Single units: semi-detached	Y	Y ¹	N ¹	N ¹	N	N	N
11.13	Single units: attached row	Y	Y ¹	N ¹	N ¹	N	N	N
11.21	Two units: side-by-side	Y	Y ¹	N ¹	N ¹	N	N	N
11.22	Two units: one above the other	Y	Y ¹	N ¹	N ¹	N	N	N
11.31	Apartments: walk-up	Y	Y ¹	N ¹	N ¹	N	N	N
11.32	Apartments: elevator	Y	Y ¹	N ¹	N ¹	N	N	N
12	Group quarters	Y	Y ¹	N ¹	N ¹	N	N	N
13	Residential Hotels	Y	Y ¹	N ¹	N ¹	N	N	N
14	Mobile home parks or courts	Y	Y ¹	N	N	N	N	N
15	Transient lodgings	Y	Y ¹	N ¹	N ¹	N ¹	N	N
16	Other residential	Y	Y ¹	N ¹	N ¹	N	N	N
20	Manufacturing							
21	Food & kindred products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
22	Textile mill products: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
23	Apparel and other finished products: products made from fabrics, leather and similar materials: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
24	Lumber and wood products (except furniture): manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
25	Furniture and fixtures: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
26	Paper and allied products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
27	Printing, publishing, and allied industries	Y	Y	Y	Y ²	Y ³	Y ⁴	N
28	Chemicals and allied products: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
29	Petroleum refining and related industries	Y	Y	Y	Y ²	Y ³	Y ⁴	N
31	Rubber and misc. plastic products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
32	Stone, clay and glass products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
33	Primary metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
34	Fabricated metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
35	Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y	Y	Y	25	30	N	N

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
39	Miscellaneous manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
40	Transportation, communication and utilities							
41	Railroad, rapid rail transit, and street railway transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
42	Motor vehicle transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
43	Aircraft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
44	Marine craft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
45	Highway and street right-of-way	Y	Y	Y	Y ²	Y ³	Y ⁴	N
46	Automobile parking	Y	Y	Y	Y ²	Y ³	Y ⁴	N
47	Communication	Y	Y	Y	25 ³	30 ⁵	N	N
48	Utilities	Y	Y	Y	Y ²	Y ³	Y ⁴	N
49	Other transportation, communication and utilities	Y	Y	Y	25 ⁵	30 ⁵	N	N
50	Trade							
51	Wholesale trade	Y	Y	Y	Y ²	Y ³	Y ⁴	N
52	Retail trade - building materials, hardware and farm equipment	Y	Y	Y	Y ²	Y ³	Y ⁴	N
53	Retail trade - shopping centers	Y	Y	Y	25	30	N	N
54	Retail trade - food	Y	Y	Y	25	30	N	N
55	Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Y	25	30	N	N
56	Retail Trade - Apparel and Accessories	Y	Y	Y	25	30	N	N
57	Retail trade - furniture, home, furnishings and equipment	Y	Y	Y	25	30	N	N
58	Retail trade - eating and drinking establishments	Y	Y	Y	25	30	N	N
59	Other retail trade	Y	Y	Y	25	30	N	N
60	Services							
61	Finance, insurance and real estate services	Y	Y	Y	25	30	N	N
62	Personal services	Y	Y	Y	25	30	N	N
62.4	Cemeteries	Y	Y	Y	Y ²	Y ³	Y ⁴ ¹¹	Y ⁵ ¹¹
63	Business services	Y	Y	Y	25	30	N	N
63.7	Warehousing and storage	Y	Y	Y	Y ²	Y ³	Y ⁴	N
64	Repair Services	Y	Y	Y	Y ²	Y ³	Y ⁴	N
65	Professional services	Y	Y	Y	25	30	N	N
65.1	Hospitals, other medical fac.	Y	Y ¹	25	30	N	N	N
65.16	Nursing Homes	Y	Y	N ¹	N ¹	N	N	N
66	Contract construction services	Y	Y	Y	25	30	N	N
67	Government Services	Y	Y ¹	Y ¹	25	30	N	N
68	Educational services	Y	Y ¹	25	30	N	N	N
69	Miscellaneous	Y	Y	Y	25	30	N	N
70	Cultural, entertainment and recreational							
71	Cultural Activities (& Churches)	Y	Y ¹	25	30	N	N	N
71.2	Nature exhibits	Y	Y ¹	Y ¹	N	N	N	N
72	Public assembly	Y	Y ¹	Y	N	N	N	N
72.1	Auditoriums, concert halls	Y	Y	25	30	N	N	N
72.11	Outdoor music shells, amphitheaters	Y	Y ¹	N	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	Y	Y	Y ¹	Y ²	N	N	N

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
73	Amusements	Y	Y	Y	Y	N	N	N
74	Recreational activities (include golf courses, riding stables, water rec.)	Y	Y ¹	Y ¹	25	30	N	N
75	Resorts and group camps	Y	Y ¹	Y ¹	Y ¹	N	N	N
76	Parks	Y	Y ¹	Y ¹	Y ¹	N	N	N
79	Other cultural, entertainment and recreation	Y	Y ¹	Y ¹	Y ¹	N	N	N
80 Resource Production and Extraction								
81	Agriculture (except livestock)	Y	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
81.5	Livestock farming	Y	Y	Y ⁸	Y ⁹	N	N	N
81.7	Animal breeding	Y	Y	Y ⁸	Y ⁹	N	N	N
82	Agriculture-related activities	Y	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
83	Forestry Activities	Y	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
84	Fishing Activities	Y	Y	Y	Y	Y	Y	Y
85	Mining Activities	Y	Y	Y	Y	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y	Y	Y	Y	Y

Key

- SLUCM Standard Land Use Coding Manual, U.S. Department of Transportation
 Y (yes) Land use and related structures compatible without restrictions.
 N (no) Land use and related structures are not compatible and should be prohibited.
 Y^x Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
 N^x No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
 NLR (Noise Level) NLR (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
 Level Reduction
 25, 30, or 35 The numbers refer to NLR levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30, or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
 DNL Day Night Average Sound Level
 CNEL Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
 LDN Mathematical symbol for DNL

NOTES FOR TABLE 1 - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.
 - c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
 - d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.
2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.
6. No buildings.
7. Land use compatible provided special sound reinforcement systems are installed.
8. Residential buildings require a NLR of 25.
9. Residential buildings require a NLR of 30.
10. Residential buildings not permitted.
11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

Military Influence Ordinance¹

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¹ To the extent the County currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, Craven County and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between Craven County and MCAS Cherry Point; and
 - (3) reasonable regulations within Craven County including, where applicable, the Aircraft Safety Zones Overlay and Aircraft Noise Zones Overlay, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority²

- (A) This Ordinance is adopted pursuant to _____.³
-

² This Ordinance applies to any areas of the jurisdiction that are zoned or otherwise subject to land use or police power regulations under state law. Areas within the jurisdiction that are not zoned or regulated (or subject to municipal extraterritorial jurisdiction zoning) will coordinate through the Military Planning and Coordination Agreement (see Section 4.0) to protect compatibility.

³ The County's legal counsel should verify the source authority upon which the County relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

- (B) In addition, Craven County is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years⁴ or more.
- (C) If a parcel is partially located within an Aircraft Safety Zone, Aircraft Noise Zone, or lands designated in **Error! Reference source not found.**, this Ordinance applies only to that portion of the parcel located within the Aircraft Safety Zone, Aircraft Noise Zone, or lands designated in **Error! Reference source not found.**.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Craven County Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

ACCIDENT POTENTIAL ZONE (APZ) I: APZ-I lies beyond the Clear Zone, and is located in an area of lower, but still considerable, aircraft accident potential. MCAS Cherry Point APZs are depicted in Figure 1.

ACCIDENT POTENTIAL ZONE (APZ) II: APZ-II is beyond APZ-I and possesses less aircraft accident potential than APZ-I, but the potential is still high enough to warrant land use restrictions. MCAS Cherry Point APZs are depicted in Figure 1.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the Clear Zones and Accident Potential Zones associated with MCAS Cherry Point, maps the noise contours associated with aircraft operations and training, and identifies types of development considered incompatible with aircraft operations and

⁴ This timeframe may be consistent with the County's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the County may opt to require that only new structures and land uses comply with this Ordinance.

training at MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Study for MCAS Cherry Point is:

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. MCAS Cherry Point Noise Zones are depicted in Figure 2.

AIRCRAFT SAFETY ZONES: Refers to any one or more of the following: Clear Zone, Accident Potential Zone I, and Accident Potential Zone II.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

CLEAR ZONE (CZ): The Clear Zone (CZ) begins at the end of the runway and is the area of highest aircraft accident potential; it has few uses that are compatible. The CZ starts at the end of the runway, and its dimensions are specified by the Department of Defense based on the type of aircraft and runway. CZs associated with MCAS Cherry Point are located outside Craven County's jurisdiction.

CRAVEN COUNTY: The Craven County Board of Commissioners or an administrative designee of the Board of Commissioners.

CRAVEN COUNTY COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: MCAS Cherry Point and Oak Grove OLF.⁵

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with Craven County for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in Craven County and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between Craven County, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in Craven County:

1. Land uses or structures proposed on lands situated under the MCAS Cherry Point imaginary surfaces, at less than the 50' contour, as shown in Error! Reference source not found.;
2. Buildings or structures of 50' in height or greater; and
3. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁶
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Craven County Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

⁵ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, unincorporated Craven County had lands within five miles of Oak Grove OLF (west of River Bend) and MCAS Cherry Point.

⁶ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

RENEWABLE ENERGY FACILITY⁷: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

WIND ENERGY FACILITY⁸: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Craven County *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, Craven County and MCAS Cherry Point will designate and maintain the following positions:

- (A) Craven County Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Aircraft Safety Zones Overlay

- (A) Certain parcels within Craven County are located within the MCAS Cherry Point Accident Potential Zones as indicated in Figure 1.
- (B) The Aircraft Safety Zones Overlay includes all parcels or portions of parcels located in the APZs associated with MCAS Cherry Point.
- (C) According to the AICUZ Study and current Navy guidance, certain land uses in APZs are not compatible with air operations at MCAS Cherry Point, given the increased potential of aircraft accidents in these areas.

⁷ This definition is taken from N.C.G.S. §62-133.8(a)(7).

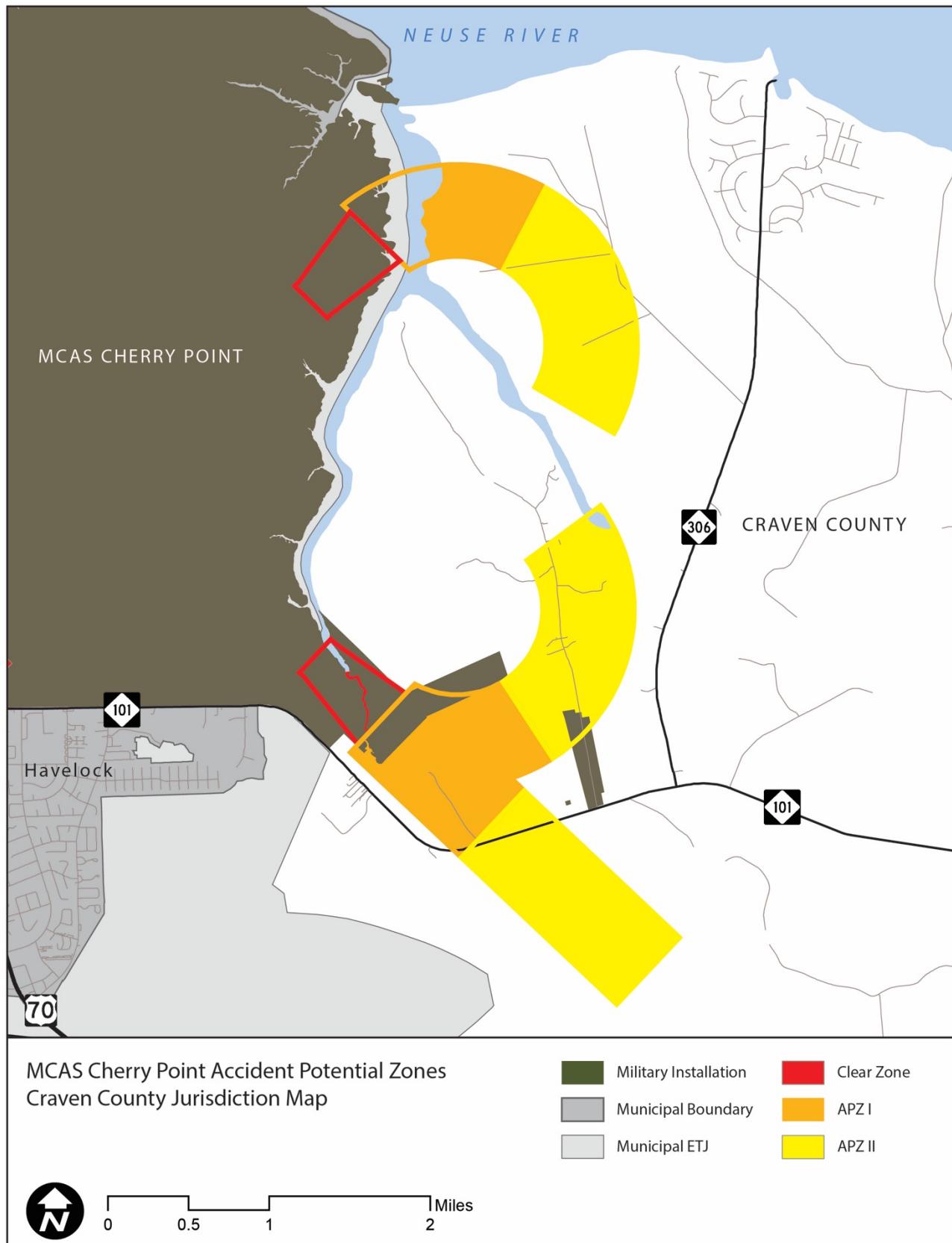
⁸ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (*see* City of Havelock Unified Development Ordinance, § 155.0706(G)).

- (D) Unless expressly exempt⁹, all development proposed within the MCAS Cherry Point APZs shall be consistent with Appendix A: Land Use Compatibility Recommendations for APZs.¹⁰

⁹ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Safety Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹⁰ The Navy **safety zone** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 1. MCAS Cherry Point Clear Zones & Accident Potential Zones in Craven County's Jurisdiction



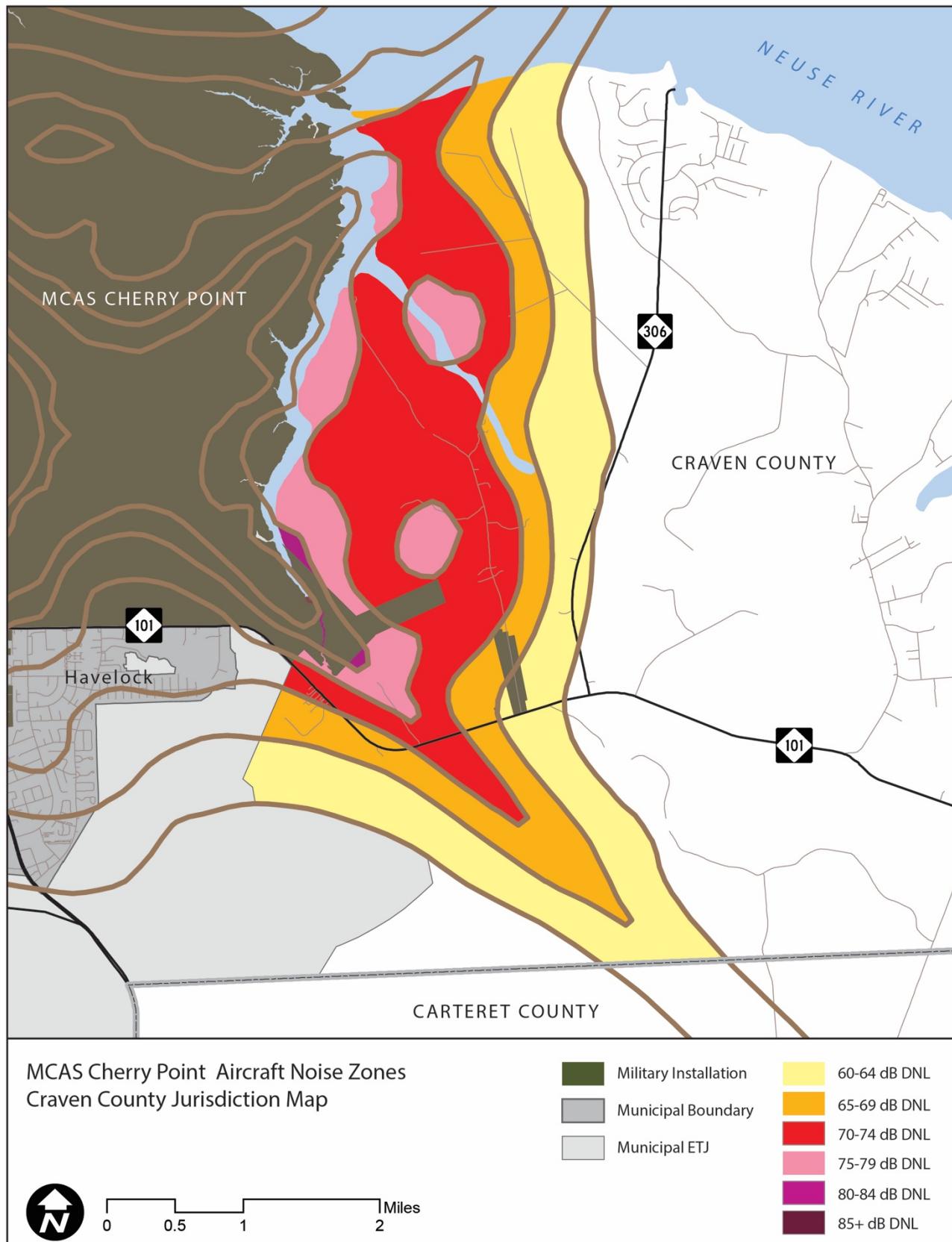
7.2. Aircraft Noise Zones Overlay

- (A) Certain parcels within Craven County are located within the MCAS Cherry Point Aircraft Noise Zones as indicated in Figure 2.
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with MCAS Cherry Point.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Studies.
- (D) According to the AICUZ Studies and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at MCAS Cherry Point.¹¹
- (E) Unless expressly exempt¹², all development proposed within the Aircraft Noise Zones associated with MCAS Cherry Point, therefore, shall be consistent with Appendix B: Recommended Land Use Compatibility for Noise Zones.¹³

¹¹ Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

¹² Appendix B provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹³ The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 2. MCAS Cherry Point Aircraft Noise Zones in Craven County's Jurisdiction

7.3. Limitations on Incompatible and Potential Incompatible Developments¹⁴

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.3.
- (B) **Wind Energy Facilities.**¹⁵ Wind Energy Facilities are prohibited within Craven County.¹⁶
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.3 shall be pursuant to the process in Section 8.0.

7.4. Limitations on Height of Structures¹⁷

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in Craven County.
- (B) **Proposed Structures Less Than 50 feet in Height.** Except as required by subsection (C) below, a determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in Craven County that are less than 50 feet in height.
- (C) **Buildings and structures on adjacent lands.**
 - (1) **Error! Reference source not found.** indicates lands adjacent to MCAS Cherry Point that are situated under the MCAS Cherry Point imaginary surfaces, at less than the 50' contour.
 - (2) Due to the proximity of these lands to active military runways, the base commander will make a determination, on a case-by-case basis, of whether a

¹⁴ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.3(C) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

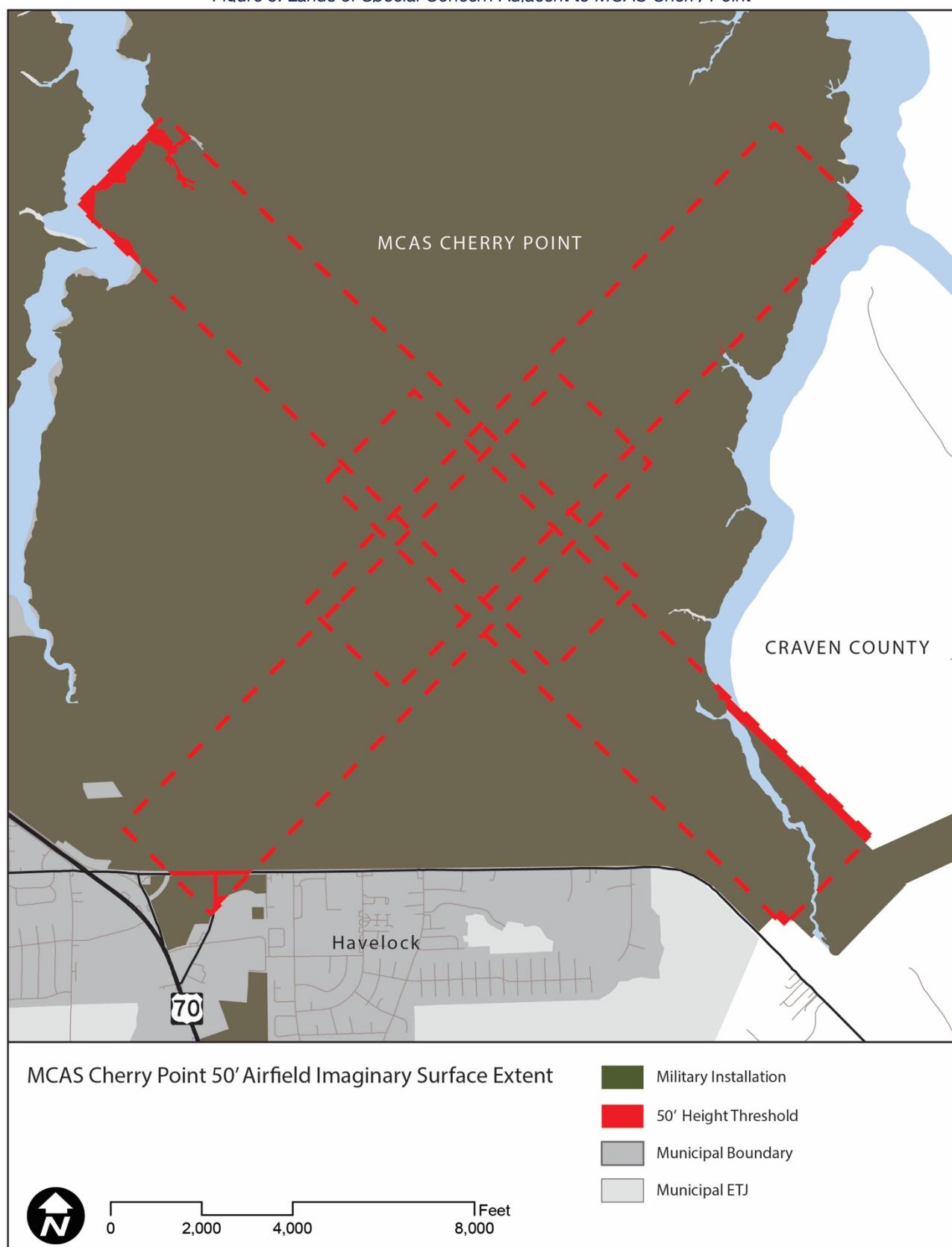
¹⁵ Under the proposed MIOD, Wind Energy Facilities are prohibited within the county, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹⁶ The County may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁷ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.4(C) and (D) (**height**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

structure proposed on these lands will create an Airport Obstruction or Interference.

- (3) Any building or structure proposed on lands indicated in **Error! Reference source not found.**, for which the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, is prohibited.
- (D) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, Craven County will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 ([N.C.G.S. §§ 143-151.70 through 143-151.77](#)).
- (E) **Procedures.** Coordination under this Section 7.4 shall be pursuant to the process in [Section 8.0.](#)

Figure 3. Lands of Special Concern Adjacent to MCAS Cherry Point

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Craven County Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of Craven County staff and other decision-makers, regarding Potential Incompatible Development proposed within Craven County, as provided in Sections 7.3 and 7.4, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which Craven County is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);¹⁸
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹⁹

- (A) Pursuant to N.C.G.S. § 160D-6-1, Craven County will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

¹⁸ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹⁹ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement, and may apply to both areas that are subject to zoning and land development regulations and those that are not.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** Craven County will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.²⁰

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in Craven County.²¹

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

²⁰ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The County should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

²¹ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the County will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The County's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Appendix A: Land Use Compatibility Recommendations for APZs

Air Installations Compatible Use Zones

Suggested Land Use Compatibility In Accident Potential Zones¹

SLUCM NO Land Use Name	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
10 Residential			
11 Household Units	N	Y ²	Max density of 1-2 Du/Ac
11.11 Single units: detached	N	N	
11.12 Single units: semi-detached	N	N	
11.13 Single units: attached row	N	N	
11.21 Two units: side- by-side	N	N	
11.22 Two units: one above the other	N	N	
11.31 Apartments: Walk-up	N	N	
11.32 Apartments: Elevator	N	N	
12 Group quarters	N	N	
13 Residential Hotels	N	N	
14 Mobile home parks or courts	N	N	
15 Transient lodgings	N	N	
16 Other residential	N	N	
20 Manufacturing³			
21 Food & kindred products; manufacturing	N	Y	Max FAR 0.56 in APZ-II
22 Textile mill products; manufacturing	N	Y	Max FAR 0.56 in APZ-II
23 Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	N	N	
24 Lumber and wood products (except furniture); manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
25 Furniture and fixtures; manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
26 Paper and allied products; manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
27 Printing, publishing, and allied industries	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
28 Chemicals and allied products; manufacturing	N	N	
29 Petroleum refining and related industries	N	N	
31 Rubber and misc. plastic products; manufacturing	N	N	
32 Stone, clay and glass products; manufacturing	N	Y	Max FAR 0.56 in APZ-II
33 Primary metal products; manufacturing	N	Y	Max FAR 0.56 in APZ-II

SLUCM NO Land Use Name	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
34 Fabricated metal products; manufacturing	N	Y	Max FAR 0.56 in APZ-II
35 Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	N	
39 Miscellaneous Manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
40 Transportation, communication and utilities^{4,5}			
41 Railroad, rapid rail transit, and street railway transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
42 Motor vehicle transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
43 Aircraft transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
44 Marine craft transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
45 Highway and street right-of-way	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
46 Auto parking	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
47 Communication	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
48 Utilities	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
48.5 Solid Waste Disposal (landfills, Incineration, etc.)	N	N	
49 Other transport, comm. and utilities	Y ⁵	Y	See Note 5 below
50 Trade			
51 Wholesale trade	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
52 Retail trade - building materials, hardware and farm equipment	Y	Y	See Note 6 below
53 Retail trade ⁷ - Shopping centers, Home Improvement Store, Discount Club, Electronics Superstore	N	Y	Max FAR of 0.16 in APZ-II
54 Retail trade - food	N	Y	Max FAR of 0.24 in APZ-II
55 Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Max FAR of 0.14 in APZ-I & 0.28 in APZ-II
56 Retail trade - apparel and accessories	N	Y	Max FAR 0.28 in APZ-II
57 Retail trade - furniture, home, furnishings and equipment	N	Y	Max FAR 0.28 in APZ-II
58 Retail trade - eating and drinking establishments	N	N	
59 Other retail trade	N	Y	Max FAR of 0.16 in APZ-II
60 Services⁸			
61 Finance, Insurance and Real Estate Services	N	Y	Max Far of 0.22 for "General Office/Office Park" in APZ-II
62 Personal services	N	Y	Office uses only. Max FAR of 0.22 in APZ-II.

SLUCM NO	Land Use Name	APZ - I	APZ - II	Density Recommendation
		Recommendation	Recommendation	
62.4 Cemeteries		Y ⁹	Y ⁹	
63 Business services (credit reporting; mail, stenographic, reproduction; advertising)		N	Y	Max FAR of 0.22 in APZ-II
63.7 Warehousing and storage services		Y	Y	Max FAR 1.0 in APZ-I; 2.0 in APZ-II
64 Repair Services		Y	Y	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
65 Professional services		N	Y	Max FAR of 0.22 in APZ-II
65.1 Hospitals, Nursing Home		N	N	
65.1 Other Medical Facilities		N	N	
66 Contract construction services		Y	Y	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
67 Government Services		N	Y	Max FAR of 0.24 in APZ-II
68 Educational services		N	N	
69 Miscellaneous		N	Y	Max FAR of 0.22 in APZ-II
70 Cultural, entertainment and recreational				
71 Cultural activities		N	N	
71.2 Nature exhibits		Y ¹⁰	Y ¹⁰	
72 Public assembly		N	N	
72.1 Auditoriums, Concert Halls		N	N	
72.11 Outdoor Music Shells, Amphitheaters		N	N	
72.2 Outdoor sports arenas, spectator sports		N	N	
73 Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc.		N	Y	
74 Recreational activities (including golf courses, riding stables, water recreation)		Y ¹⁰	Y ¹⁰	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
75 Resorts and group camps		N	N	
76 Parks		Y ¹⁰	Y ¹⁰	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
79 Other Cultural, Entertainment and Recreation		Y ⁹	Y ⁹	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
80 Resource Production and Extraction				
81 Agriculture (Except livestock)		Y ¹¹	Y ¹¹	
81.5, 81.7 Livestock Farming and Breeding		Y ^{11, 12}	Y ^{11, 12}	
82 Agriculture Related Activities		Y ¹¹	Y ¹¹	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
83 Forestry Activities ¹³		Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
84 Fishing Activities ¹⁴		Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.

SLUCM NO Land Use Name	APZ - I	APZ - II	Density Recommendation
	Recommendation	Recommendation	
85 Mining Activities	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
89 Other resource production or extraction	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
90 Other			
91 Undeveloped Land	Y	Y	
93 Water Areas	N ¹⁵	N ¹⁵	

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (YES)	Land use and related structures are normally compatible without restriction.
N (NO)	Land use and related structures are not normally compatible and should be prohibited.
Y ^X	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^X	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR (Floor Area Ratio)	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Du/Ac	Dwelling Units per Acre. This metric is customarily used to measure residential densities.

NOTES - SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to FARs are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ-I, and 50 per acre in APZ II are the range of occupancy levels, including employees, considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per acre in APZ-I, and Maximum (Max) assemblies of 50 people per acre in APZ-II.
2. The suggested Max density for detached single-family housing is one to two Du/Ac. In a Planned Unit Development (PUD) of single family detached units where clustered housing development results in large open areas, this density could possibly be increased provided the amount of surface area covered by structures does not exceed 20 percent of the PUD total area. PUD encourages clustered development that leaves large open areas.
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air-pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or above-ground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See UFC 3-260-01, "Airfield and Heliport Planning and Design" dated 10 November 2001 for specific design details.
5. No passenger terminals and no major above-ground transmission lines in APZ-I.
6. Within SLUCM Code 52, Max FARs for lumber yards (SLUCM Code 521) are 0.20 in APZ-I and 0.40 in APZ-II. For hardware/paint and farm equipment stores, SLUCM Code 525, the Max FARs are 0.12 in APZ-I and 0.24 in APZ-II.
7. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, or managed as a unit. Shopping center types include strip, neighborhood, community, regional, and super regional facilities anchored by small businesses, supermarket or drug store, discount retailer, department store, or several department stores, respectively. Included in this category are such uses as big box discount clubs, home improvement superstores, office supply superstores, and electronics superstores. The max recommended FAR for SLUCM 53 should be applied to the gross leasable area of the shopping center rather than attempting to use other recommended FARs listed in Table 2 under "Retail" or "Trade."
8. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc., are not recommended.
9. No chapels are allowed within APZ-I or APZ-II.
10. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not recommended.
11. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
12. Includes feedlots and intensive animal husbandry.
13. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DoD Natural Resources instructions.
14. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
15. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

Appendix B: Recommended Land Use Compatibility for Noise Zones

Air Installations Compatible Use Zones
Suggested Land Use Compatibility In Noise Zones

Land Use	Noise Zone 1 (DNL or CNEL)	Suggested Land Use Compatibility			
		60-64 dB	65-69 dB	70-74 dB	75-79 dB
SLUCM NO.	LAND USE NAME	Noise Zone 1 (DNL or CNEL)	Noise Zone 2 (DNL or CNEL)	Noise Zone 3 (DNL or CNEL)	Noise Zone 4 (DNL or CNEL)
60-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	
10 Residential					
11 Household Units	Y ¹	N ¹	N ¹	N	N
11.11 Single units: detached	Y ¹	N ¹	N ¹	N	N
11.12 Single units: semi-detached	Y ¹	N ¹	N ¹	N	N
11.13 Single units: attached row	Y ¹	N ¹	N ¹	N	N
11.21 Two units: side-by-side	Y ¹	N ¹	N ¹	N	N
11.22 Two units: one above the other	Y ¹	N ¹	N ¹	N	N
11.31 Apartments: walk-up	Y ¹	N ¹	N ¹	N	N
11.32 Apartments: elevator	Y ¹	N ¹	N ¹	N	N
12 Group quarters	Y ¹	N ¹	N ¹	N	N
13 Residential Hotels	Y ¹	N ¹	N ¹	N	N
14 Mobile home parks or courts	Y ¹	N	N	N	N
15 Transient lodgings	Y ¹	N ¹	N ¹	N ¹	N
16 Other residential	Y ¹	N ¹	N ¹	N	N
20 Manufacturing					
21 Food & kindred products; manufacturing	Y	Y	Y ²	Y ³	Y ⁴
22 Textile mill products: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
23 Apparel and other finished products: products made from fabrics, leather and similar materials: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
24 Lumber and wood products (except furniture): manufacturing	Y	Y	Y ²	Y ³	Y ⁴
25 Furniture and fixtures: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
26 Paper and allied products; manufacturing	Y	Y	Y ²	Y ³	Y ⁴
27 Printing, publishing, and allied industries	Y	Y	Y ²	Y ³	Y ⁴
28 Chemicals and allied products: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
29 Petroleum refining and related industries	Y	Y	Y ²	Y ³	Y ⁴
31 Rubber and misc. plastic products; manufacturing	Y	Y	Y ²	Y ³	Y ⁴

Land Use SLUCM NO., LAND USE NAME	Noise Zone 1 (DNL or CNEL)	Suggested Land Use Compatibility			
		60-64 dB	65-69 dB	70-74 dB	75-79 dB
32 Stone, clay and glass products; manufacturing	Y		Y ²		Y ³ Y ⁴
33 Primary metal products; manufacturing	Y		Y	Y ²	Y ³ Y ⁴
34 Fabricated metal products; manufacturing	Y		Y	Y ²	Y ³ Y ⁴
35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y		Y	25	30 N
39 Miscellaneous manufacturing	Y		Y	Y ²	Y ³ Y ⁴
40 Transportation, communication and utilities					
41 Railroad, rapid rail transit, and street railway transportation	Y		Y	Y ²	Y ³ Y ⁴
42 Motor vehicle transportation	Y		Y	Y ²	Y ³ Y ⁴
43 Aircraft transportation	Y		Y	Y ²	Y ³ Y ⁴
44 Marine craft transportation	Y		Y	Y ²	Y ³ Y ⁴
45 Highway and street right-of-way	Y		Y	Y ²	Y ³ Y ⁴
46 Automobile parking	Y		Y	Y ²	Y ³ Y ⁴
47 Communication	Y		Y	25 ⁵	30 ⁵ N
48 Utilities	Y		Y	Y ²	Y ³ Y ⁴
49 Other transportation, communication and utilities	Y		Y	25 ⁵	30 ⁵ N
50 Trade					
51 Wholesale trade	Y		Y	Y ²	Y ³ Y ⁴
52 Retail trade - building materials, hardware and farm equipment	Y		Y	Y ²	Y ³ Y ⁴
53 Retail trade - shopping centers	Y		Y	25	30 N
54 Retail trade - food	Y		Y	25	30 N
55 Retail trade - automotive, marine craft, aircraft and accessories	Y		Y	25	30 N
56 Retail Trade - Apparel and Accessories	Y		Y	25	30 N
57 Retail trade- furniture, home, furnishings and equipment	Y		Y	25	30 N
58 Retail trade - eating and drinking establishments	Y		Y	25	30 N
59 Other retail trade	Y		Y	25	30 N

Land Use	Suggested Land Use Compatibility					
	Noise Zone 1 (DNL or CNEL)	Noise Zone 2 (DNL or CNEL)	Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	60-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB
60	Services					
61	Finance, insurance and real estate services	Y	Y	25	30	N
62	Personal services	Y	Y	25	30	N
62.4	Cemeteries	Y	Y	Y ²	Y ³	Y ^{4,11}
63	Business services	Y	Y	25	30	N
63.7	Warehousing and storage	Y	Y	Y ²	Y ³	Y ⁴
64	Repair Services	Y	Y	Y ²	Y ³	Y ⁴
65	Professional services	Y	Y	25	30	N
65.1	Hospitals, other medical fac.	Y ¹	25	30	N	N
65.16	Nursing Homes	Y	N ¹	N ¹	N	N
66	Contract construction services	Y	Y	25	30	N
67	Government Services	Y ¹	Y ¹	25	30	N
68	Educational services	Y ¹	25	30	N	N
69	Miscellaneous	Y	Y	25	30	N
70	Cultural, entertainment and recreational					
71	Cultural Activities (& Churches)	Y ¹	25	30	N	N
71.2	Nature exhibits	Y ¹	Y ¹	N	N	N
72	Public assembly	Y ¹	Y	N	N	N
72.1	Auditoriums, concert halls	Y	25	30	N	N
72.11	Outdoor music shells, amphitheaters	Y ¹	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	Y	Y ⁷	Y ⁷	N	N
73	Amusements	Y	Y	Y	N	N
74	Recreational activities (include golf courses, riding stables, water rec.)	Y ¹	Y ¹	25	30	N
75	Resorts and group camps	Y ¹	Y ¹	Y ¹	N	N
76	Parks	Y ¹	Y ¹	Y ¹	N	N
79	Other cultural, entertainment and recreation	Y ¹	Y ¹	Y ¹	N	N
80	Resource Production and Extraction					
81	Agriculture (except livestock)	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10, 11}
81.5	Livestock farming	Y	Y ⁸	Y ⁹	N	N
81.7	Animal breeding	Y	Y ⁸	Y ⁹	N	N
82	Agriculture-related activities	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10, 11}
83	Forestry Activities	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10, 11}
84	Fishing Activities	Y	Y	Y	Y	Y
85	Mining Activities	Y	Y	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y	Y	Y

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (yes)	Land use and related structures compatible without restrictions.
N (no)	Land use and related structures are not compatible and should be prohibited.
Y ^x	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^x	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
NLR (Noise Level Reduction)	NLR (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
25, 30, or 35	The numbers refer to NLR levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30, or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
DNL	Day Night Average Sound Level
CNEL	Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
LDN	Mathematical symbol for DNL

NOTES - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.
 - c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
 - d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.
2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.
6. *Reserved.*
7. Land use compatible provided special sound reinforcement systems are installed.
8. Residential buildings require a NLR of 25.
9. Residential buildings require a NLR of 30.
10. Residential buildings not permitted.
11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

Military Influence Overlay Ordinance¹

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¹ At the time of the Study, unincorporated Jones County was not zoned, although Subdivision Regulations were in place. Nonetheless, a Military Influence Overlay Ordinance draft was prepared for the consideration of the Jones County officials.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, Jones County and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between Jones County and MCAS Cherry Point; and
 - (3) reasonable regulations within Jones County including, where applicable, the APZ-I Overlay and Aircraft Noise Zones Overlay, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority²

- (A) This Ordinance is adopted pursuant to _____.³
-

² This Ordinance applies to any areas of the county that are zoned or otherwise subject to land use or police power regulations under state law. Areas within the county that are not zoned or regulated (or subject to municipal extraterritorial jurisdiction zoning) will coordinate through the Military Planning and Coordination Agreement (see Section 4.0) to protect compatibility.

³ The County's legal counsel should verify the source authority upon which the County relies to adopt a Military Influence Overlay Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

- (B) In addition, Jones County is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years⁴ or more.
- (C) If a parcel is partially located within APZ-I, an Aircraft Noise Zone, or lands designated in **Error! Reference source not found.**, this Ordinance applies only to that portion of the parcel located within APZ-I, the Aircraft Noise Zone, or lands designated in **Error! Reference source not found..**
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of Jones County ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

ACCIDENT POTENTIAL ZONE (APZ) I: APZ-I lies beyond the Clear Zone, and is located in an area of lower, but still considerable, aircraft accident potential. Oak Grove OLF APZ-I is depicted in Figure 1.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the Clear Zone and Accident Potential Zone associated with Oak Grove OLF, maps the noise contours associated with aircraft operations and training, and identifies types of development considered incompatible with aircraft operations and training at Oak Grove OLF. As of this Ordinance's original adoption date, the most recent AICUZ Study for Oak Grove OLF is:

“Air Installations Compatible Use Zones Report for Marine Corps Outlying Landing Field Oak Grove, North Carolina,” dated June 2011.

⁴ This timeframe may be consistent with the County's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the County may opt to require that only new structures and land uses comply with this Ordinance.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. Oak Grove OLF Noise Zones are depicted in Figure 2.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at Oak Grove OLF, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

JONES COUNTY: The Jones County Board of Commissioners or an administrative designee of the Jones County Board of Commissioners .

JONES COUNTY COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

CLEAR ZONE (CZ): The Clear Zone (CZ) begins at the end of the runway and is the area of highest aircraft accident potential; it has few uses that are compatible. The CZ starts at the end of the runway, and its dimensions are specified by the Department of Defense based on the type of aircraft and runway. All CZs associated with Oak Grove OLF in Jones County are located within the boundaries of Oak Grove OLF.

IMAGINARY SURFACES: The Imaginary Surfaces associated with Oak Grove OLF, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: Oak Grove OLF.⁵

⁵ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, unincorporated Jones County had lands within five miles of Oak Grove OLF only.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with Jones County for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in Jones County and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between Jones County, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in Jones County:

1. Land uses or structures proposed on lands situated under the Oak Grove OLF imaginary surfaces, at less than the 50' contour, as shown in **Error! Reference source not found.**;
2. Buildings or structures of 50' in height or greater; and
3. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁶
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Jones County Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁷: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

⁶ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁷ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁸: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Jones County *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, Jones County and MCAS Cherry Point will designate and maintain the following positions:

- (A) Jones County Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. APZ-I Overlay

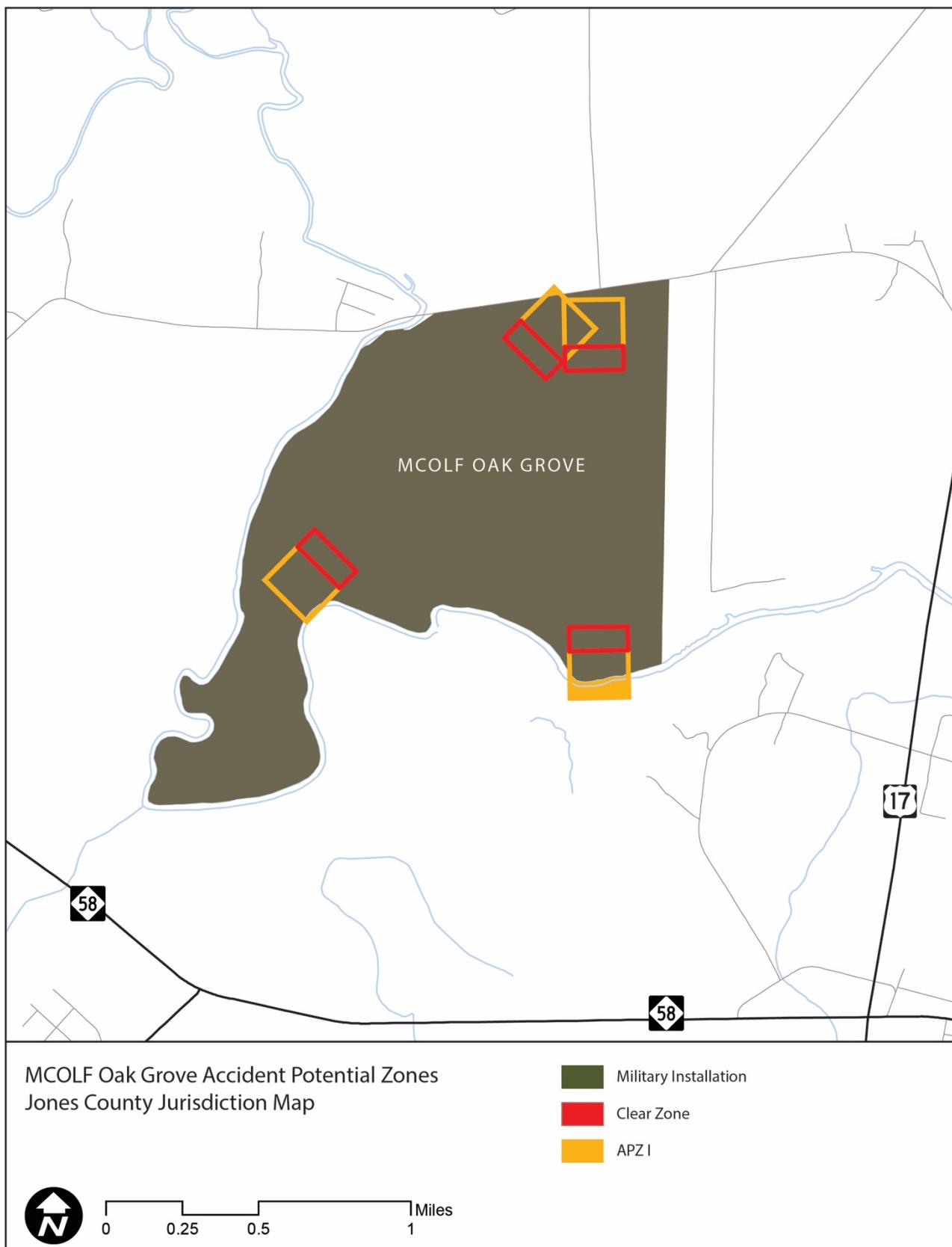
- (A) Certain parcels within Jones County are located within Oak Grove OLF Accident Potential Zone-I (APZ-I) as indicated in Figure 1.
- (B) The APZ-I Overlay includes all parcels or portions of parcels located in the APZ-I associated with Oak Grove OLF.
- (C) According to the AICUZ Study and current Navy guidance, certain land uses in APZ-I are not compatible with air operations at Oak Grove OLF, given the increased potential of aircraft accidents in these areas.
- (D) Unless expressly exempt⁹, all development proposed within Oak Grove OLF APZ-I shall be consistent with Appendix A: Land Use Compatibility Recommendations for APZ-I.¹⁰

⁸ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁹ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in APZ-I. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹⁰ The Navy **safety zone (APZ-I)** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 1. Oak Grove OLF APZ-I in Jones County's Jurisdiction



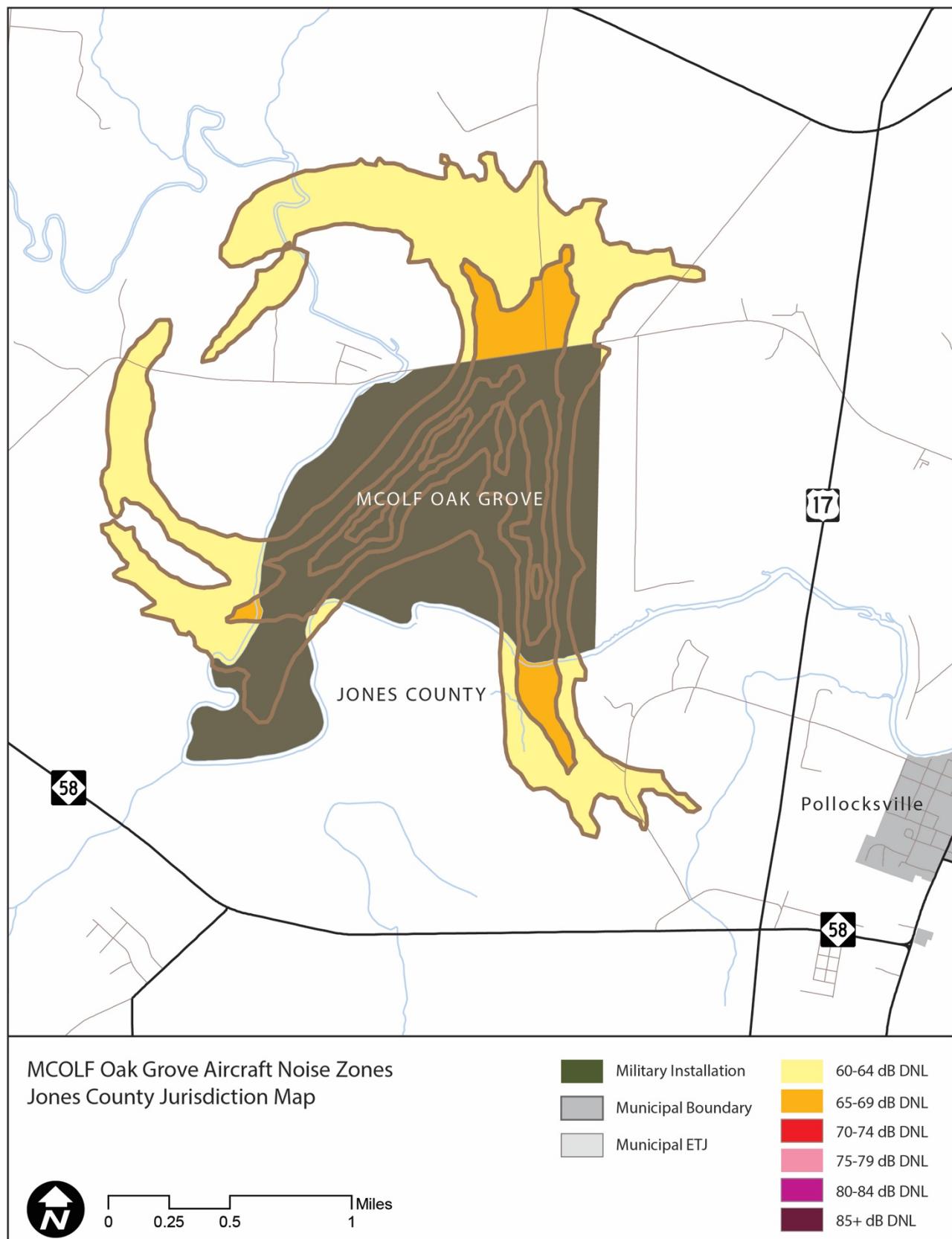
7.2. Aircraft Noise Zones Overlay

- (A) Certain parcels within Jones County are located within the Oak Grove OLF Aircraft Noise Zones as indicated in Figure 2.
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with Oak Grove OLF.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Study.
- (D) According to the AICUZ Study and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at Oak Grove OLF.¹¹
- (E) Unless expressly exempt¹², all development proposed within the Aircraft Noise Zones associated with Oak Grove OLF, therefore, shall be consistent with Appendix B: Recommended Land Use Compatibility for Noise Zones.¹³

¹¹ Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

¹² Appendix B provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹³ The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 2. Oak Grove OLF Aircraft Noise Zones in Jones County's Jurisdiction

7.3. Limitations on Incompatible and Potential Incompatible Developments¹⁴

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.3.
- (B) **Wind Energy Facilities.**¹⁵ Wind Energy Facilities are prohibited within Jones County.¹⁶
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.3 shall be pursuant to the process in Section 8.0.

7.4. Limitations on Height of Structures¹⁷

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in Jones County.
- (B) **Proposed Structures Less Than 50 feet in Height.** Except as required by subsection (C) below, a determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in Jones County that are less than 50 feet in height.
- (C) **Buildings and Structures on Adjacent Lands.**
 - (1) **Error! Reference source not found.** indicates lands adjacent to Oak Grove OLF that are situated under the Oak Grove OLF imaginary surfaces, at less than the 50' contour.
 - (2) Due to the proximity of these lands to active military runways, the base commander will make a determination, on a case-by-case basis, of whether a

¹⁴ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.3(C) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

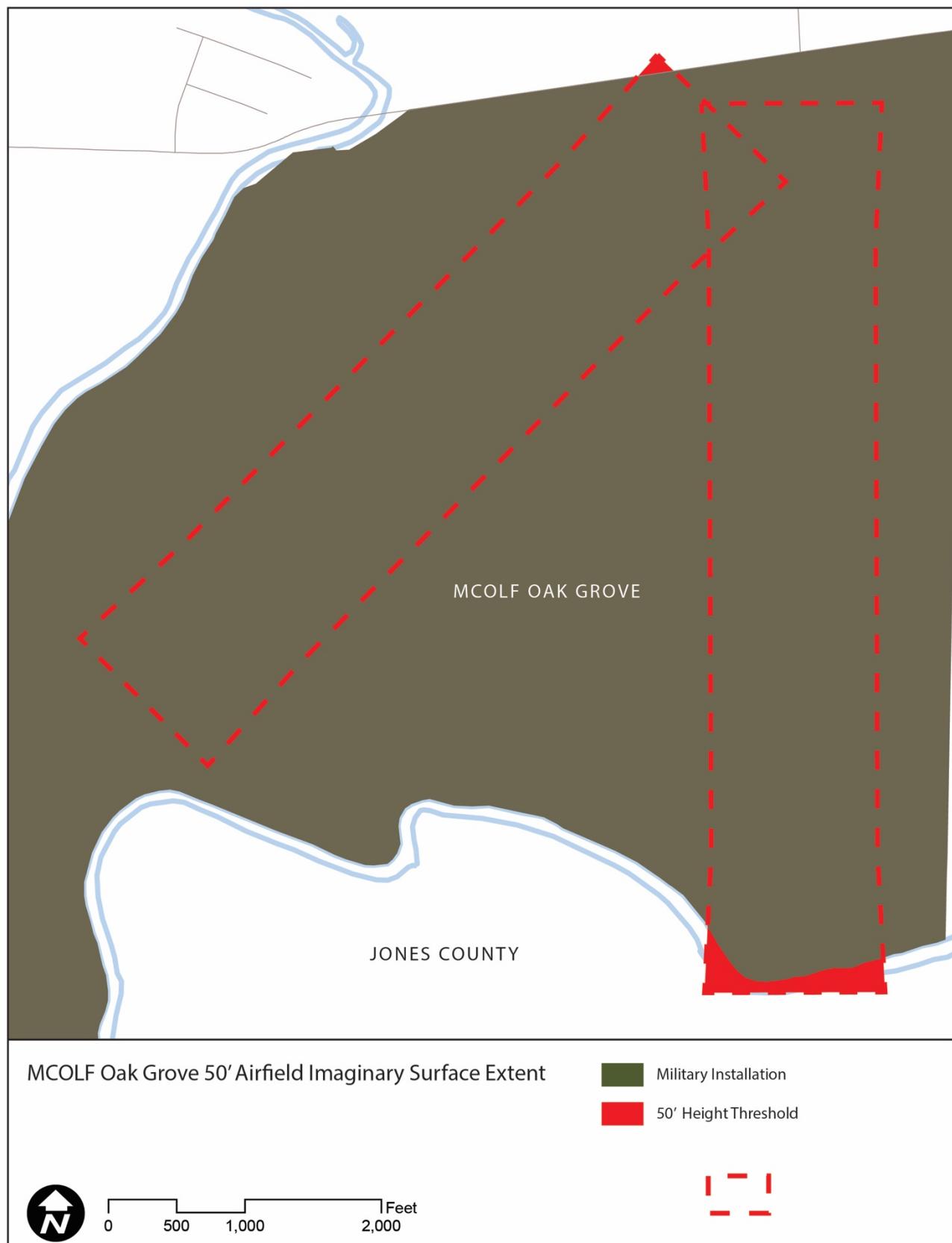
¹⁵ Under the proposed MIOD, Wind Energy Facilities are prohibited within the county, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹⁶ The County may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁷ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.4(C) and (D) (**height**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

structure proposed on these lands will create an Airport Obstruction or Interference.

- (3) Any building or structure proposed on lands indicated in **Error! Reference source not found.**, for which the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, is prohibited.
- (D) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, Jones County will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 ([N.C.G.S. §§ 143-151.70 through 143-151.77](#)).
- (E) **Procedures.** Coordination under this Section 7.4 shall be pursuant to the process in [Section 8.0.](#)

Figure 3. Lands of Special Concern Adjacent to Oak Grove OLF

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Jones County Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of Jones County staff and other decision-makers, regarding Potential Incompatible Development proposed within Jones County, as provided in Sections 7.3 and 7.4, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which Jones County is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);¹⁸
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹⁹

- (A) Pursuant to N.C.G.S. § 160D-6-1, Jones County will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

¹⁸ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹⁹ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement, and may apply to both areas that are subject to zoning and land development regulations and those that are not.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** Jones County will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.²⁰

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in Jones County.²¹

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

²⁰ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The County should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

²¹ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the County will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The County's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Appendix A: Land Use Compatibility Recommendations for APZ-I

Air Installations Compatible Use Zones

Suggested Land Use Compatibility In Accident Potential Zone I (APZ-I)¹

SLUCM NO	Land Use Name	APZ - I Recommendation	Density Recommendation
10 Residential			
11 Household Units		N	Max density of 1-2 Du/Ac
11.11 Single units: detached		N	
11.12 Single units: semi-detached		N	
11.13 Single units: attached row		N	
11.21 Two units: side- by-side		N	
11.22 Two units: one above the other		N	
11.31 Apartments: Walk-up		N	
11.32 Apartments: Elevator		N	
12 Group quarters		N	
13 Residential Hotels		N	
14 Mobile home parks or courts		N	
15 Transient lodgings		N	
16 Other residential		N	
20 Manufacturing³			
21 Food & kindred products; manufacturing		N	
22 Textile mill products; manufacturing		N	
23 Apparel and other finished products; products made from fabrics, leather and similar materials;		N	
24 Lumber and wood products (except furniture); manufacturing		Y	Max FAR of 0.28
25 Furniture and fixtures; manufacturing		Y	Max FAR of 0.28
26 Paper and allied products; manufacturing		Y	Max FAR of 0.28
27 Printing, publishing, and allied industries		Y	Max FAR of 0.28

SLUCM NO Land Use Name	APZ - I Recommendation	Density Recommendation
28 Chemicals and allied products; manufacturing	N	
29 Petroleum refining and related industries	N	
31 Rubber and misc. plastic products; manufacturing	N	
32 Stone, clay and glass products; manufacturing	N	
33 Primary metal products; manufacturing	N	
34 Fabricated metal products; manufacturing	N	
35 Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	
39 Miscellaneous Manufacturing	Y	Max FAR of 0.28
40 Transportation, communication and utilities^{4,5}		
41 Railroad, rapid rail transit, and street railway transportation	Y ⁵	Max FAR of 0.28
42 Motor vehicle transportation	Y ⁵	Max FAR of 0.28
43 Aircraft transportation	Y ⁵	Max FAR of 0.28
44 Marine craft transportation	Y ⁵	Max FAR of 0.28
45 Highway and street right-of-way	Y ⁵	Max FAR of 0.28
46 Auto parking	Y ⁵	Max FAR of 0.28
47 Communication	Y ⁵	Max FAR of 0.28
48 Utilities	Y ⁵	Max FAR of 0.28
48.5 Solid Waste Disposal (landfills, Incineration, etc..)	N	
49 Other transport, comm. and utilities	Y ⁵	See Note 5 below
50 Trade		
51 Wholesale trade	Y	Max FAR of 0.28

SLUCM NO Land Use Name	APZ - I Recommendation	Density Recommendation
52 Retail trade - building materials, hardware and farm equipment	Y	See Note 6 below
53 Retail trade ⁷ - Shopping centers, Home Improvement Store, Discount Club, Electronics Superstore	N	
54 Retail trade - food	N	
55 Retail trade - automotive, marine craft, aircraft and accessories	Y	Max FAR of 0.14
56 Retail trade - apparel and accessories	N	
57 Retail trade - furniture, home, furnishings and equipment	N	
58 Retail trade - eating and drinking establishments	N	
59 Other retail trade	N	
60 Services⁸		
61 Finance, Insurance and Real Estate Services	N	
62 Personal services	N	Office uses only.
62.4 Cemeteries	Y ⁹	
63 Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	
63.7 Warehousing and storage services	Y	Max FAR 1.0
64 Repair Services	Y	Max FAR of 0.11
65 Professional services	N	
65.1 Hospitals, Nursing Home	N	
65.1 Other Medical Facilities	N	
66 Contract construction services	Y	Max FAR of 0.11
67 Government Services	N	
68 Educational services	N	
69 Miscellaneous	N	

SLUCM NO Land Use Name	APZ - I Recommendation	Density Recommendation
70 Cultural, entertainment and recreational		
71 Cultural activities	N	
71.2 Nature exhibits	Y ¹⁰	
72 Public assembly	N	
72.1 Auditoriums, Concert Halls	N	
72.11 Outdoor Music Shells, Amphitheaters	N	
72.2 Outdoor sports arenas, spectator sports	N	
73 Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc.	N	
74 Recreational activities (including golf courses, riding stables, water recreation)	Y ¹⁰	Max FAR of 0.11
75 Resorts and group camps	N	
76 Parks	Y ¹⁰	Max FAR of 0.11
79 Other Cultural, Entertainment and Recreation	Y ⁹	Max FAR of 0.11
80 Resource Production and Extraction		
81 Agriculture (Except livestock)	Y ¹¹	
81.5, 81.7 Livestock Farming and Breeding	Y ^{11, 12}	
82 Agriculture Related Activities	Y ¹¹	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
83 Forestry Activities ¹³	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
84 Fishing Activities ¹⁴	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
85 Mining Activities	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
89 Other resource production or extraction	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
90 Other		
91 Undeveloped Land	Y	
93 Water Areas	N ¹⁵	

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (YES)	Land use and related structures are normally compatible without restriction.
N (NO)	Land use and related structures are not normally compatible and should be prohibited.
Y ^X	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^X	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR (Floor Area Ratio)	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Du/Ac	Dwelling Units per Acre. This metric is customarily used to measure residential densities.

NOTES - SUGGESTED LAND USE COMPATIBILITY IN APZ-I

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to FARs are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ-I are the range of occupancy levels, including employees, considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per
2. *Reserved.*
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air-pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or above-ground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See UFC 3-260-01, "Airfield and Heliport Planning and Design" dated 10 November 2001 for specific design details.
5. No passenger terminals and no major above-ground transmission lines in APZ-I.
6. Within SLUCM Code 52, Max FAR for lumber yards (SLUCM Code 521) is 0.20 in APZ-I. For hardware/paint and farm equipment stores, SLUCM Code 525, the Max FAR is 0.12 in APZ-I.

7. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, or managed as a unit. Shopping center types include strip, neighborhood, community, regional, and super regional facilities anchored by small businesses, supermarket or drug store, discount retailer, department store, or several department stores, respectively. Included in this category are such uses as big box discount clubs, home improvement superstores, office supply superstores, and electronics superstores. The max recommended FAR for SLUCM 53 should be applied to the gross leasable area of the shopping center rather than attempting to use other recommended FARs listed in Table 2 under
8. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc., are not recommended.
9. No chapels are allowed within APZ-I.
10. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not
11. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
12. Includes feedlots and intensive animal husbandry.
13. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DoD Natural Resources instructions.
14. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
15. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

Appendix B: Recommended Land Use Compatibility for Noise Zones

Air Installations Compatible Use Zones
Suggested Land Use Compatibility In Noise Zones

Land Use	Suggested Land Use Compatibility		
	Noise Zone 1 (DNL or CNEL)	Noise Zone 2 (DNL or CNEL)	Noise Zone 3 (DNL or CNEL)
SLUCM NO. LAND USE NAME	< 55 dB	55-64 dB	65-69 dB
10 Residential			
11 Household Units	Y	Y ¹	N ¹
11.11 Single units: detached	Y	Y ¹	N ¹
11.12 Single units: semi-detached	Y	Y ¹	N ¹
11.13 Single units: attached row	Y	Y ¹	N ¹
11.21 Two units: side-by-side	Y	Y ¹	N ¹
11.22 Two units: one above the other	Y	Y ¹	N ¹
11.31 Apartments: walk-up	Y	Y ¹	N ¹
11.32 Apartments: elevator	Y	Y ¹	N ¹
12 Group quarters	Y	Y ¹	N ¹
13 Residential Hotels	Y	Y ¹	N ¹
14 Mobile home parks or courts	Y	Y ¹	N
15 Transient lodgings	Y	Y ¹	N ¹
16 Other residential	Y	Y ¹	N ¹
20 Manufacturing			
21 Food & kindred products; manufacturing	Y	Y	Y
22 Textile mill products: manufacturing	Y	Y	Y
23 Apparel and other finished products: products made from fabrics, leather and similar materials: manufacturing	Y	Y	Y
24 Lumber and wood products (except furniture): manufacturing	Y	Y	Y
25 Furniture and fixtures: manufacturing	Y	Y	Y
26 Paper and allied products; manufacturing	Y	Y	Y
27 Printing, publishing, and allied industries	Y	Y	Y

Land Use SLUCM NO.	Suggested Land Use Compatibility		
	Noise Zone 1 (DNL or CNEL)	Noise Zone 2 (DNL or CNEL)	
LAND USE NAME	< 55 dB	55-64 dB	65-69 dB
28 Chemicals and allied products; manufacturing	Y	Y	Y
29 Petroleum refining and related industries	Y	Y	Y
31 Rubber and misc. plastic products; manufacturing	Y	Y	Y
32 Stone, clay and glass products; manufacturing	Y	Y	Y
33 Primary metal products; manufacturing	Y	Y	Y
34 Fabricated metal products; manufacturing	Y	Y	Y
35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y	Y	Y
39 Miscellaneous manufacturing	Y	Y	Y
40 Transportation, communication and utilities			
41 Railroad, rapid rail transit, and street railway transportation	Y	Y	Y
42 Motor vehicle transportation	Y	Y	Y
43 Aircraft transportation	Y	Y	Y
44 Marine craft transportation	Y	Y	Y
45 Highway and street right-of-way	Y	Y	Y
46 Automobile parking	Y	Y	Y
47 Communication	Y	Y	Y
48 Utilities	Y	Y	Y
49 Other transportation, communication and utilities	Y	Y	Y
50 Trade			
51 Wholesale trade	Y	Y	Y

Land Use SLUCM NO. LAND USE NAME	Suggested Land Use Compatibility		
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)
	< 55 dB	55-64 dB	65-69 dB
52 Retail trade - building materials, hardware and farm equipment	Y	Y	Y
53 Retail trade - shopping centers	Y	Y	Y
54 Retail trade - food	Y	Y	Y
55 Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Y
56 Retail Trade - Apparel and Accessories	Y	Y	Y
57 Retail trade- furniture, home, furnishings and equipment	Y	Y	Y
58 Retail trade - eating and drinking establishments	Y	Y	Y
59 Other retail trade	Y	Y	Y
60 Services			
61 Finance, insurance and real estate services	Y	Y	Y
62 Personal services	Y	Y	Y
62.4 Cemeteries	Y	Y	Y
63 Business services	Y	Y	Y
63.7 Warehousing and storage	Y	Y	Y
64 Repair Services	Y	Y	Y
65 Professional services	Y	Y	Y
65.1 Hospitals, other medical fac.	Y	Y ¹	25
65.16 Nursing Homes	Y	Y	N ¹
66 Contract construction services	Y	Y	Y
67 Government Services	Y	Y ¹	Y ¹
68 Educational services	Y	Y ¹	25
69 Miscellaneous	Y	Y	Y
70 Cultural, entertainment and recreational			
71 Cultural Activities (& Churches)	Y	Y ¹	25
71.2 Nature exhibits	Y	Y ¹	Y ¹
72 Public assembly	Y	Y ¹	Y
72.1 Auditoriums, concert halls	Y	Y	25

Land Use	Suggested Land Use Compatibility			
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)	
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB
72.11	Outdoor music shells, amphitheaters	Y	Y ¹	N
72.2	Outdoor sports arenas, spectator sports	Y	Y	Y ⁷
73	Amusements	Y	Y	Y
74	Recreational activities (include golf courses, riding stables, water rec.)	Y	Y ¹	Y ¹
75	Resorts and group camps	Y	Y ¹	Y ¹
76	Parks	Y	Y ¹	Y ¹
79	Other cultural, entertainment and recreation	Y	Y ¹	Y ¹
80	Resource Production and Extraction			
81	Agriculture (except livestock)	Y	Y	Y ⁸
81.5	Livestock farming	Y	Y	Y ⁸
81.7	Animal breeding	Y	Y	Y ⁸
82	Agriculture-related activities	Y	Y	Y ⁸
83	Forestry Activities	Y	Y	Y ⁸
84	Fishing Activities	Y	Y	Y
85	Mining Activities	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y

Key

- SLUCM Standard Land Use Coding Manual, U.S. Department of Transportation
 Y (yes) Land use and related structures compatible without restrictions.
 N (no) Land use and related structures are not compatible and should be prohibited.
 Y^x Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
 N^x No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
 NLR (Noise Level Reduction) NLR (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.

25, 30, or 35	The numbers refer to NLR levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30, or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
DNL	Day Night Average Sound Level
CNEL	Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
LDN	Mathematical symbol for DNL

NOTES - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve an outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.
 - c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
 - d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.
2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.

6. No buildings.
7. Land use compatible provided special sound reinforcement systems are installed.
8. Residential buildings require a NLR of 25.
9. Residential buildings require a NLR of 30.
10. Residential buildings not permitted.
11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Bogue and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Bogue and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Bogue including, where applicable, the Aircraft Safety Zones Overlay and Aircraft Noise Zones Overlay, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Bogue is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which the Town relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) If a parcel is partially located within an Aircraft Safety Zone or Aircraft Noise Zone, this Ordinance applies only to that portion of the parcel located within the Aircraft Safety Zone or Aircraft Noise Zone.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Bogue ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

ACCIDENT POTENTIAL ZONE (APZ) I: APZ-I lies beyond the Clear Zone, and is located in an area of lower, but still considerable, aircraft accident potential. Bogue ALF APZs are depicted in Figure 1.

ACCIDENT POTENTIAL ZONE (APZ) II: APZ-II is located beyond APZ-I and possesses less aircraft accident potential than APZ-I, but the potential is still high enough to warrant land use restrictions. Bogue ALF APZ-II is located outside the Town of Bogue's jurisdiction.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the Clear Zones and Accident Potential Zones associated with Bogue ALF, maps the noise contours associated with aircraft operations and training, and identifies types of development considered incompatible with aircraft operations and training at MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Study for Bogue ALF is:

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. Bogue ALF Aircraft Noise Zones are depicted in Figure 2.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

AIRCRAFT SAFETY ZONES: Refers to any one or more of the following: Clear Zone, Accident Potential Zone I, and Accident Potential Zone II.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

CLEAR ZONE (CZ): The Clear Zone (CZ) begins at the end of the runway and is the area of highest aircraft accident potential; it has few uses that are compatible. The CZ starts at the end of the runway, and its dimensions are specified by the Department of Defense based on the type of aircraft and runway. CZs associated with the Bogue ALF in the Town of Bogue are depicted in Figure 1.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, Bogue ALF, Atlantic OLF, and Oak Grove OLF, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: Bogue ALF.⁴

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Bogue for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Bogue and as otherwise required by this Ordinance or state law.

⁴ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, Bogue had jurisdictional lands within five miles of Bogue ALF only.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Bogue, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Bogue:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁵
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Bogue Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁶: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF BOGUE: The Town of Bogue Town Council or an administrative designee of the Town Council.

TOWN OF BOGUE COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁵ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁶ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁷: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Bogue *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Bogue and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Bogue Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Aircraft Safety Zones Overlay

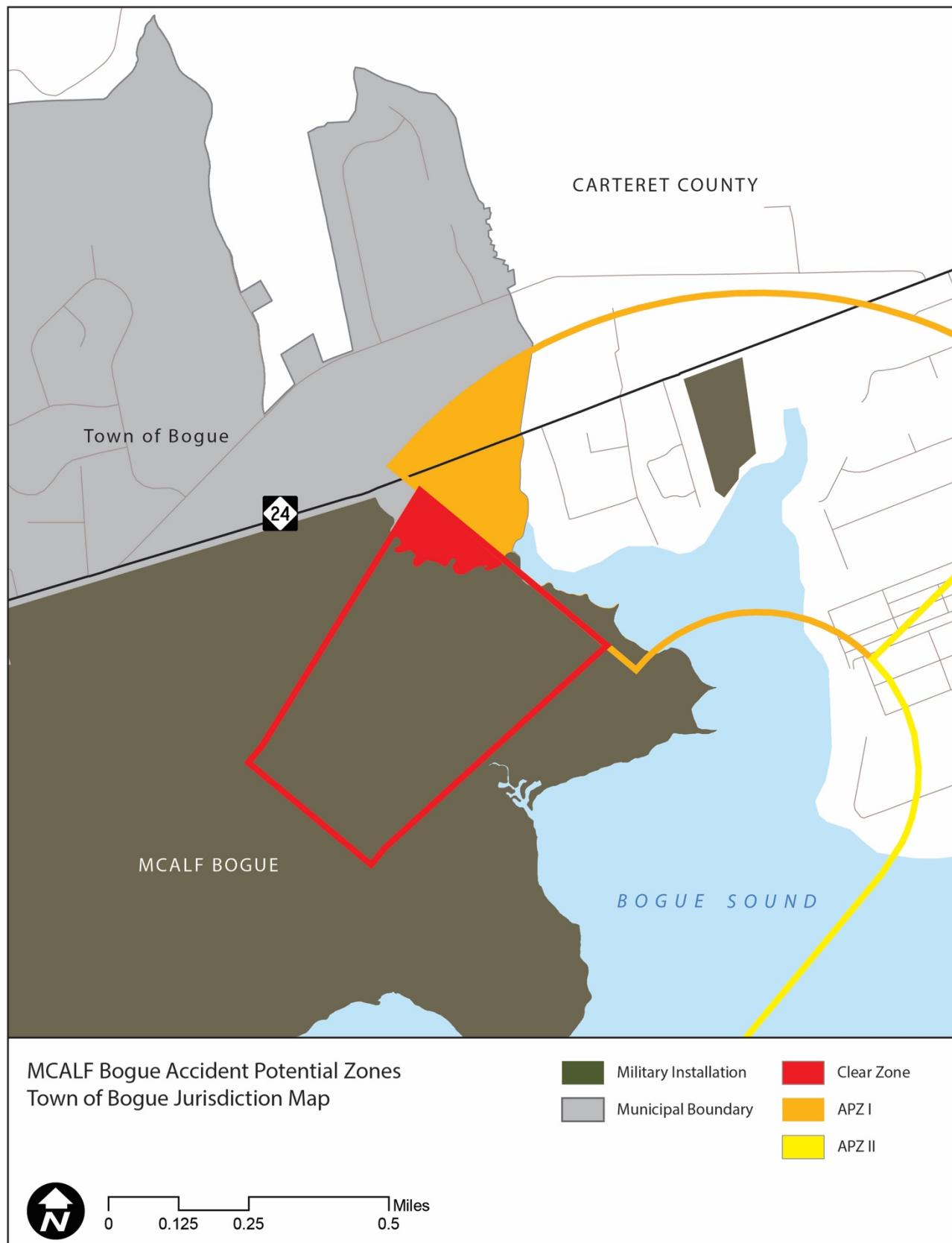
- (A) Certain parcels within the Town of Bogue are located within the Bogue ALF Clear Zone and Accident Potential Zone I as indicated in Figure 1.
- (B) The Aircraft Safety Zones Overlay includes all parcels or portions of parcels located in the CZ and APZ-I associated with Bogue ALF.
- (C) According to the AICUZ Study and current Navy guidance, certain land uses in CZs and APZ-I are not compatible with air operations at Bogue ALF, given the increased potential of aircraft accidents in these areas.
- (D) Unless expressly exempt⁸, all development proposed within the Bogue ALF CZ and APZ-I shall be consistent with Appendix A: Land Use Compatibility Recommendations for CZ and APZ-I.⁹

⁷ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁸ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Safety Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

⁹ The Navy **safety zone** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 1. Bogue ALF Clear Zones & Accident Potential Zones in the Town of Bogue



7.2. Aircraft Noise Zones Overlay

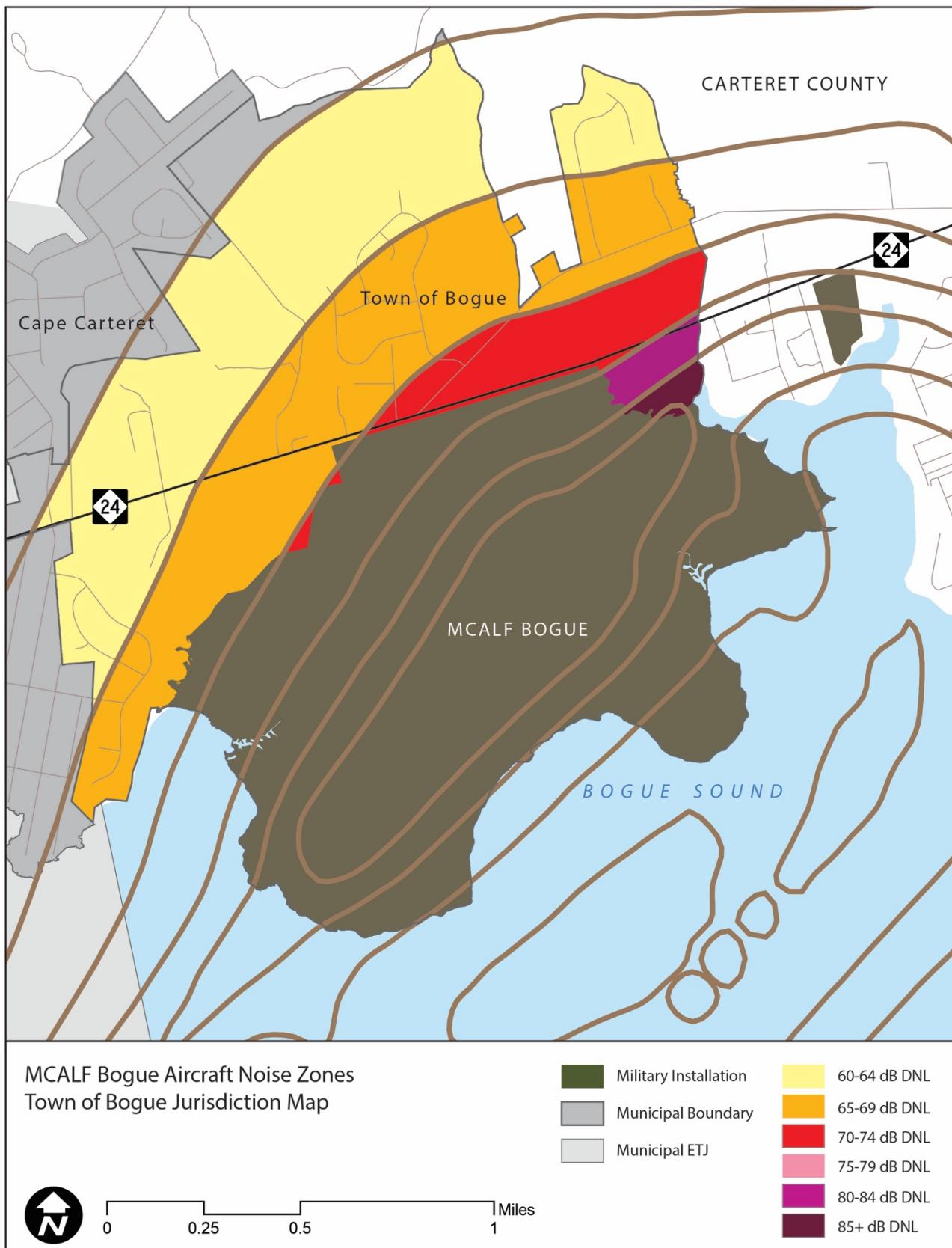
- (A) Certain parcels within the Town of Bogue are located within the Bogue ALF Aircraft Noise Zones as indicated in Figure 2.
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with Bogue ALF.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Study.
- (D) According to the AICUZ Study and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at Bogue ALF.¹⁰
- (E) Unless expressly exempt¹¹, all development proposed within the Aircraft Noise Zones associated with Bogue ALF, therefore, shall be consistent with Appendix B: Recommended Land Use Compatibility for Noise Zones.¹²

¹⁰ Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

¹¹ Appendix B provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹² The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 2. Bogue ALF Aircraft Noise Zones in the Town of Bogue



7.3. Limitations on Incompatible and Potential Incompatible Developments¹³

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.3.
- (B) **Wind Energy Facilities.**¹⁴ Wind Energy Facilities are prohibited within the Town of Bogue.¹⁵
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.3 shall be pursuant to the process in Section 8.0.

7.4. Limitations on Height of Structures¹⁶

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Bogue.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Bogue that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.

¹³ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.3(C) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹⁴ Under the proposed MIOD, Wind Energy Facilities are prohibited within the town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹⁵ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁶ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.4(C) (**height**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

- (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, the Town of Bogue will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.4 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Bogue Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of Town of Bogue staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Bogue, as provided in Sections 7.3 and 7.4, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Bogue is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);¹⁷
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

¹⁷ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹⁸

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Bogue will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Bogue will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁹

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Bogue.²⁰

¹⁸ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

¹⁹ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

²⁰ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Appendix A: Land Use Compatibility Recommendations for CZ and APZ-I

Air Installations Compatible Use Zones

Suggested Land Use Compatibility In Clear Zone & Accident Potential Zone I¹

SLUCM NO Land Use Name	Clear Zone Recommendation	APZ - I Recommendation	Density Recommendation
10 Residential			
11 Household Units	N	N	
11.11 Single units: detached	N	N	
11.12 Single units: semi-detached	N	N	
11.13 Single units: attached row	N	N	
11.21 Two units: side-by-side	N	N	
11.22 Two units: one above the other	N	N	
11.31 Apartments: Walk-up	N	N	
11.32 Apartments: Elevator	N	N	
12 Group quarters	N	N	
13 Residential Hotels	N	N	
14 Mobile home parks or courts	N	N	
15 Transient lodgings	N	N	
16 Other residential	N	N	
20 Manufacturing³			
21 Food & kindred products; manufacturing	N	N	
22 Textile mill products; manufacturing	N	N	
23 Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	N	N	
24 Lumber and wood products (except furniture); manufacturing	N	Y	Max FAR of 0.28 in APZ-I
25 Furniture and fixtures; manufacturing	N	Y	Max FAR of 0.28 in APZ-I
26 Paper and allied products; manufacturing	N	Y	Max FAR of 0.28 in APZ-I
27 Printing, publishing, and allied industries	N	Y	Max FAR of 0.28 in APZ-I
28 Chemicals and allied products; manufacturing	N	N	
29 Petroleum refining and related industries	N	N	
31 Rubber and misc. plastic products; manufacturing	N	N	
32 Stone, clay and glass products; manufacturing	N	N	
33 Primary metal products; manufacturing	N	N	
34 Fabricated metal products; manufacturing	N	N	

SLUCM NO Land Use Name	Clear Zone Recommendation	APZ - I Recommendation	Density Recommendation
35 Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	N	
39 Miscellaneous Manufacturing	N	Y	Max FAR of 0.28 in APZ-I
40 Transportation, communication and utilities^{4,5}			
41 Railroad, rapid rail transit, and street railway transportation	N	Y ⁵	Max FAR of 0.28 in APZ-I
42 Motor vehicle transportation	N	Y ⁵	Max FAR of 0.28 in APZ-I
43 Aircraft transportation	N	Y ⁵	Max FAR of 0.28 in APZ-I
44 Marine craft transportation	N	Y ⁵	Max FAR of 0.28 in APZ-I
45 Highway and street right-of-way	N	Y ⁵	Max FAR of 0.28 in APZ-I
46 Auto parking	N	Y ⁵	Max FAR of 0.28 in APZ-I
47 Communication	N	Y ⁵	Max FAR of 0.28 in APZ-I
48 Utilities	N	Y ⁵	Max FAR of 0.28 in APZ-I
48.5 Solid Waste Disposal (landfills, Incineration, etc..)	N	N	
49 Other transport, comm. and utilities	N	Y ⁵	See Note 5 below
50 Trade			
51 Wholesale trade	N	Y	Max FAR of 0.28 in APZ-I
52 Retail trade - building materials, hardware and farm equipment	N	Y	See Note 6 below
53 Retail trade ⁷ - Shopping centers, Home Improvement Store, Discount Club, Electronics Superstore	N	N	
54 Retail trade - food	N	N	
55 Retail trade - automotive, marine craft, aircraft and accessories	N	Y	Max FAR of 0.14 in APZ-I
56 Retail trade - apparel and accessories	N	N	
57 Retail trade - furniture, home, furnishings and equipment	N	N	
58 Retail trade - eating and drinking establishments	N	N	
59 Other retail trade	N	N	
60 Services⁸			
61 Finance, Insurance and Real Estate Services	N	N	
62 Personal services	N	N	
62.4 Cemeteries	N	Y ⁹	
63 Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	N	

SLUCM NO	Land Use Name	Clear Zone Recommendation	APZ - I Recommendation	Density Recommendation
63.7	Warehousing and storage services	N	Y	Max FAR 1.0 in APZ-I
64	Repair Services	N	Y	Max FAR of 0.11 in APZ-I
65	Professional services	N	N	
65.1	Hospitals, Nursing Home	N	N	
65.1	Other Medical Facilities	N	N	
66	Contract construction services	N	Y	Max FAR of 0.11 in APZ-I
67	Government Services	N	N	
68	Educational services	N	N	
69	Miscellaneous	N	N	
70	Cultural, entertainment and recreational			
71	Cultural activities	N	N	
71.2	Nature exhibits	N	Y ¹⁰	
72	Public assembly	N	N	
72.1	Auditoriums, Concert Halls	N	N	
72.11	Outdoor Music Shells, Amphitheaters	N	N	
72.2	Outdoor sports arenas, spectator sports	N	N	
73	Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc.	N	N	
74	Recreational activities (including golf courses, riding stables, water recreation)	N	Y ¹⁰	Max FAR of 0.11 in APZ-I
75	Resorts and group camps	N	N	
76	Parks	N	Y ¹⁰	Max FAR of 0.11 in APZ-I
79	Other Cultural, Entertainment and Recreation	N	Y ⁹	Max FAR of 0.11 in APZ-I
80	Resource Production and Extraction			
81	Agriculture (Except livestock)	Y ⁴	Y ¹¹	
81.5, 81.7	Livestock Farming and Breeding	N	Y ^{11, 12}	
82	Agriculture Related Activities	N	Y ¹¹	Max FAR of 0.28 in APZ-I. No activity which produces smoke, glare, or involves explosives.
83	Forestry Activities ¹³	N	Y	Max FAR of 0.28 in APZ-I. No activity which produces smoke, glare, or involves explosives.
84	Fishing Activities ¹⁴	N ¹⁴	Y	Max FAR of 0.28 in APZ-I. No activity which produces smoke, glare, or involves explosives.
85	Mining Activities	N	Y	Max FAR of 0.28 in APZ-I. No activity which produces smoke, glare, or involves explosives.
89	Other resource production or extraction	N	Y	Max FAR of 0.28 in APZ-I. No activity which produces smoke, glare, or involves explosives.
90	Other			
91	Undeveloped Land	Y ⁴	Y	
93	Water Areas	N ¹⁵	N ¹⁵	

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (YES)	Land use and related structures are normally compatible without restriction.
N (NO)	Land use and related structures are not normally compatible and should be prohibited.
Y ^x	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^x	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR (Floor Area Ratio)	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Dw/Ac	Dwelling Units per Acre. This metric is customarily used to measure residential densities.

NOTES - SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to FARs are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ-I is the occupancy level, including employees, considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per acre in APZ-I.
2. *Reserved.*
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air-pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or above-ground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See UFC 3-260-01, "Airfield and Heliport Planning and Design" dated 10 November 2001 for specific design details.
5. No passenger terminals and no major above-ground transmission lines in APZ-I.
6. Within SLUCM Code 52, Max FARs for lumber yards (SLUCM Code 521) are 0.20 in APZ-I. For hardware/paint and farm equipment stores, SLUCM Code 525, the Max FARs are 0.12 in APZ-I.
7. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, or managed as a unit. Shopping center types include strip, neighborhood, community, regional, and super regional facilities anchored by small businesses, supermarket or drug store, discount retailer, department store, or several department stores, respectively. Included in this category are such uses as big box discount clubs, home improvement superstores, office supply superstores, and electronics superstores. The max recommended FAR for SLUCM 53 should be applied to the gross leasable area of the shopping center rather than attempting to use other recommended FARs listed in Table 2 under "Retail" or "Trade."
8. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc., are not recommended.
9. No chapels are allowed within APZ-I.
10. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not recommended.

11. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
12. Includes feedlots and intensive animal husbandry.
13. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DoD Natural Resources instructions.
14. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
15. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

Appendix B: Recommended Land Use Compatibility for Noise Zones

Air Installations Compatible Use Zones

Table 1: Suggested Land Use Compatibility In Noise Zones

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
10 Residential								
11 Household Units	Y	Y ¹	N ¹	N ¹	N	N	N	
11.11 Single units: detached	Y	Y ¹	N ¹	N ¹	N	N	N	
11.12 Single units: semi-detached	Y	Y ¹	N ¹	N ¹	N	N	N	
11.13 Single units: attached row	Y	Y ¹	N ¹	N ¹	N	N	N	
11.21 Two units: side-by-side	Y	Y ¹	N ¹	N ¹	N	N	N	
11.22 Two units: one above the other	Y	Y ¹	N ¹	N ¹	N	N	N	
11.31 Apartments: walk-up	Y	Y ¹	N ¹	N ¹	N	N	N	
11.32 Apartments: elevator	Y	Y ¹	N ¹	N ¹	N	N	N	
12 Group quarters	Y	Y ¹	N ¹	N ¹	N	N	N	
13 Residential Hotels	Y	Y ¹	N ¹	N ¹	N	N	N	
14 Mobile home parks or courts	Y	Y ¹	N	N	N	N	N	
15 Transient lodgings	Y	Y ¹	N ¹	N ¹	N ¹	N	N	
16 Other residential	Y	Y ¹	N ¹	N ¹	N	N	N	
20 Manufacturing								
21 Food & kindred products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
22 Textile mill products: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
23 Apparel and other finished products: products made from fabrics, leather and similar materials: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
24 Lumber and wood products (except furniture): manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
25 Furniture and fixtures: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
26 Paper and allied products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
27 Printing, publishing, and allied industries	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
28 Chemicals and allied products: manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
29 Petroleum refining and related industries	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
31 Rubber and misc. plastic products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
32 Stone, clay and glass products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
33 Primary metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
34 Fabricated metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y	Y	Y	25	30	N	N	

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
39	Miscellaneous manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
40	Transportation, communication and utilities							
41	Railroad, rapid rail transit, and street railway transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
42	Motor vehicle transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
43	Aircraft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
44	Marine craft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
45	Highway and street right-of-way	Y	Y	Y	Y ²	Y ³	Y ⁴	N
46	Automobile parking	Y	Y	Y	Y ²	Y ³	Y ⁴	N
47	Communication	Y	Y	Y	25 ⁵	30 ⁵	N	N
48	Utilities	Y	Y	Y	Y ²	Y ³	Y ⁴	N
49	Other transportation, communication and utilities	Y	Y	Y	25 ⁵	30 ⁵	N	N
50	Trade							
51	Wholesale trade	Y	Y	Y	Y ²	Y ³	Y ⁴	N
52	Retail trade - building materials, hardware and farm equipment	Y	Y	Y	Y ²	Y ³	Y ⁴	N
53	Retail trade - shopping centers	Y	Y	Y	25	30	N	N
54	Retail trade - food	Y	Y	Y	25	30	N	N
55	Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Y	25	30	N	N
56	Retail Trade - Apparel and Accessories	Y	Y	Y	25	30	N	N
57	Retail trade- furniture, home, furnishings and equipment	Y	Y	Y	25	30	N	N
58	Retail trade - eating and drinking establishments	Y	Y	Y	25	30	N	N
59	Other retail trade	Y	Y	Y	25	30	N	N
60	Services							
61	Finance, insurance and real estate services	Y	Y	Y	25	30	N	N
62	Personal services	Y	Y	Y	25	30	N	N
62.4	Cemeteries	Y	Y	Y	Y ²	Y ³	Y ^{4,11}	Y ^{6,11}
63	Business services	Y	Y	Y	25	30	N	N
63.7	Warehousing and storage	Y	Y	Y	Y ²	Y ³	Y ⁴	N
64	Repair Services	Y	Y	Y	Y ²	Y ³	Y ⁴	N
65	Professional services	Y	Y	Y	25	30	N	N
65.1	Hospitals, other medical fac.	Y	Y ¹	25	30	N	N	N
65.16	Nursing Homes	Y	Y	N ¹	N ¹	N	N	N
66	Contract construction services	Y	Y	Y	25	30	N	N
67	Government Services	Y	Y ¹	Y ¹	25	30	N	N
68	Educational services	Y	Y ¹	25	30	N	N	N
69	Miscellaneous	Y	Y	Y	25	30	N	N
70	Cultural, entertainment and recreational							
71	Cultural Activities (& Churches)	Y	Y ¹	25	30	N	N	N
71.2	Nature exhibits	Y	Y ¹	Y ¹	N	N	N	N
72	Public assembly	Y	Y ¹	Y	N	N	N	N
72.1	Auditoriums, concert halls	Y	Y	25	30	N	N	N
72.11	Outdoor music shells, amphitheaters	Y	Y ¹	N	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	Y	Y	Y ²	Y ²	N	N	N

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
73	Amusements	Y	Y	Y	Y	N	N	N
74	Recreational activities (include golf courses, riding stables, water rec.)	Y	Y ¹	Y ¹	25	30	N	N
75	Resorts and group camps	Y	Y ¹	Y ¹	Y ¹	N	N	N
76	Parks	Y	Y ¹	Y ¹	Y ¹	N	N	N
79	Other cultural, entertainment and recreation	Y	Y ¹	Y ¹	Y ¹	N	N	N
80 Resource Production and Extraction								
81	Agriculture (except livestock)	Y	Y	Y ⁸	Y ⁸	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
81.5	Livestock farming	Y	Y	Y ⁸	Y ⁸	N	N	N
81.7	Animal breeding	Y	Y	Y ⁸	Y ⁸	N	N	N
82	Agriculture-related activities	Y	Y	Y ⁸	Y ⁸	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
83	Forestry Activities	Y	Y	Y ⁸	Y ⁸	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
84	Fishing Activities	Y	Y	Y	Y	Y	Y	Y
85	Mining Activities	Y	Y	Y	Y	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y	Y	Y	Y	Y

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (yes)	Land use and related structures compatible without restrictions.
N (no)	Land use and related structures are not compatible and should be prohibited.
Y ^x	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^x	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
NLR (Noise Level Reduction)	NLR (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
25, 30, or 35	The numbers refer to NLR levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30, or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
DNL	Day Night Average Sound Level
CNEL	Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
LDN	Mathematical symbol for DNL

NOTES FOR TABLE 1 - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.
 - c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
 - d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.
2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.
6. No buildings.
7. Land use compatible provided special sound reinforcement systems are installed.
8. Residential buildings require a NLR of 25.
9. Residential buildings require a NLR of 30.
10. Residential buildings not permitted.
11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Cape Carteret and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Cape Carteret and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Cape Carteret including, where applicable, the Accident Potential Zone I Overlay and Aircraft Noise Zones Overlay, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Cape Carteret is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which the Town relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) If a parcel is partially located within Accident Potential Zone I (APZ-I) or an Aircraft Noise Zone, this Ordinance applies only to that portion of the parcel located within APZ-I or the Aircraft Noise Zone.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Cape Carteret Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

ACCIDENT POTENTIAL ZONE (APZ) I: APZ-I lies beyond the Clear Zone, and is located in an area of lower, but still considerable, aircraft accident potential. Bogue ALF APZ-I does not extend into the Town of Cape Carteret's jurisdiction.

ACCIDENT POTENTIAL ZONE (APZ) II: APZ-II is located beyond APZ-I and possesses less aircraft accident potential than APZ-I, but the potential is still high enough to warrant land use restrictions. Bogue ALF APZ-II is depicted in Figure 1.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the Clear Zones and Accident Potential Zones associated with Bogue ALF, maps the noise contours associated with aircraft operations and training, and identifies types of development considered incompatible with aircraft operations and training at MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Study for Bogue ALF is:

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. Bogue ALF are depicted in Figure 2.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

AIRCRAFT SAFETY ZONES: Refers to any one or more of the following: Clear Zone, Accident Potential Zone I, and Accident Potential Zone II.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

CLEAR ZONE (CZ): The Clear Zone (CZ) begins at the end of the runway and is the area of highest aircraft accident potential; it has few uses that are compatible. The CZ starts at the end of the runway, and its dimensions are specified by the Department of Defense based on the type of aircraft and runway. CZs associated with Bogue ALF do not extend into the Town of Cape Carteret's jurisdiction.

IMAGINARY SURFACES: The Imaginary Surfaces associated with Bogue ALF, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to this installation.

MAJOR MILITARY INSTALLATION: Bogue ALF.⁴

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Cape Carteret for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Cape Carteret and as otherwise required by this Ordinance or state law.

⁴ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, Cape Carteret had jurisdictional lands within five miles of Bogue ALF only.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Cape Carteret, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Cape Carteret:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁵
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Cape Carteret Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁶: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF CAPE CARTERET: The Town of Cape Carteret Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF CAPE CARTERET COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁵ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁶ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁷: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Cape Carteret *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Cape Carteret and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Cape Carteret Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

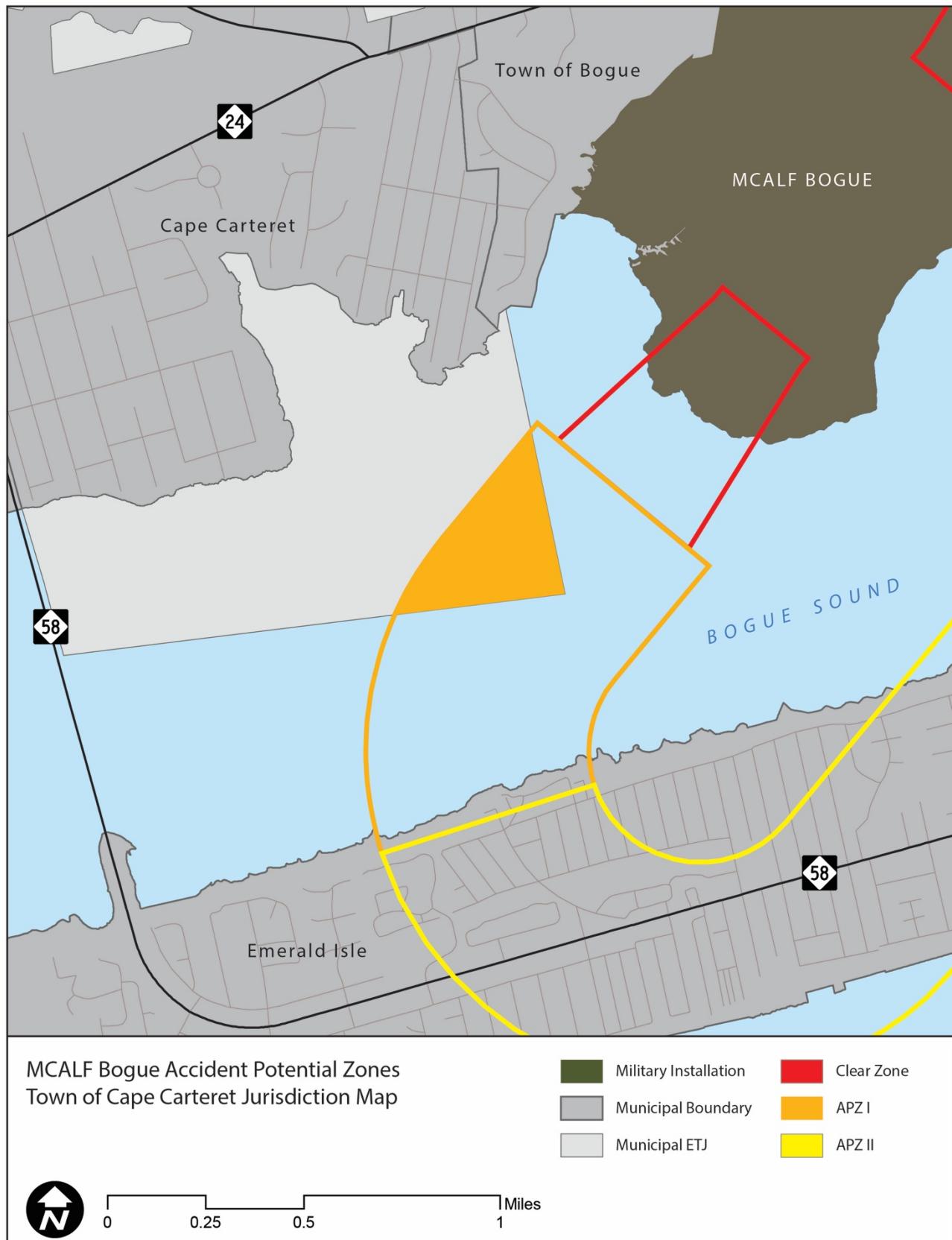
7.1. APZ-I Overlay

- (A) Certain parcels within the Town of Cape Carteret are located within the Bogue ALF Accident Potential Zone-I (APZ-I) as indicated in Figure 1.
- (B) The APZ-II Overlay includes all parcels or portions of parcels located in the APZ-I associated with Bogue ALF.
- (C) According to the AICUZ Study and current Navy guidance, certain land uses in APZ-I are not compatible with air operations at Bogue ALF, given the increased potential of aircraft accidents in these areas.
- (D) Unless expressly exempt⁸, all development proposed within the Bogue ALF APZ-I shall be consistent with Appendix A: Land Use Compatibility Recommendations for APZs.⁹

⁷ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁸ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Safety Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

⁹ The Navy **safety zone** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 1. Bogue ALF APZ-I in the Town of Cape Carteret

7.2. Aircraft Noise Zones Overlay

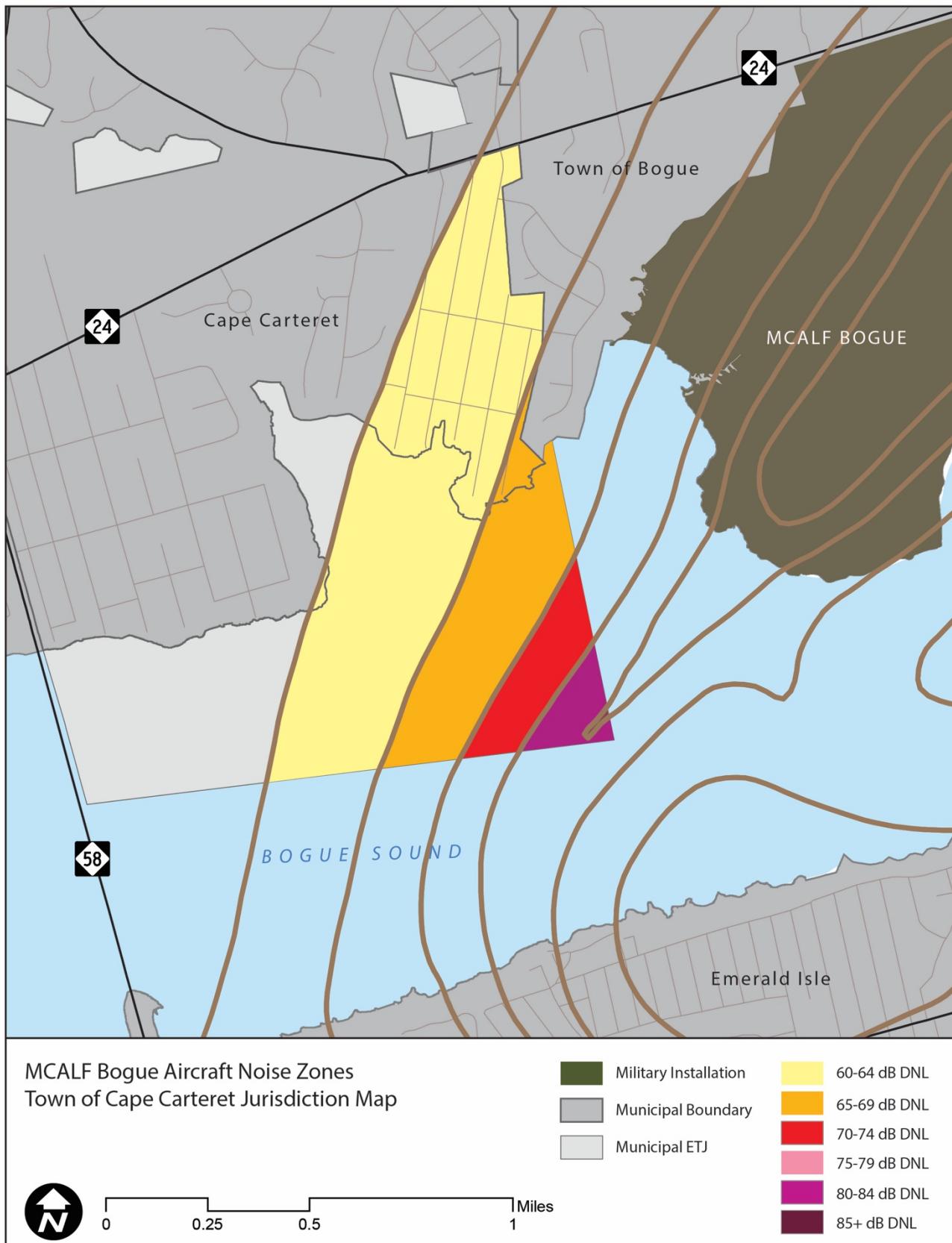
- (A) Certain parcels within the Town of Cape Carteret are located within the Bogue ALF Aircraft Noise Zones as indicated in Figure 2.
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with Bogue ALF.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Study.
- (D) According to the AICUZ Study and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at Bogue ALF.¹⁰
- (E) Unless expressly exempt¹¹, all development proposed within the Aircraft Noise Zones associated with Bogue ALF, therefore, shall be consistent with Appendix B: Recommended Land Use Compatibility for Noise Zones.¹²

¹⁰ Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

¹¹ Appendix B provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹² The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 2. Bogue ALF Aircraft Noise Zones in the Town of Cape Carteret



7.3. Limitations on Incompatible and Potential Incompatible Developments¹³

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.3.
- (B) **Wind Energy Facilities.**¹⁴ Wind Energy Facilities are prohibited within the Town of Cape Carteret.¹⁵
- (C) **Airport Obstructions or Interference prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.3 shall be pursuant to the process in Section 8.0.

7.4. Limitations on Height of Structures¹⁶

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Cape Carteret.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Cape Carteret that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.

¹³ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.3(C) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹⁴ Under the proposed MIOD, Wind Energy Facilities are prohibited within the town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹⁵ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁶ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.4(C) (**height**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

- (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, the Town of Cape Carteret will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.4 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Cape Carteret Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of Town of Cape Carteret staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Cape Carteret, as provided in Sections 7.3 and 7.4, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Cape Carteret is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);¹⁷
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

¹⁷ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹⁸

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Cape Carteret will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Cape Carteret will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁹

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Cape Carteret.²⁰

¹⁸ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

¹⁹ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

²⁰ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Air Installations Compatible Use Zones**Suggested Land Use Compatibility In Accident Potential Zone I (APZ-I)¹**

SLUCM NO	Land Use Name	APZ - I Recommendation	Density Recommendation
10 Residential			
11 Household Units		N	Max density of 1-2 Du/Ac
11.11 Single units: detached		N	
11.12 Single units: semi-detached		N	
11.13 Single units: attached row		N	
11.21 Two units: side- by-side		N	
11.22 Two units: one above the other		N	
11.31 Apartments: Walk-up		N	
11.32 Apartments: Elevator		N	
12 Group quarters		N	
13 Residential Hotels		N	
14 Mobile home parks or courts		N	
15 Transient lodgings		N	
16 Other residential		N	
20 Manufacturing³			
21 Food & kindred products; manufacturing		N	
22 Textile mill products; manufacturing		N	
23 Apparel and other finished products; products made from fabrics, leather and similar materials;		N	
24 Lumber and wood products (except furniture); manufacturing		Y	Max FAR of 0.28
25 Furniture and fixtures; manufacturing		Y	Max FAR of 0.28
26 Paper and allied products; manufacturing		Y	Max FAR of 0.28
27 Printing, publishing, and allied industries		Y	Max FAR of 0.28

Appendix A: Land Use Compatibility Recommendations for APZ-I

SLUCM NO	Land Use Name	APZ - I Recommendation	Density Recommendation
28	Chemicals and allied products; manufacturing	N	
29	Petroleum refining and related industries	N	
31	Rubber and misc. plastic products; manufacturing	N	
32	Stone, clay and glass products; manufacturing	N	
33	Primary metal products; manufacturing	N	
34	Fabricated metal products; manufacturing	N	
35	Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	
39	Miscellaneous Manufacturing	Y	Max FAR of 0.28
40	Transportation, communication and utilities^{4,5}		
41	Railroad, rapid rail transit, and street railway transportation	Y ⁵	Max FAR of 0.28
42	Motor vehicle transportation	Y ⁵	Max FAR of 0.28
43	Aircraft transportation	Y ⁵	Max FAR of 0.28
44	Marine craft transportation	Y ⁵	Max FAR of 0.28
45	Highway and street right-of-way	Y ⁵	Max FAR of 0.28
46	Auto parking	Y ⁵	Max FAR of 0.28
47	Communication	Y ⁵	Max FAR of 0.28
48	Utilities	Y ⁵	Max FAR of 0.28
48.5	Solid Waste Disposal (landfills, Incineration, etc..)	N	
49	Other transport, comm. and utilities	Y ⁵	See Note 5 below
50	Trade		
51	Wholesale trade	Y	Max FAR of 0.28

SLUCM NO Land Use Name	APZ - I Recommendation	Density Recommendation
52 Retail trade - building materials, hardware and farm equipment	Y	See Note 6 below
53 Retail trade ⁷ - Shopping centers, Home Improvement Store, Discount Club, Electronics Superstore	N	
54 Retail trade - food	N	
55 Retail trade - automotive, marine craft, aircraft and accessories	Y	Max FAR of 0.14
56 Retail trade - apparel and accessories	N	
57 Retail trade - furniture, home, furnishings and equipment	N	
58 Retail trade - eating and drinking establishments	N	
59 Other retail trade	N	
60 Services⁸		
61 Finance, Insurance and Real Estate Services	N	
62 Personal services	N	Office uses only.
62.4 Cemeteries	Y ⁹	
63 Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	
63.7 Warehousing and storage services	Y	Max FAR 1.0
64 Repair Services	Y	Max FAR of 0.11
65 Professional services	N	
65.1 Hospitals, Nursing Home	N	
65.1 Other Medical Facilities	N	
66 Contract construction services	Y	Max FAR of 0.11
67 Government Services	N	
68 Educational services	N	
69 Miscellaneous	N	

SLUCM NO Land Use Name	APZ - I Recommendation	Density Recommendation
70 Cultural, entertainment and recreational		
71 Cultural activities	N	
71.2 Nature exhibits	Y ¹⁰	
72 Public assembly	N	
72.1 Auditoriums, Concert Halls	N	
72.11 Outdoor Music Shells, Amphitheaters	N	
72.2 Outdoor sports arenas, spectator sports	N	
73 Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc.	N	
74 Recreational activities (including golf courses, riding stables, water recreation)	Y ¹⁰	Max FAR of 0.11
75 Resorts and group camps	N	
76 Parks	Y ¹⁰	Max FAR of 0.11
79 Other Cultural, Entertainment and Recreation	Y ⁹	Max FAR of 0.11
80 Resource Production and Extraction		
81 Agriculture (Except livestock)	Y ¹¹	
81.5, 81.7 Livestock Farming and Breeding	Y ^{11, 12}	
82 Agriculture Related Activities	Y ¹¹	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
83 Forestry Activities ¹³	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
84 Fishing Activities ¹⁴	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
85 Mining Activities	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
89 Other resource production or extraction	Y	Max FAR of 0.28. No activity that produces smoke, glare, or involves explosives.
90 Other		
91 Undeveloped Land	Y	
93 Water Areas	N ¹⁵	

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (YES)	Land use and related structures are normally compatible without restriction.
N (NO)	Land use and related structures are not normally compatible and should be prohibited.
^{Y^X}	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
^{N^X}	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR (Floor Area Ratio)	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Du/Ac	Dwelling Units per Acre. This metric is customarily used to measure residential densities.

NOTES - SUGGESTED LAND USE COMPATIBILITY IN APZ-I

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to FARs are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ-I are the range of occupancy levels, including employees, considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per
2. *Reserved.*
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air-pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or above-ground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See UFC 3-260-01, "Airfield and Heliport Planning and Design" dated 10 November 2001 for specific design details.
5. No passenger terminals and no major above-ground transmission lines in APZ-I.
6. Within SLUCM Code 52, Max FAR for lumber yards (SLUCM Code 521) is 0.20 in APZ-I. For hardware/paint and farm equipment stores, SLUCM Code 525, the Max FAR is 0.12 in APZ-I.

7. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, or managed as a unit. Shopping center types include strip, neighborhood, community, regional, and super regional facilities anchored by small businesses, supermarket or drug store, discount retailer, department store, or several department stores, respectively. Included in this category are such uses as big box discount clubs, home improvement superstores, office supply superstores, and electronics superstores. The max recommended FAR for SLUCM 53 should be applied to the gross leasable area of the shopping center rather than attempting to use other recommended FARs listed in Table 2 under
8. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc., are not recommended.
9. No chapels are allowed within APZ-I.
10. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not
11. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
12. Includes feedlots and intensive animal husbandry.
13. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DoD Natural Resources instructions.
14. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
15. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

Appendix B: Recommended Land Use Compatibility for Noise Zones

Air Installations Compatible Use Zones

Table 1: Suggested Land Use Compatibility In Noise Zones

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
10 Residential								
11 Household Units	Y	Y ¹	N ¹	N ¹	N	N	N	
11.11 Single units: detached	Y	Y ¹	N ¹	N ¹	N	N	N	
11.12 Single units: semi-detached	Y	Y ¹	N ¹	N ¹	N	N	N	
11.13 Single units: attached row	Y	Y ¹	N ¹	N ¹	N	N	N	
11.21 Two units: side-by-side	Y	Y ¹	N ¹	N ¹	N	N	N	
11.22 Two units: one above the other	Y	Y ¹	N ¹	N ¹	N	N	N	
11.31 Apartments: walk-up	Y	Y ¹	N ¹	N ¹	N	N	N	
11.32 Apartments: elevator	Y	Y ¹	N ¹	N ¹	N	N	N	
12 Group quarters	Y	Y ¹	N ¹	N ¹	N	N	N	
13 Residential Hotels	Y	Y ¹	N ¹	N ¹	N	N	N	
14 Mobile home parks or courts	Y	Y ¹	N	N	N	N	N	
15 Transient lodgings	Y	Y ¹	N ¹	N ¹	N ¹	N	N	
16 Other residential	Y	Y ¹	N ¹	N ¹	N	N	N	
20 Manufacturing								
21 Food & kindred products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
22 Textile mill products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
23 Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
24 Lumber and wood products (except furniture); manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
25 Furniture and fixtures; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
26 Paper and allied products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
27 Printing, publishing, and allied industries	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
28 Chemicals and allied products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
29 Petroleum refining and related industries	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
31 Rubber and misc. plastic products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
32 Stone, clay and glass products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
33 Primary metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
34 Fabricated metal products; manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N	
35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y	Y	Y	25	30	N	N	

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
39	Miscellaneous manufacturing	Y	Y	Y	Y ²	Y ³	Y ⁴	N
40	Transportation, communication and utilities							
41	Railroad, rapid rail transit, and street railway transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
42	Motor vehicle transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
43	Aircraft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
44	Marine craft transportation	Y	Y	Y	Y ²	Y ³	Y ⁴	N
45	Highway and street right-of-way	Y	Y	Y	Y ²	Y ³	Y ⁴	N
46	Automobile parking	Y	Y	Y	Y ²	Y ³	Y ⁴	N
47	Communication	Y	Y	Y	25 ⁵	30 ⁵	N	N
48	Utilities	Y	Y	Y	Y ²	Y ³	Y ⁴	N
49	Other transportation, communication and utilities	Y	Y	Y	25 ⁵	30 ⁵	N	N
50	Trade							
51	Wholesale trade	Y	Y	Y	Y ²	Y ³	Y ⁴	N
52	Retail trade - building materials, hardware and farm equipment	Y	Y	Y	Y ²	Y ³	Y ⁴	N
53	Retail trade - shopping centers	Y	Y	Y	25	30	N	N
54	Retail trade - food	Y	Y	Y	25	30	N	N
55	Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Y	25	30	N	N
56	Retail Trade - Apparel and Accessories	Y	Y	Y	25	30	N	N
57	Retail trade- furniture, home, furnishings and equipment	Y	Y	Y	25	30	N	N
58	Retail trade - eating and drinking establishments	Y	Y	Y	25	30	N	N
59	Other retail trade	Y	Y	Y	25	30	N	N
60	Services							
61	Finance, insurance and real estate services	Y	Y	Y	25	30	N	N
62	Personal services	Y	Y	Y	25	30	N	N
62.4	Cemeteries	Y	Y	Y	Y ²	Y ³	Y ^{4,11}	Y ^{6,11}
63	Business services	Y	Y	Y	25	30	N	N
63.7	Warehousing and storage	Y	Y	Y	Y ²	Y ³	Y ⁴	N
64	Repair Services	Y	Y	Y	Y ²	Y ³	Y ⁴	N
65	Professional services	Y	Y	Y	25	30	N	N
65.1	Hospitals, other medical fac.	Y	Y ¹	25	30	N	N	N
65.16	Nursing Homes	Y	Y	N ¹	N ¹	N	N	N
66	Contract construction services	Y	Y	Y	25	30	N	N
67	Government Services	Y	Y ¹	Y ¹	25	30	N	N
68	Educational services	Y	Y ¹	25	30	N	N	N
69	Miscellaneous	Y	Y	Y	25	30	N	N
70	Cultural, entertainment and recreational							
71	Cultural Activities (& Churches)	Y	Y ¹	25	30	N	N	N
71.2	Nature exhibits	Y	Y ¹	Y ¹	N	N	N	N
72	Public assembly	Y	Y ¹	Y	N	N	N	N
72.1	Auditoriums, concert halls	Y	Y	25	30	N	N	N
72.11	Outdoor music shells, amphitheaters	Y	Y ¹	N	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	Y	Y	Y ²	Y ²	N	N	N

Land Use	Suggested Land Use Compatibility							
	Noise Zone 1 (DNL or CNEL)		Noise Zone 2 (DNL or CNEL)		Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	< 55 dB	55-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	85+ dB
73	Amusements	Y	Y	Y	Y	N	N	N
74	Recreational activities (include golf courses, riding stables, water rec.)	Y	Y ¹	Y ¹	25	30	N	N
75	Resorts and group camps	Y	Y ¹	Y ¹	Y ¹	N	N	N
76	Parks	Y	Y ¹	Y ¹	Y ¹	N	N	N
79	Other cultural, entertainment and recreation	Y	Y ¹	Y ¹	Y ¹	N	N	N
80 Resource Production and Extraction								
81	Agriculture (except livestock)	Y	Y	Y ⁸	Y ⁸	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
81.5	Livestock farming	Y	Y	Y ⁸	Y ⁸	N	N	N
81.7	Animal breeding	Y	Y	Y ⁸	Y ⁸	N	N	N
82	Agriculture-related activities	Y	Y	Y ⁸	Y ⁸	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
83	Forestry Activities	Y	Y	Y ⁸	Y ⁸	Y ¹⁰	Y ^{10,11}	Y ^{10,11}
84	Fishing Activities	Y	Y	Y	Y	Y	Y	Y
85	Mining Activities	Y	Y	Y	Y	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y	Y	Y	Y	Y

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (yes)	Land use and related structures compatible without restrictions.
N (no)	Land use and related structures are not compatible and should be prohibited.
Y ^x	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^x	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
NLR (Noise Level Reduction)	NLR (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
25, 30, or 35	The numbers refer to NLR levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30, or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
DNL	Day Night Average Sound Level
CNEL	Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
LDN	Mathematical symbol for DNL

NOTES FOR TABLE 1 - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.
 - c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
 - d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.
2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.
6. No buildings.
7. Land use compatible provided special sound reinforcement systems are installed.
8. Residential buildings require a NLR of 25.
9. Residential buildings require a NLR of 30.
10. Residential buildings not permitted.
11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Emerald Isle and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Emerald Isle and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Emerald Isle including, where applicable, the Aircraft Safety Zones Overlay and Aircraft Noise Zones Overlay, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Emerald Isle is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) If a parcel is partially located within an Aircraft Safety Zone or Aircraft Noise Zone, this Ordinance applies only to that portion of the parcel located within the Aircraft Safety Zone or Aircraft Noise Zone.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Emerald Isle Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

ACCIDENT POTENTIAL ZONE (APZ) I: APZ-I lies beyond the Clear Zone, and is located in an area of lower, but still considerable, aircraft accident potential. Bogue ALF APZs are depicted in Figure 1.

ACCIDENT POTENTIAL ZONE (APZ) II: APZ-II is located beyond APZ-I and possesses less aircraft accident potential than APZ-I, but the potential is still high enough to warrant land use restrictions. Bogue ALF APZs are depicted in Figure 1.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the Clear Zones and Accident Potential Zones associated with Bogue ALF, maps the noise contours associated with aircraft operations and training, and identifies types of development considered incompatible with aircraft operations and training at MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Study for Bogue ALF is:

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001.

³ This timeframe may be consistent with the Town’s existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. Bogue ALF Aircraft Noise Zones are depicted in Figure 2.

AIRCRAFT SAFETY ZONES: Refers to any one or more of the following: Clear Zone, Accident Potential Zone I, and Accident Potential Zone II.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

CLEAR ZONE (CZ): The Clear Zone (CZ) begins at the end of the runway and is the area of highest aircraft accident potential; it has few uses that are compatible. The CZ starts at the end of the runway, and its dimensions are specified by the Department of Defense based on the type of aircraft and runway. CZs associated with Bogue ALF do not extend into the Town of Emerald Isle's jurisdiction.

IMAGINARY SURFACES: The Imaginary Surfaces associated with Bogue ALF, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: Bogue ALF.⁴

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Emerald Isle for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible

⁴ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, Emerald Isle had jurisdictional lands within five miles of Bogue ALF only.

Development in the Town of Emerald Isle and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Emerald Isle, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Emerald Isle:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁵
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Emerald Isle Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁶: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF EMERALD ISLE: The Town of Emerald Isle Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF EMERALD ISLE COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁵ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁶ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁷: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Emerald Isle <*insert name of department or division*> is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Emerald Isle and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Emerald Isle Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Aircraft Safety Zones Overlay

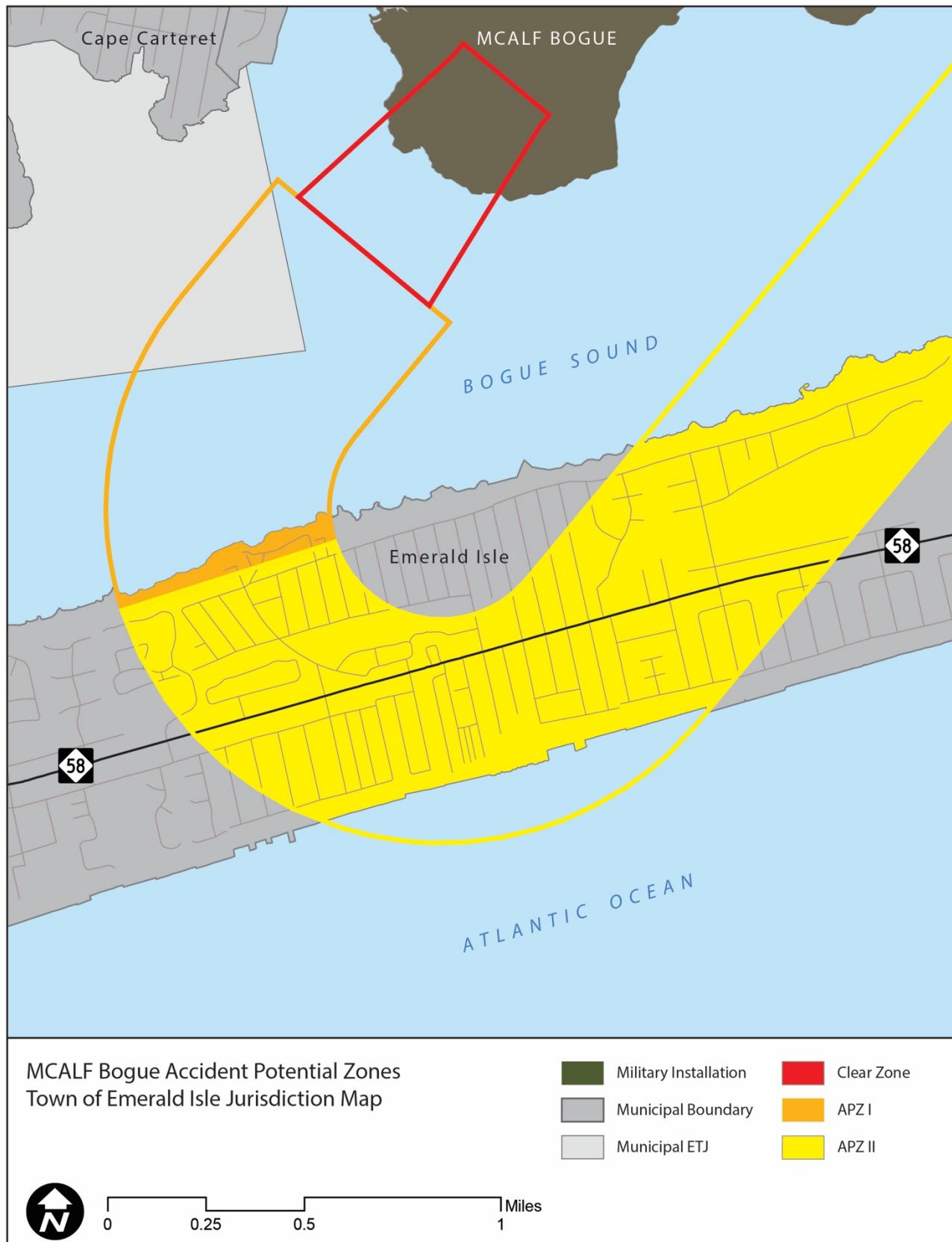
- (A) Certain parcels within the Town of Emerald Isle are located within the Bogue ALF Accident Potential Zones as indicated in Figure 1.
- (B) The Aircraft Safety Zones Overlay includes all parcels or portions of parcels located in the APZs associated with Bogue ALF.
- (C) According to the AICUZ Study and current Navy guidance, certain land uses in APZs are not compatible with air operations at Bogue ALF, given the increased potential of aircraft accidents in these areas.
- (D) Unless expressly exempt⁸, all development proposed within the Bogue ALF APZs shall be consistent with Appendix A: Land Use Compatibility Recommendations for Accident Potential Zones.⁹

⁷ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁸ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Safety Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

⁹ The Navy **safety zone** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 1. Bogue ALF Clear Zones & Accident Potential Zones in the Town of Emerald Isle



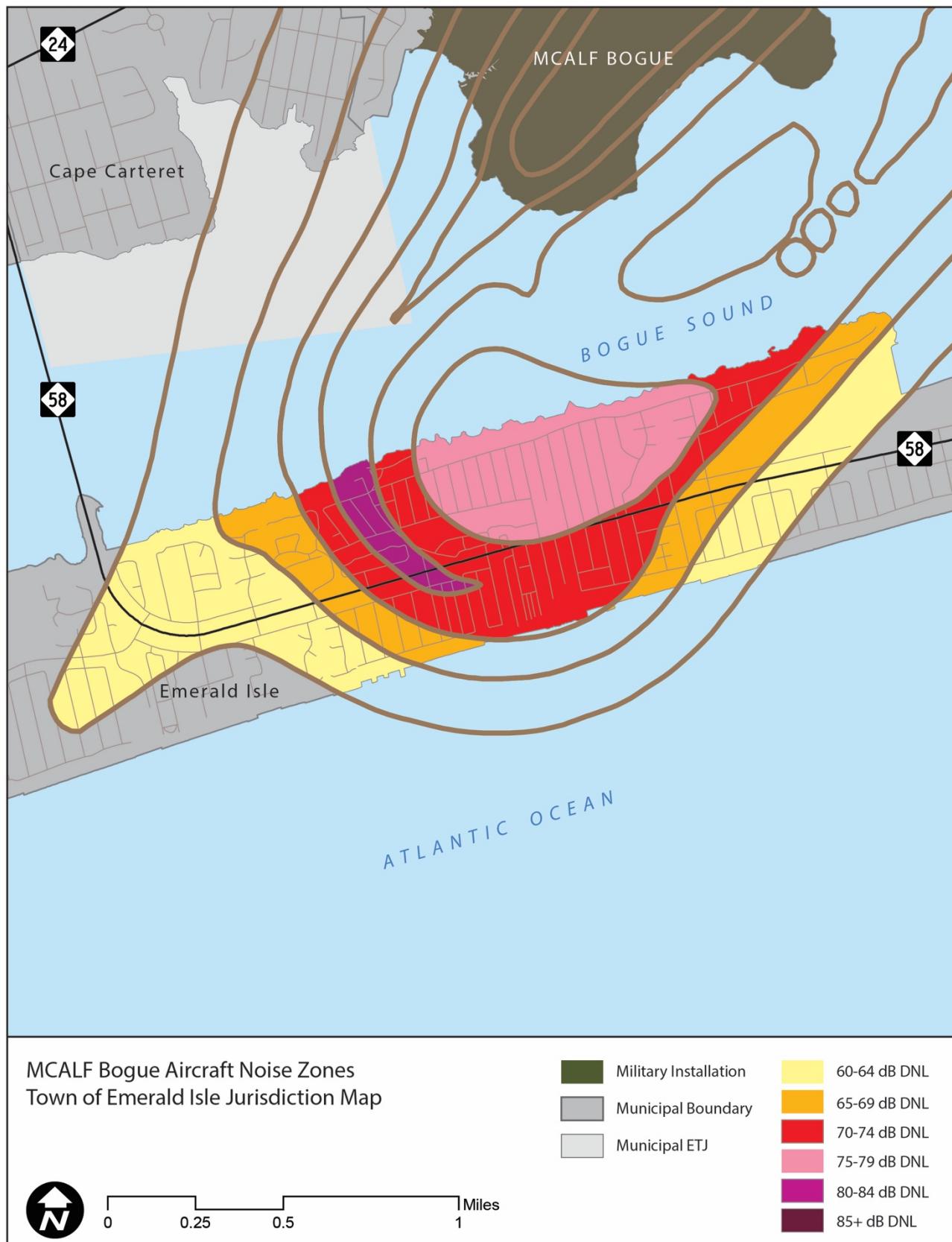
7.2. Aircraft Noise Zones Overlay

- (A) Certain parcels within the Town of Emerald Isle are located within the Bogue ALF Aircraft Noise Zones as indicated in Figure 2.
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with Bogue ALF.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Study.
- (D) According to the AICUZ Study and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at Bogue ALF.¹⁰
- (E) Unless expressly exempt¹¹, all development proposed within the Aircraft Noise Zones associated with Bogue ALF, therefore, shall be consistent with Appendix B: Recommended Land Use Compatibility for Noise Zones.¹²

¹⁰ Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

¹¹ Appendix B provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹² The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 2. Bogue ALF Aircraft Noise Zones in the Town of Emerald Isle

7.3. Limitations on Incompatible and Potential Incompatible Developments¹³

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.3.
- (B) **Wind Energy Facilities.**¹⁴ Wind Energy Facilities are prohibited within the Town of Emerald Isle.¹⁵
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.3 shall be pursuant to the process in Section 8.0.

7.4. Limitations on Height of Structures¹⁶

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Emerald Isle.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Emerald Isle that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.

¹³ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.3(C) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹⁴ Under the proposed MIOD, Wind Energy Facilities are prohibited within the jurisdiction, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹⁵ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁶ In contrast to the compatibility standards in Sections 7.1 and 7.2, determinations under Section 7.4(C) (**D (height)**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

- (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, the Town of Emerald Isle will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.4 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Emerald Isle Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Emerald Isle staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Emerald Isle, as provided in Sections 7.3 and 7.4, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Emerald Isle is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);¹⁷
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

¹⁷ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹⁸

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Emerald Isle will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Emerald Isle will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁹

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Emerald Isle.²⁰

¹⁸ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

¹⁹ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

²⁰ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Appendix A: Land Use Compatibility Recommendations for Accident Potential Zones

Air Installations Compatible Use Zones

Suggested Land Use Compatibility In Accident Potential Zones¹

SLUCM NO	Land Use Name	APZ - I	APZ - II	Density Recommendation
		Recommendation	Recommendation	
10 Residential				
11 Household Units	N	Y ²		Max density of 1-2 Du/Ac
11.11 Single units: detached	N	N		
11.12 Single units: semi-detached	N	N		
11.13 Single units: attached row	N	N		
11.21 Two units: side-by-side	N	N		
11.22 Two units: one above the other	N	N		
11.31 Apartments: Walk-up	N	N		
11.32 Apartments: Elevator	N	N		
12 Group quarters	N	N		
13 Residential Hotels	N	N		
14 Mobile home parks or courts	N	N		
15 Transient lodgings	N	N		
16 Other residential	N	N		
20 Manufacturing³				
21 Food & kindred products; manufacturing	N	Y		Max FAR 0.56 in APZ-II
22 Textile mill products; manufacturing	N	Y		Max FAR 0.56 in APZ-II
23 Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	N	N		
24 Lumber and wood products (except furniture); manufacturing	Y	Y		Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
25 Furniture and fixtures; manufacturing	Y	Y		Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
26 Paper and allied products; manufacturing	Y	Y		Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
27 Printing, publishing, and allied industries	Y	Y		Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
28 Chemicals and allied products; manufacturing	N	N		
29 Petroleum refining and related industries	N	N		
31 Rubber and misc. plastic products; manufacturing	N	N		
32 Stone, clay and glass products; manufacturing	N	Y		Max FAR 0.56 in APZ-II
33 Primary metal products; manufacturing	N	Y		Max FAR 0.56 in APZ-II

SLUCM NO Land Use Name	APZ - I	APZ - II	Density Recommendation
	Recommendation	Recommendation	
34 Fabricated metal products; manufacturing	N	Y	Max FAR 0.56 in APZ-II
35 Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	N	
39 Miscellaneous Manufacturing	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
40 Transportation, communication and utilities^{4,5}			
41 Railroad, rapid rail transit, and street railway transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
42 Motor vehicle transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
43 Aircraft transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
44 Marine craft transportation	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
45 Highway and street right-of-way	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
46 Auto parking	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
47 Communication	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
48 Utilities	Y ⁵	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
48.5 Solid Waste Disposal (landfills, Incineration, etc.)	N	N	
49 Other transport, comm. and utilities	Y ⁵	Y	See Note 5 below
50 Trade			
51 Wholesale trade	Y	Y	Max FAR of 0.28 in APZ-I & 0.56 in APZ-II
52 Retail trade - building materials, hardware and farm equipment	Y	Y	See Note 6 below
53 Retail trade ⁷ - Shopping centers, Home Improvement Store, Discount Club, Electronics Superstore	N	Y	Max FAR of 0.16 in APZ-II
54 Retail trade - food	N	Y	Max FAR of 0.24 in APZ-II
55 Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Max FAR of 0.14 in APZ-I & 0.28 in APZ-II
56 Retail trade - apparel and accessories	N	Y	Max FAR 0.28 in APZ-II
57 Retail trade - furniture, home, furnishings and equipment	N	Y	Max FAR 0.28 in APZ-II
58 Retail trade - eating and drinking establishments	N	N	
59 Other retail trade	N	Y	Max FAR of 0.16 in APZ-II
60 Services⁸			
61 Finance, Insurance and Real Estate Services	N	Y	Max Far of 0.22 for "General Office/Office Park" in APZ-II
62 Personal services	N	Y	Office uses only. Max FAR of 0.22 in APZ-II.

SLUCM NO	Land Use Name	APZ - I	APZ - II	Density Recommendation
		Recommendation	Recommendation	
62.4	Cemeteries	Y ⁹	Y ⁹	
63	Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	Y	Max FAR of 0.22 in APZ-II
63.7	Warehousing and storage services	Y	Y	Max FAR 1.0 in APZ-I; 2.0 in APZ-II
64	Repair Services	Y	Y	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
65	Professional services	N	Y	Max FAR of 0.22 in APZ-II
65.1	Hospitals, Nursing Home	N	N	
65.1	Other Medical Facilities	N	N	
66	Contract construction services	Y	Y	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
67	Government Services	N	Y	Max FAR of 0.24 in APZ-II
68	Educational services	N	N	
69	Miscellaneous	N	Y	Max FAR of 0.22 in APZ-II
70	Cultural, entertainment and recreational			
71	Cultural activities	N	N	
71.2	Nature exhibits	Y ¹⁰	Y ¹⁰	
72	Public assembly	N	N	
72.1	Auditoriums, Concert Halls	N	N	
72.11	Outdoor Music Shells, Amphitheaters	N	N	
72.2	Outdoor sports arenas, spectator sports	N	N	
73	Amusements - fairgrounds, miniature golf, driving ranges; amusement parks, etc.	N	Y	
74	Recreational activities (including golf courses, riding stables, water recreation)	Y ¹⁰	Y ¹⁰	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
75	Resorts and group camps	N	N	
76	Parks	Y ¹⁰	Y ¹⁰	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
79	Other Cultural, Entertainment and Recreation	Y ⁹	Y ⁹	Max FAR of 0.11 in APZ-I; 0.22 in APZ-II
80	Resource Production and Extraction			
81	Agriculture (Except livestock)	Y ¹¹	Y ¹¹	
81.5, 81.7	Livestock Farming and Breeding	Y ^{11, 12}	Y ^{11, 12}	
82	Agriculture Related Activities	Y ¹¹	Y ¹¹	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
83	Forestry Activities ¹³	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
84	Fishing Activities ¹⁴	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.

SLUCM NO Land Use Name	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
	Y	Y	
85 Mining Activities	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
89 Other resource production or extraction	Y	Y	Max FAR of 0.28 in APZ-I; 0.56 in APZ-II. No activity which produces smoke, glare, or involves explosives.
90 Other			
91 Undeveloped Land	Y	Y	
93 Water Areas	N ¹⁵	N ¹⁵	

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (YES)	Land use and related structures are normally compatible without restriction.
N (NO)	Land use and related structures are not normally compatible and should be prohibited.
Y ^X	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^X	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR (Floor Area Ratio)	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Du/Ac	Dwelling Units per Acre. This metric is customarily used to measure residential densities.

NOTES - SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to FARs are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ-I, and 50 per acre in APZ-II are the range of occupancy levels, including employees, considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per acre in APZ-I, and Maximum (Max) assemblies of 50 people per acre in APZ-II.
2. The suggested Max density for detached single-family housing is one to two Du/Ac. In a Planned Unit Development (PUD) of single family detached units where clustered housing development results in large open areas, this density could possibly be increased provided the amount of surface area covered by structures does not exceed 20 percent of the PUD total area. PUD encourages clustered development that leaves large open areas.
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air-pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or above-ground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See UFC 3-260-01, "Airfield and Heliport Planning and Design" dated 10 November 2001 for specific design details.
5. No passenger terminals and no major above-ground transmission lines in APZ-I.
6. Within SLUCM Code 52, Max FARs for lumber yards (SLUCM Code 521) are 0.20 in APZ-I and 0.40 in APZ-II. For hardware/paint and farm equipment stores, SLUCM Code 525, the Max FARs are 0.12 in APZ-I and 0.24 in APZ-II.
7. A shopping center is an integrated group of commercial establishments that is planned, developed, owned, or managed as a unit. Shopping center types include strip, neighborhood, community, regional, and super regional facilities anchored by small businesses, supermarket or drug store, discount retailer, department store, or several department stores, respectively. Included in this category are such uses as big box discount clubs, home improvement superstores, office supply superstores, and electronics superstores. The max recommended FAR for SLUCM 53 should be applied to the gross leasable area of the shopping center rather than attempting to use other recommended FARs listed in Table 2 under "Retail" or "Trade."
8. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc., are not recommended.
9. No chapels are allowed within APZ-I or APZ-II.
10. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not recommended.
11. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
12. Includes feedlots and intensive animal husbandry.
13. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DoD Natural Resources instructions.
14. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
15. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

Appendix B: Recommended Land Use Compatibility for Noise Zones

Air Installations Compatible Use Zones
Suggested Land Use Compatibility In Noise Zones

Land Use	Noise Zone 1 (DNL or CNEL)	Suggested Land Use Compatibility			
		60-64 dB	65-69 dB	70-74 dB	75-79 dB
SLUCM NO.	LAND USE NAME	Noise Zone 1 (DNL or CNEL)	Noise Zone 2 (DNL or CNEL)	Noise Zone 3 (DNL or CNEL)	Noise Zone 4 (DNL or CNEL)
60-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB	
10 Residential					
11 Household Units	Y ¹	N ¹	N ¹	N	N
11.11 Single units: detached	Y ¹	N ¹	N ¹	N	N
11.12 Single units: semi-detached	Y ¹	N ¹	N ¹	N	N
11.13 Single units: attached row	Y ¹	N ¹	N ¹	N	N
11.21 Two units: side-by-side	Y ¹	N ¹	N ¹	N	N
11.22 Two units: one above the other	Y ¹	N ¹	N ¹	N	N
11.31 Apartments: walk-up	Y ¹	N ¹	N ¹	N	N
11.32 Apartments: elevator	Y ¹	N ¹	N ¹	N	N
12 Group quarters	Y ¹	N ¹	N ¹	N	N
13 Residential Hotels	Y ¹	N ¹	N ¹	N	N
14 Mobile home parks or courts	Y ¹	N	N	N	N
15 Transient lodgings	Y ¹	N ¹	N ¹	N ¹	N
16 Other residential	Y ¹	N ¹	N ¹	N	N
20 Manufacturing					
21 Food & kindred products; manufacturing	Y	Y	Y ²	Y ³	Y ⁴
22 Textile mill products: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
23 Apparel and other finished products: products made from fabrics, leather and similar materials: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
24 Lumber and wood products (except furniture): manufacturing	Y	Y	Y ²	Y ³	Y ⁴
25 Furniture and fixtures: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
26 Paper and allied products; manufacturing	Y	Y	Y ²	Y ³	Y ⁴
27 Printing, publishing, and allied industries	Y	Y	Y ²	Y ³	Y ⁴
28 Chemicals and allied products: manufacturing	Y	Y	Y ²	Y ³	Y ⁴
29 Petroleum refining and related industries	Y	Y	Y ²	Y ³	Y ⁴
31 Rubber and misc. plastic products; manufacturing	Y	Y	Y ²	Y ³	Y ⁴

Land Use SLUCM NO., LAND USE NAME	Noise Zone 1 (DNL or CNEL)	Suggested Land Use Compatibility			
		60-64 dB	65-69 dB	70-74 dB	75-79 dB
32 Stone, clay and glass products; manufacturing	Y		Y ²		Y ³ Y ⁴
33 Primary metal products; manufacturing	Y		Y	Y ²	Y ³ Y ⁴
34 Fabricated metal products; manufacturing	Y		Y	Y ²	Y ³ Y ⁴
35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y		Y	25	30 N
39 Miscellaneous manufacturing	Y		Y	Y ²	Y ³ Y ⁴
40 Transportation, communication and utilities					
41 Railroad, rapid rail transit, and street railway transportation	Y		Y	Y ²	Y ³ Y ⁴
42 Motor vehicle transportation	Y		Y	Y ²	Y ³ Y ⁴
43 Aircraft transportation	Y		Y	Y ²	Y ³ Y ⁴
44 Marine craft transportation	Y		Y	Y ²	Y ³ Y ⁴
45 Highway and street right-of-way	Y		Y	Y ²	Y ³ Y ⁴
46 Automobile parking	Y		Y	Y ²	Y ³ Y ⁴
47 Communication	Y		Y	25 ⁵	30 ⁵ N
48 Utilities	Y		Y	Y ²	Y ³ Y ⁴
49 Other transportation, communication and utilities	Y		Y	25 ⁵	30 ⁵ N
50 Trade					
51 Wholesale trade	Y		Y	Y ²	Y ³ Y ⁴
52 Retail trade - building materials, hardware and farm equipment	Y		Y	Y ²	Y ³ Y ⁴
53 Retail trade - shopping centers	Y		Y	25	30 N
54 Retail trade - food	Y		Y	25	30 N
55 Retail trade - automotive, marine craft, aircraft and accessories	Y		Y	25	30 N
56 Retail Trade - Apparel and Accessories	Y		Y	25	30 N
57 Retail trade- furniture, home, furnishings and equipment	Y		Y	25	30 N
58 Retail trade - eating and drinking establishments	Y		Y	25	30 N
59 Other retail trade	Y		Y	25	30 N

Land Use	Suggested Land Use Compatibility					
	Noise Zone 1 (DNL or CNEL)	Noise Zone 2 (DNL or CNEL)	Noise Zone 3 (DNL or CNEL)			
SLUCM NO.	LAND USE NAME	60-64 dB	65-69 dB	70-74 dB	75-79 dB	80-84 dB
60	Services					
61	Finance, insurance and real estate services	Y	Y	25	30	N
62	Personal services	Y	Y	25	30	N
62.4	Cemeteries	Y	Y	Y ²	Y ³	Y ^{4,11}
63	Business services	Y	Y	25	30	N
63.7	Warehousing and storage	Y	Y	Y ²	Y ³	Y ⁴
64	Repair Services	Y	Y	Y ²	Y ³	Y ⁴
65	Professional services	Y	Y	25	30	N
65.1	Hospitals, other medical fac.	Y ¹	25	30	N	N
65.16	Nursing Homes	Y	N ¹	N ¹	N	N
66	Contract construction services	Y	Y	25	30	N
67	Government Services	Y ¹	Y ¹	25	30	N
68	Educational services	Y ¹	25	30	N	N
69	Miscellaneous	Y	Y	25	30	N
70	Cultural, entertainment and recreational					
71	Cultural Activities (& Churches)	Y ¹	25	30	N	N
71.2	Nature exhibits	Y ¹	Y ¹	N	N	N
72	Public assembly	Y ¹	Y	N	N	N
72.1	Auditoriums, concert halls	Y	25	30	N	N
72.11	Outdoor music shells, amphitheaters	Y ¹	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	Y	Y ⁷	Y ⁷	N	N
73	Amusements	Y	Y	Y	N	N
74	Recreational activities (include golf courses, riding stables, water rec.)	Y ¹	Y ¹	25	30	N
75	Resorts and group camps	Y ¹	Y ¹	Y ¹	N	N
76	Parks	Y ¹	Y ¹	Y ¹	N	N
79	Other cultural, entertainment and recreation	Y ¹	Y ¹	Y ¹	N	N
80	Resource Production and Extraction					
81	Agriculture (except livestock)	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10, 11}
81.5	Livestock farming	Y	Y ⁸	Y ⁹	N	N
81.7	Animal breeding	Y	Y ⁸	Y ⁹	N	N
82	Agriculture-related activities	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10, 11}
83	Forestry Activities	Y	Y ⁸	Y ⁹	Y ¹⁰	Y ^{10, 11}
84	Fishing Activities	Y	Y	Y	Y	Y
85	Mining Activities	Y	Y	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y	Y	Y

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (yes)	Land use and related structures compatible without restrictions.
N (no)	Land use and related structures are not compatible and should be prohibited.
Y ^x	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
N ^x	No, with exceptions. The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
NLR (Noise Level Reduction)	NLR (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
25, 30, or 35	The numbers refer to NLR levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30, or 35 must be incorporated into design and construction of structures, However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
DNL	Day Night Average Sound Level
CNEL	Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
LDN	Mathematical symbol for DNL

NOTES - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve and outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.
 - c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
 - d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.
2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.
6. *Reserved.*
7. Land use compatible provided special sound reinforcement systems are installed.
8. Residential buildings require a NLR of 25.
9. Residential buildings require a NLR of 30.
10. Residential buildings not permitted.
11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Minnesott Beach and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Minnesott Beach and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Minnesott Beach, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Minnesott Beach is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which the Town relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which, if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) If a parcel is partially located within an Aircraft Noise Zone, this Ordinance applies only to that portion of the parcel located within the Aircraft Noise Zone.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Minnesott Beach Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the noise contours associated with aircraft operations and training and identifies types of development considered incompatible with aircraft operations and training at MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Study for MCAS Cherry Point is:

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. MCAS Cherry Point are depicted in Error! Reference source not found..

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;

³ This timeframe may be consistent with the Town’s existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: MCAS Cherry Point.⁴

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Minnesott Beach for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Minnesott Beach and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Minnesott Beach, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Minnesott Beach:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁵

⁴ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, Minnesott Beach had jurisdictional lands within five miles of MCAS Cherry Point only.

⁵ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

- (e) Open pit mining and sand or gravel dredging operations;
- (f) Agricultural and research uses;
- (g) Stormwater detention or retention;
- (h) Created wetlands; and other wildlife attractants; and
- (i) Any other land use or structure the Town of Minnesott Beach Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁶: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF MINNESOTT BEACH: The Town of Minnesott Beach Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF MINNESOTT BEACH COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

WIND ENERGY FACILITY⁷: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Minnesott Beach *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Minnesott Beach and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Minnesott Beach Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

⁶ This definition is taken from N.C.G.S. §62-133.8(a)(7).

⁷ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

7.0 Compatible Use Standards

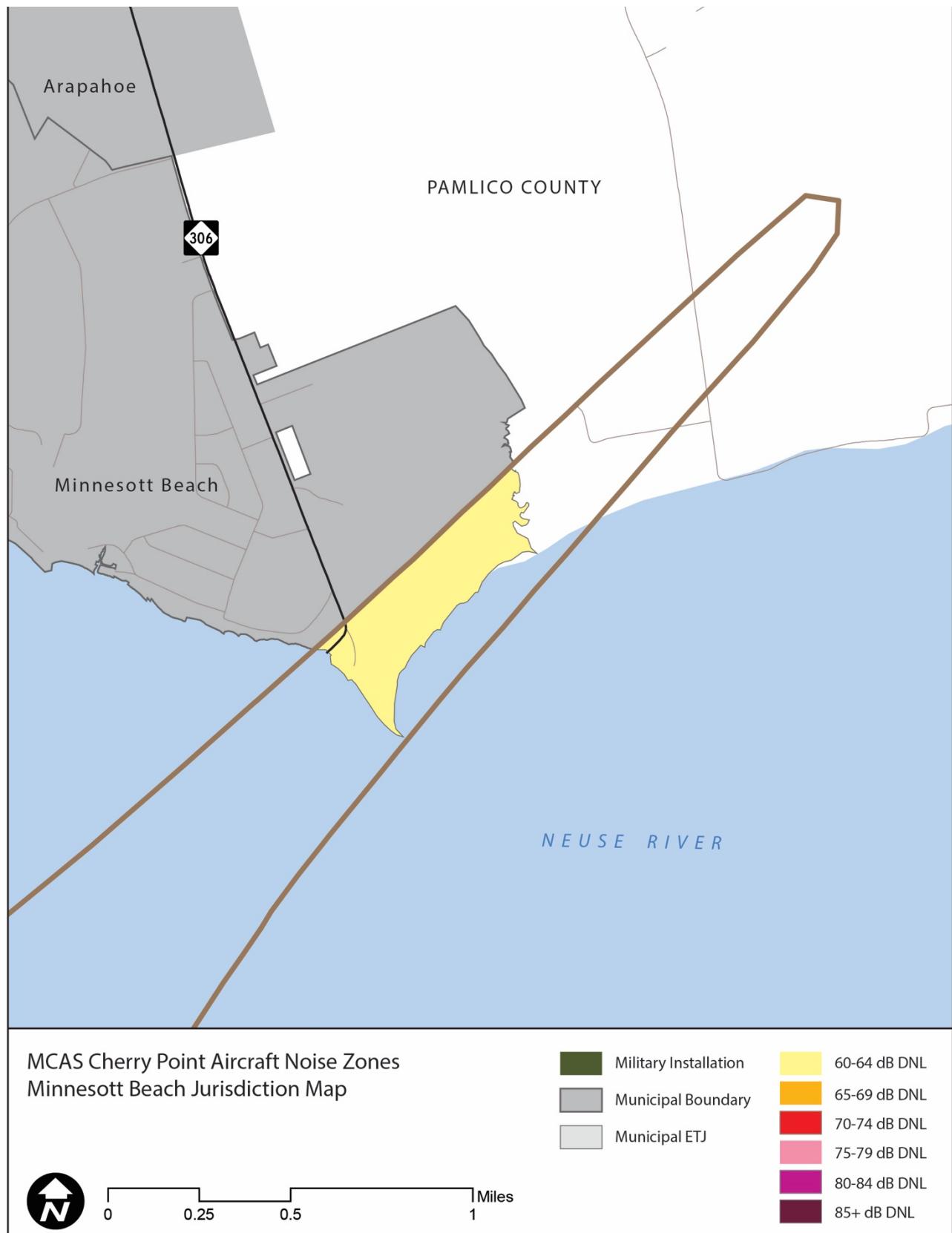
7.1. Aircraft Noise Zones Overlay

- (A) Certain parcels within the Town of Minnesott Beach are located within the MCAS Cherry Point Aircraft Noise Zones as indicated in Figure 1.
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with MCAS Cherry Point .
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Study.
- (D) According to the AICUZ Study and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at MCAS Cherry Point.⁸
- (E) Unless expressly exempt⁹, all development proposed within the Aircraft Noise Zones associated with MCAS Cherry Point, therefore, shall be consistent with Appendix A: Recommended Land Use Compatibility for Noise Zones.¹⁰

⁸ Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

⁹ Appendix A provides Navy guidelines (per OPNAVINST 11010.36C (2008)) for land use compatibility in Aircraft Noise Zones. As the JLUS Implementation Policy and Technical Committees have discussed, these recommendations may be modified in consideration of local circumstances.

¹⁰ The Navy **noise** compatibility guidelines may be implemented ministerially, for the most part, without the need to exercise significant discretion or the need to require a special use permit.

Figure 1. Aircraft Noise Zones

7.2. Limitations on Incompatible and Potential Incompatible Developments¹¹

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.**¹² Wind Energy Facilities are prohibited within the Town of Minnesott Beach.¹³
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.0.

7.3. Limitations on Height of Structures¹⁴

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Minnesott Beach.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Minnesott Beach that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.

¹¹ Determinations under Section **7.1(A) (Incompatible Developments)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹² Under the proposed MIOD, Wind Energy Facilities are prohibited within the town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹³ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁴ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

- (3) In addition, the Town of Minnesott Beach will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Minnesott Beach Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Minnesott Beach staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Minnesott Beach, as provided in Sections 7.2 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Minnesott Beach is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (*see N.C.G.S. § 160D-6-1(b)*);¹⁵
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹⁶

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Minnesott Beach will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or

¹⁵ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹⁶ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

- final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
 - (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Minnesott Beach will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁷

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Minnesott Beach.¹⁸

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

¹⁷ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁸ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Appendix A: Recommended Land Use Compatibility for Noise Zones

SLUCM NO.	LAND USE NAME	Noise Zone 1 (DNL or CNEL)
		55-64 dB
10 Residential		
11 Household Units		Y ¹
11.11 Single units: detached		Y ¹
11.12 Single units: semi-detached		Y ¹
11.13 Single units: attached row		Y ¹
11.21 Two units: side-by-side		Y ¹
11.22 Two units: one above the other		Y ¹
11.31 Apartments: walk-up		Y ¹
11.32 Apartments: elevator		Y ¹
12 Group quarters		Y ¹
13 Residential Hotels		Y ¹
14 Mobile home parks or courts		Y ¹
15 Transient lodgings		Y ¹
16 Other residential		Y ¹
20 Manufacturing		
21 Food & kindred products; manufacturing		Y
22 Textile mill products: manufacturing		Y

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
23	Apparel and other finished products: products made from fabrics, leather and similar materials: manufacturing	Y
24	Lumber and wood products (except furniture): manufacturing	Y
25	Furniture and fixtures: manufacturing	Y
26	Paper and allied products; manufacturing	Y
27	Printing, publishing, and allied industries	Y
28	Chemicals and allied products: manufacturing	Y
29	Petroleum refining and related industries	Y
31	Rubber and misc. plastic products; manufacturing	Y
32	Stone, clay and glass products; manufacturing	Y
33	Primary metal products; manufacturing	Y
34	Fabricated metal products; manufacturing	Y
35	Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y
39	Miscellaneous manufacturing	Y

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
40 Transportation, communication and utilities		
41 Railroad, rapid rail transit, and street railway transportation		Y
42 Motor vehicle transportation		Y
43 Aircraft transportation		Y
44 Marine craft transportation		Y
45 Highway and street right-of-way		Y
46 Automobile parking		Y
47 Communication		Y
48 Utilities		Y
49 Other transportation, communication and utilities		Y
50 Trade		
51 Wholesale trade		Y
52 Retail trade - building materials, hardware and farm equipment		Y
53 Retail trade - shopping centers		Y
54 Retail trade - food		Y
55 Retail trade - automotive, marine craft, aircraft and accessories		Y
56 Retail Trade - Apparel and Accessories		Y

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
57	Retail trade- furniture, home, furnishings and equipment	Y
58	Retail trade - eating and drinking establishments	Y
59	Other retail trade	Y
60 Services		
61	Finance, insurance and real estate services	Y
62	Personal services	Y
62.4	Cemeteries	Y
63	Business services	Y
63.7	Warehousing and storage	Y
64	Repair Services	Y
65	Professional services	Y
65.1	Hospitals, other medical fac.	Y ¹
65.16	Nursing Homes	Y
66	Contract construction services	Y
67	Government Services	Y ¹
68	Educational services	Y ¹
69	Miscellaneous	Y
70 Cultural, entertainment and recreational		
71	Cultural Activities (& Churches)	Y ¹
71.2	Nature exhibits	Y ¹
72	Public assembly	Y ¹

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
72.1 Auditoriums, concert halls		Y
72.11 Outdoor music shells, amphitheaters		Y ¹
72.2 Outdoor sports arenas, spectator sports		Y
73 Amusements		Y
74 Recreational activities (include golf courses, riding stables, water rec.)		Y ¹
75 Resorts and group camps		Y ¹
76 Parks		Y ¹
79 Other cultural, entertainment and recreation		Y ¹

80 Resource Production and Extraction

81 Agriculture (except livestock)	Y
81.5 Livestock farming	Y
81.7 Animal breeding	Y
82 Agriculture-related activities	Y
83 Forestry Activities	Y
84 Fishing Activities	Y
85 Mining Activities	Y
89 Other resource production or extraction	Y

Key	
SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (yes)	Land use and related structures compatible without restrictions.
Y ^x	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
DNL	Day Night Average Sound Level
CNEL	Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
LDN	Mathematical symbol for DNL

NOTES - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve and outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.

- c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
- d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.

Military Influence Ordinance¹

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¹ To the extent the County currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, Pamlico County and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between Pamlico County and MCAS Cherry Point; and
 - (3) reasonable regulations within Pamlico County, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority²

- (A) This Ordinance is adopted pursuant to _____.³
 - (B) In addition, Pamlico County is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry
-

² This Ordinance applies to any areas of the jurisdiction that are zoned or otherwise subject to land use or police power regulations under state law. Areas within the jurisdiction that are not zoned or regulated (or subject to municipal extraterritorial jurisdiction zoning) will coordinate through the Military Planning and Coordination Agreement (see Section 4.0) to protect compatibility.

³ The County's legal counsel should verify the source authority upon which the County relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which, if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years⁴ or more.
- (C) If a parcel is partially located within an Aircraft Noise Zone, this Ordinance applies only to that portion of the parcel located within the Aircraft Noise Zone.
- (D) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (E) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of Pamlico County ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY: The most recent AICUZ Study, which identifies the noise contours associated with aircraft operations and training and identifies types of development considered incompatible with aircraft operations and training at MCAS Cherry Point and its outlying facilities. As of this Ordinance's original adoption date, the most recent AICUZ Study for MCAS Cherry Point is:

“AICUZ Update, Final, Marine Corps Air Station Cherry Point,” dated 18 December 2001.

AIRCRAFT NOISE ZONES: Areas that may be affected by noise associated with current aircraft operations and training, as set forth in the AICUZ Study. MCAS Cherry Point Aircraft Noise Zones are depicted in **Error! Reference source not found.**

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];

⁴ This timeframe may be consistent with the County’s existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the County may opt to require that only new structures and land uses comply with this Ordinance.

2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MAJOR MILITARY INSTALLATION: MCAS Cherry Point, including BT-9 Brant Shoal.⁵

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with Pamlico County for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in Pamlico County and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between Pamlico County, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

PAMLICO COUNTY: The Pamlico County Board of Commissioners or an administrative designee of the Board of Commissioners.

PAMLICO COUNTY COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in Pamlico County:

1. Buildings or structures of 50' in height or greater; and

⁵ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* At that time, unincorporated Pamlico County had jurisdictional lands within five miles of MCAS Cherry Point only (including BT-9 Brant Shoal). Note, however, most the lands within 5 miles of BT-9 appear to be marsh and swampland (*see* Attachment B, Military Planning and Coordination Agreement).

2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁶
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Pamlico County Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁷: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

WIND ENERGY FACILITY⁸: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Pamlico County <insert name of department or division> is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, Pamlico County and MCAS Cherry Point will designate and maintain the following positions:

- (A) Pamlico County Coordinating Official.
-

⁶ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁷ This definition is taken from N.C.G.S. §62-133.8(a)(7).

⁸ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

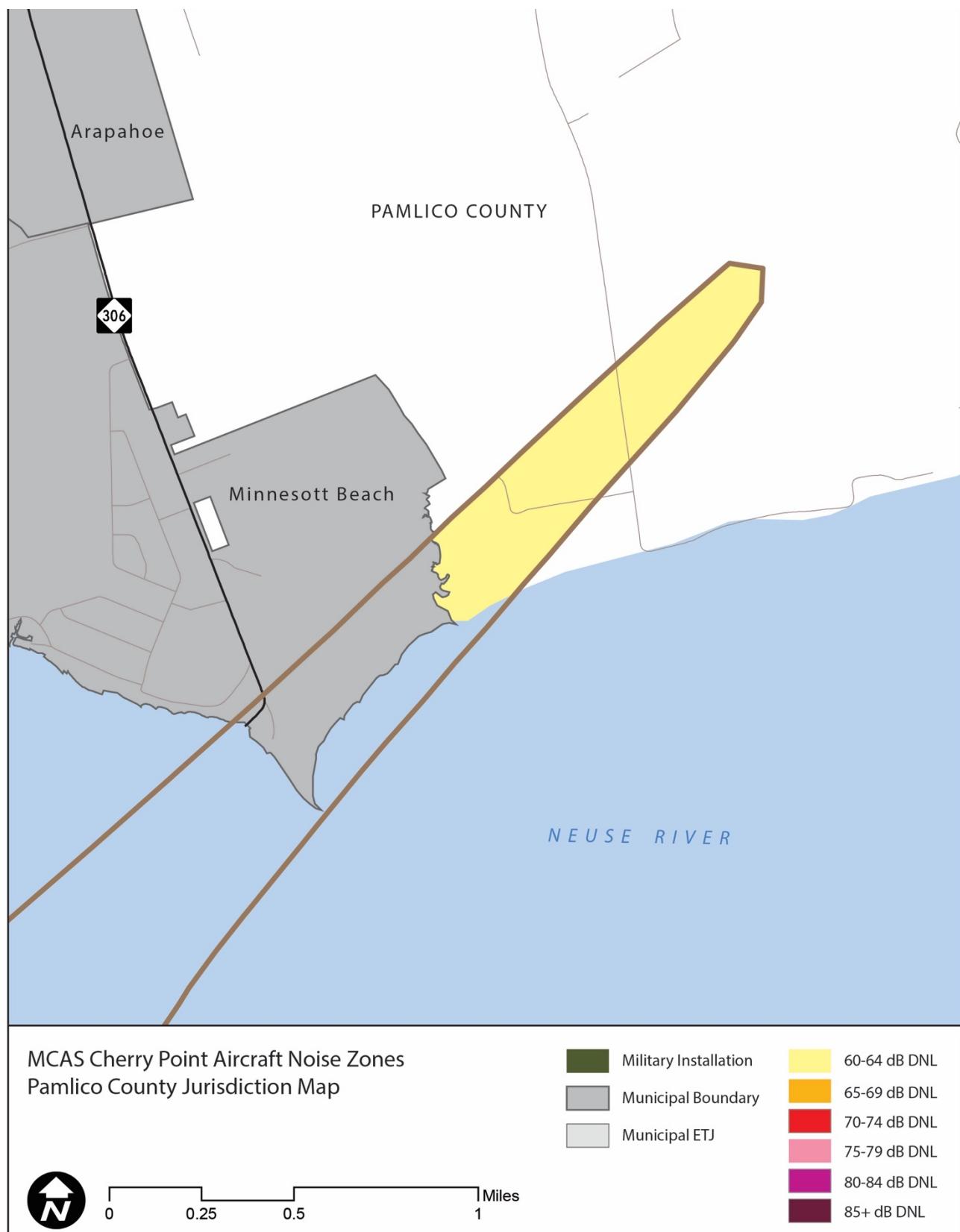
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Aircraft Noise Zones Overlay

- (A) Certain parcels within Pamlico County are located within the MCAS Cherry Point Aircraft Noise Zones as indicated in **Error! Reference source not found.**
- (B) The Aircraft Noise Zones Overlay includes all parcels or portions of parcels located in the Noise Zones associated with MCAS Cherry Point.
- (C) These Noise Zones indicate areas that may be affected by noise associated with current operations and training, as set forth in the AICUZ Study.
- (D) According to the AICUZ Study and current Navy guidance, certain noise-sensitive land uses in these areas are not compatible with air operations at MCAS Cherry Point.⁹
- (E) Unless expressly exempt¹⁰, all development proposed within the Aircraft Noise Zones associated with MCAS Cherry Point , therefore, shall be consistent with Appendix A: Recommended Land Use Compatibility for Noise Zones.¹¹

⁹ Note that Havelock and Beaufort also require noise attenuation in certain new buildings in the vicinity of MCAS Cherry Point and Michael J. Smith Airport, respectively.

Figure 1. MCAS Cherry Point Aircraft Noise Zones in Pamlico County

7.2. Limitations on Incompatible and Potential Incompatible Developments¹²

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.**¹³ Wind Energy Facilities are prohibited within Pamlico County.¹⁴
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.0.

7.3. Limitations on Height of Structures¹⁵

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in Pamlico County.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in Pamlico County that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.

¹² Determinations under Section **7.1(A) (Incompatible Developments)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹³ Under the proposed MIOD, Wind Energy Facilities are prohibited within the county, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

¹⁴ The County may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

¹⁵ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

- (3) In addition, Pamlico County will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Pamlico County Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of Pamlico County staff and other decision-makers, regarding Potential Incompatible Development proposed within Pamlico County, as provided in Sections 7.2 and 7.3, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which Pamlico County is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of a Major Military Installation (see N.C.G.S. § 160D-6-1(b));¹⁶
 - (2) Certain tall buildings and structures proposed within 5 miles of Major Military Installations (see N.C.G.S. § 143-151.77 *et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq.*)
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹⁷

- (A) Pursuant to N.C.G.S. § 160D-6-1, Pamlico County will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision

¹⁶ N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹⁷ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement, and may apply to both areas that are subject to zoning and land development regulations and those that are not.

- related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of a Major Military Installation.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
 - (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** Pamlico County will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁸

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in Pamlico County.¹⁹

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

¹⁸ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The County should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁹ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the County will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The County's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Appendix A: Recommended Land Use Compatibility for Noise Zones

SLUCM NO.	LAND USE NAME	Noise Zone 1 (DNL or CNEL)
		55-64 dB
10 Residential		
11 Household Units		Y ¹
11.11 Single units: detached		Y ¹
11.12 Single units: semi-detached		Y ¹
11.13 Single units: attached row		Y ¹
11.21 Two units: side-by-side		Y ¹
11.22 Two units: one above the other		Y ¹
11.31 Apartments: walk-up		Y ¹
11.32 Apartments: elevator		Y ¹
12 Group quarters		Y ¹
13 Residential Hotels		Y ¹
14 Mobile home parks or courts		Y ¹
15 Transient lodgings		Y ¹
16 Other residential		Y ¹
20 Manufacturing		
21 Food & kindred products; manufacturing		Y
22 Textile mill products: manufacturing		Y

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
23	Apparel and other finished products: products made from fabrics, leather and similar materials: manufacturing	Y
24	Lumber and wood products (except furniture): manufacturing	Y
25	Furniture and fixtures: manufacturing	Y
26	Paper and allied products; manufacturing	Y
27	Printing, publishing, and allied industries	Y
28	Chemicals and allied products: manufacturing	Y
29	Petroleum refining and related industries	Y
31	Rubber and misc. plastic products; manufacturing	Y
32	Stone, clay and glass products; manufacturing	Y
33	Primary metal products; manufacturing	Y
34	Fabricated metal products; manufacturing	Y
35	Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y
39	Miscellaneous manufacturing	Y

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
40 Transportation, communication and utilities		
41 Railroad, rapid rail transit, and street railway transportation		Y
42 Motor vehicle transportation		Y
43 Aircraft transportation		Y
44 Marine craft transportation		Y
45 Highway and street right-of-way		Y
46 Automobile parking		Y
47 Communication		Y
48 Utilities		Y
49 Other transportation, communication and utilities		Y
50 Trade		
51 Wholesale trade		Y
52 Retail trade - building materials, hardware and farm equipment		Y
53 Retail trade - shopping centers		Y
54 Retail trade - food		Y
55 Retail trade - automotive, marine craft, aircraft and accessories		Y
56 Retail Trade - Apparel and Accessories		Y

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
57	Retail trade- furniture, home, furnishings and equipment	Y
58	Retail trade - eating and drinking establishments	Y
59	Other retail trade	Y
60 Services		
61	Finance, insurance and real estate services	Y
62	Personal services	Y
62.4	Cemeteries	Y
63	Business services	Y
63.7	Warehousing and storage	Y
64	Repair Services	Y
65	Professional services	Y
65.1	Hospitals, other medical fac.	Y ¹
65.16	Nursing Homes	Y
66	Contract construction services	Y
67	Government Services	Y ¹
68	Educational services	Y ¹
69	Miscellaneous	Y
70 Cultural, entertainment and recreational		
71	Cultural Activities (& Churches)	Y ¹
71.2	Nature exhibits	Y ¹
72	Public assembly	Y ¹

Noise Zone 1 (DNL or CNEL)

SLUCM NO.	LAND USE NAME	55-64 dB
72.1 Auditoriums, concert halls		Y
72.11 Outdoor music shells, amphitheaters		Y ¹
72.2 Outdoor sports arenas, spectator sports		Y
73 Amusements		Y
74 Recreational activities (include golf courses, riding stables, water rec.)		Y ¹
75 Resorts and group camps		Y ¹
76 Parks		Y ¹
79 Other cultural, entertainment and recreation		Y ¹

80 Resource Production and Extraction

81 Agriculture (except livestock)	Y
81.5 Livestock farming	Y
81.7 Animal breeding	Y
82 Agriculture-related activities	Y
83 Forestry Activities	Y
84 Fishing Activities	Y
85 Mining Activities	Y
89 Other resource production or extraction	Y

Key

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (yes)	Land use and related structures compatible without restrictions.
^{Y^X}	Yes, with restrictions. The land use and related structures are generally compatible. However, see notes indicated by the superscript.
DNL	Day Night Average Sound Level
CNEL	Community Noise Equivalent Level (normally within a very small decibel difference of DNL)
LDN	Mathematical symbol for DNL

NOTES - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES

1. General
 - a. Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 to 69 and strongly discouraged in DNL 70 to 74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
 - b. Where the community determines that these uses must be allowed measures to achieve and outdoor to indoor NLR of at least 25 Decibels (dB) in DNL 65 to 69 and NLR of 30 dB in DNL 70 to 74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 to 79.

- c. Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded sound transmission class ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.

- d. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Atlantic Beach and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Atlantic Beach and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Atlantic Beach, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Atlantic Beach is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Atlantic Beach Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Atlantic Beach for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Atlantic Beach and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Atlantic Beach, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Atlantic Beach:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Atlantic Beach Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF ATLANTIC BEACH: The Town of Atlantic Beach Town Council or an administrative designee of the Town Council.

TOWN OF ATLANTIC BEACH COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Atlantic Beach *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Atlantic Beach and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Atlantic Beach Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Atlantic Beach.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the Town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this section 7.1 shall be pursuant to the process in Section 8.0.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Atlantic Beach.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Atlantic Beach that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

- (A) The Town of Atlantic Beach Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Atlantic Beach staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Atlantic Beach, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Atlantic Beach is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* However, there are no jurisdictional lands of Atlantic Beach within 5 miles of these installations.

MILITARY INFLUENCE ORDINANCE – ATLANTIC BEACH 9.0 PUBLIC AWARENESS AND NOTICE OF MILITARY IMPACTS

Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.

- (C) In addition, state level coordination is required for, but may not be limited to:¹²
 - (1) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq*).
 - (2) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Atlantic Beach will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹³

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Atlantic Beach.¹⁴

¹² Although N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within 5 miles of a revised zoning map or certain changes in allowable uses, at the time of this Study, no jurisdictional lands of Atlantic Beach are within 5 miles of a military base. The JLUS Implementation steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77. Therefore, it was determined that operations at Radio Island do not require notice under N.C.G.S. § 160D-6-1(b).

¹³ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission’s standard real estate disclosure form, nonetheless, does require some, but not all, impacts from “military sources,” be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁴ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town’s reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

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This Ordinance shall be effective from and after _____, 20____.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Beaufort and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
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 - (3) reasonable regulations within the Town of Beaufort, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Beaufort is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which the Town relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Beaufort Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Beaufort for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Beaufort and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Beaufort, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Beaufort:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Beaufort Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF BEAUFORT: The Town of Beaufort Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF BEAUFORT COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: a structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Beaufort *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Beaufort and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Beaufort Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Beaufort.⁹
- (C) **Airport Obstructions or Interference prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the Town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Beaufort.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Beaufort that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
- (D) **Procedures.** Coordination under this section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

- (A) The Town of Beaufort Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Beaufort staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Beaufort, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Beaufort is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* However, there are no jurisdictional lands of Beaufort within 5 miles of these installations.

- (C) In addition, state level coordination is required for, but may not be limited to:¹²
- (1) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (*see* N.C.G.S. 143-215.115, *et seq.*)
 - (2) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Beaufort will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹³

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Beaufort.¹⁴

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

¹² Although N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within 5 miles of a revised zoning map or certain changes in allowable uses, at the time of this Study, no jurisdictional lands of Beaufort are within 5 miles of a military base. The JLUS Implementation steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77. Therefore, it was determined that operations at Radio Island do not require notice under N.C.G.S. § 160D-6-1(b).

¹³ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission’s standard real estate disclosure form, nonetheless, does require some, but not all, impacts from “military sources,” be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁴ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town’s reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Bridgeton and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Bridgeton and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Bridgeton, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Bridgeton is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Bridgeton Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Bridgeton for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Bridgeton and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Bridgeton , other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Bridgeton:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Bridgeton Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF BRIDGETON: The Town of Bridgeton Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF BRIDGETON COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: a structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Bridgeton *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Bridgeton and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Bridgeton Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Bridgeton.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the Town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Bridgeton.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Bridgeton that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

- (A) The Town of Bridgeton Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Bridgeton staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Bridgeton, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Bridgeton is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* However, there are no jurisdictional lands of Bridgeton within 5 miles of these installations.

Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.

- (C) In addition, state level coordination is required for, but may not be limited to:¹²
 - (1) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq*).
 - (2) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Bridgeton will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹³

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Bridgeton.¹⁴

¹² Although N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within 5 miles of a revised zoning map or certain changes in allowable uses, at the time of this Study, no jurisdictional lands of Bridgeton are within 5 miles of a military base. The JLUS Implementation steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77. Therefore, it was determined that operations at Radio Island do not require notice under N.C.G.S. § 160D-6-1(b).

¹³ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission’s standard real estate disclosure form, nonetheless, does require some, but not all, impacts from “military sources,” be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁴ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town’s reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Morehead City and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Morehead City and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Morehead City, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Morehead City is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Morehead City Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

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1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
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³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

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POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Morehead City:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
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RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF MOREHEAD CITY: The Town of Morehead City Town Council or an administrative designee of the Town Council.

TOWN OF MOREHEAD CITY COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: a structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Morehead City *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Morehead City and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Morehead City Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited in within the Town of Morehead City.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the Town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.0.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Morehead City.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Morehead City that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

- (A) The Town of Morehead City Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of Town of Morehead City staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Morehead City, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Morehead City is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* However, there are no jurisdictional lands of Morehead City within 5 miles of these installations.

MILITARY INFLUENCE ORDINANCE – MOREHEAD CITY 9.0 PUBLIC AWARENESS AND NOTICE OF MILITARY IMPACTS

Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.

- (C) In addition, state level coordination is required for, but may not be limited to:¹²
 - (1) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq*).
 - (2) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Morehead City will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹³

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Morehead City.¹⁴

¹² Although N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within 5 miles of a revised zoning map or certain changes in allowable uses, at the time of this Study, no jurisdictional lands of Morehead City are within 5 miles of a military base. The JLUS Implementation steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77. Therefore, it was determined that operations at Radio Island do not require notice under N.C.G.S. § 160D-6-1(b), although coordination between Morehead City and Cherry Point is addressed in the Military Planning and Coordination Agreement.

¹³ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission’s standard real estate disclosure form, nonetheless, does require some, but not all, impacts from “military sources,” be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁴ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town’s reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Oriental and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Oriental and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Oriental, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Oriental is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Oriental General Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Oriental for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Oriental and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Oriental, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Oriental:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Oriental Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF ORIENTAL: The Town of Oriental Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF ORIENTAL COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Oriental *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Oriental and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Oriental Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Oriental.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the jurisdiction, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Oriental.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Oriental that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

- (A) The Town of Oriental Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Oriental staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Oriental, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Oriental is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* However, there are no jurisdictional lands of Oriental within 5 miles of these installations.

- (C) In addition, state level coordination is required for, but may not be limited to:¹²
- (1) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (*see* N.C.G.S. 143-215.115, *et seq.*)
 - (2) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Oriental will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹³

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Oriental.¹⁴

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

¹² Although N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within 5 miles of a revised zoning map or certain changes in allowable uses, at the time of this Study, no jurisdictional lands of Oriental are within 5 miles of a military base. The JLUS Implementation steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹³ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission’s standard real estate disclosure form, nonetheless, does require some, but not all, impacts from “military sources,” be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁴ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town’s reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Pine Knoll Shores and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Pine Knoll Shores and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Pine Knoll Shores, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Pine Knoll Shores is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Pine Knoll Shores Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Pine Knoll Shores for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Pine Knoll Shores and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Pine Knoll Shores, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Pine Knoll Shores:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Pine Knoll Shores Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF PINE KNOLL SHORES: The Town of Pine Knoll Shores Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF PINE KNOLL SHORES COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Pine Knoll Shores *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Pine Knoll Shores and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Pine Knoll Shores Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Pine Knoll Shores.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the jurisdiction, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Pine Knoll Shores.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Pine Knoll Shores that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

- (A) The Town of Pine Knoll Shores Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Pine Knoll Shores staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Pine Knoll Shores, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Pine Knoll Shores is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* However, there are no jurisdictional lands of Pine Knoll Shores within 5 miles of these installations.

Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.

- (C) In addition, state level coordination is required for, but may not be limited to:¹²
 - (1) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq*).
 - (2) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Pine Knoll Shores will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹³

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Pine Knoll Shores.¹⁴

¹² Although N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within 5 miles of a revised zoning map or certain changes in allowable uses, at the time of this Study, no jurisdictional lands of Pine Knoll Shores are within 5 miles of a military base. The JLUS Implementation steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹³ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission’s standard real estate disclosure form, nonetheless, does require some, but not all, impacts from “military sources,” be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁴ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town’s reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Trent Woods and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Trent Woods and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Trent Woods, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Trent Woods is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Trent Woods Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Trent Woods for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Trent Woods and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Trent Woods, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Trent Woods:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Trent Woods Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF TRENT WOODS: The Town of Trent Woods Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF TRENT WOODS COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Trent Woods *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Trent Woods and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Trent Woods Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Trent Woods.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the Town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.0.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Trent Woods.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Trent Woods that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.0.

8.0 Notice & Coordination with MCAS Cherry Point

- (A) The Town of Trent Woods Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Trent Woods staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Trent Woods, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Trent Woods is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* However, there are no jurisdictional lands of Trent Woods within 5 miles of these installations.

Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.

- (C) In addition, state level coordination is required for, but may not be limited to:¹²
 - (1) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq*).
 - (2) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Trent Woods will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹³

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Trent Woods.¹⁴

¹² Although N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within 5 miles of a revised zoning map or certain changes in allowable uses, at the time of this Study, no jurisdictional lands of Trent Woods are within 5 miles of a military base. The JLUS Implementation steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

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11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Cedar Point and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
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- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
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 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
 - (B) In addition, the Town of Cedar Point is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the
-

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
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4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

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MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Cedar Point for the purposes of

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

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1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
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1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF CEDAR POINT: The Town of Cedar Point Board of Commissioners or an administrative designee of the Board of Commissioners.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

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TOWN OF CEDAR POINT COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Cedar Point *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Cedar Point and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Cedar Point Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.**⁸ Wind Energy Facilities are prohibited within the Town of Cedar Point.⁹
- (C) **Airport Obstructions or Interference prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section **7.1(A) (Incompatible Developments)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by "special use permit" (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly's Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Cedar Point.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Cedar Point that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
 - (3) In addition, the Town of Cedar Point will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of Bogue ALF, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* Bogue ALF is the only “major military installation” within 5 miles of Cedar Point or its ETJ currently.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Cedar Point Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Cedar Point staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Cedar Point, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which the Town of Cedar Point is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of Bogue ALF (*see* N.C.G.S. § 160D-6-1(b));¹²
 - (2) Certain tall buildings and structures proposed within 5 miles of Bogue ALF (*see* N.C.G.S. § 143-151.77 *et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (*see* N.C.G.S. 143-215.115, *et seq.*)
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹³

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Cedar Point will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of Bogue ALF.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.

¹² N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹³ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Cedar Point will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.
- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁴

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Cedar Point.¹⁵

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

¹⁴ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁵ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Military Influence Ordinance¹

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¹ To the extent the City currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the City of New Bern and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the City of New Bern and MCAS Cherry Point; and
 - (3) reasonable regulations within the City of New Bern, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the City of New Bern is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The City's legal counsel should verify the source authority upon which the City relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the City of New Bern Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft; and
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility.
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

CITY OF NEW BERN: The City of New Bern Board of Aldermen or an administrative designee of the Board of Aldermen.

³ This timeframe may be consistent with the City's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the City may opt to require that only new structures and land uses comply with this Ordinance.

CITY OF NEW BERN COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, which include all of the land within the primary surface and all of the airspace within the approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the City of New Bern for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the City of New Bern and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the City of New Bern, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the City of New Bern:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the City of New Bern Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The City of New Bern *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the City of New Bern and MCAS Cherry Point will designate and maintain the following positions:

- (A) City of New Bern Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the City of New Bern.⁹

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the city, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The City may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (C) **Airport Obstructions or Interference prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the City of New Bern.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the City of New Bern that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, the City of New Bern will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of MCAS Cherry Point, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The City of New Bern Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating

¹⁰ Determinations under Section 7.2(C) (height) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* MCAS Cherry point is the only “major military installation” within 5 miles of New Bern or its ETJ currently. It is a small area at the most southeastern portion of New Bern that appears to be within 5 miles of Cherry Point.

Official, for the consideration of the City of New Bern staff and other decision-makers, regarding Potential Incompatible Development proposed within the City of New Bern, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.

- (B) The Military Planning and Coordination Agreement, to which the City of New Bern is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of MCAS Cherry Point (*see N.C.G.S. § 160D-6-1(b)*);¹²
 - (2) Certain tall buildings and structures proposed within 5 miles of MCAS Cherry Point (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (*see N.C.G.S. 143-215.115, et seq.*)
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹³

- (A) Pursuant to N.C.G.S. § 160D-6-1, the City of New Bern will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of MCAS Cherry Point.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The City of New Bern will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.

¹² N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹³ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁴

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the City of New Bern.¹⁵

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

¹⁴ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The City should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁵ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the City will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The City's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Newport and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Newport and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Newport, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Newport is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which a jurisdiction relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (*see e.g.*, N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Newport Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and
6. The Potential Incompatible Development attracts wildlife into a Department of Defense Airport Imaginary Surface, pursuant to 14 C.F.R. 77.21, which the MCAS Cherry Point base commander determines may create a hazard to military operations.

IMAGINARY SURFACES: The Imaginary Surfaces associated with MCAS Cherry Point, which include all of the land within the primary surface and all of the airspace within the

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

approach/departure clearance (glide angle and horizontal), transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to these installations.

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Newport for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Newport and as otherwise required by this Ordinance or state law.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Newport, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Newport:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Newport Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

TOWN OF NEWPORT: The Town of Newport Town Council or an administrative designee of the Town Council.

TOWN OF NEWPORT COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Newport *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Newport and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Newport Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Newport.⁹

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly's Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.
- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Newport.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Newport that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
 - (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
 - (3) In addition, the Town of Newport will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of MCAS Cherry Point, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).¹¹
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Newport Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating

¹⁰ Determinations under Section 7.2(C) (**height**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* MCAS Cherry Point is the only “major military installation” within 5 miles of Newport or its ETJ currently.

Official, for the consideration of the Town of Newport staff and other decision-makers, regarding Potential Incompatible Development proposed within the Town of Newport, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.

- (B) The Military Planning and Coordination Agreement, to which the Town of Newport is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of MCAS Cherry Point (*see N.C.G.S. § 160D-6-1(b)*);¹²
 - (2) Certain tall buildings and structures proposed within 5 miles of MCAS Cherry Point (*see N.C.G.S. § 143-151.77 et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality (*see N.C.G.S. 143-215.115, et seq.*).
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹³

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Newport will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of MCAS Cherry Point.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Newport will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.

¹² N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹³ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁴

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Newport.¹⁵

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

¹⁴ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁵ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Peletier and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Peletier and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Peletier, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Peletier is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which the Town relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Peletier Code of Ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Peletier for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Peletier and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Peletier, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Peletier :

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Peletier Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF PELETIER: The Town of Peletier Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF PELETIER COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Peletier *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Peletier and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Peletier Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.⁸** Wind Energy Facilities are prohibited within the Town of Peletier.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Peletier.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed in the Town of Peletier that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
 - (3) In addition, the Town of Peletier will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of Bogue ALF, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Peletier Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Peletier staff and other decision-makers,

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* Bogue ALF is the only “major military installation” within 5 miles of Peletier’s jurisdiction.

- regarding Potential Incompatible Development proposed within the Town of Peletier, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.
- (B) The Military Planning and Coordination Agreement, to which *<insert name of jurisdiction>* is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
 - (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of Bogue ALF (see N.C.G.S. § 160D-6-1(b));¹²
 - (2) Certain tall buildings and structures proposed within 5 miles of Bogue ALF (see N.C.G.S. § 143-151.77 *et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq.*)
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹³

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Peletier will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of Bogue ALF.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Peletier will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.

¹² N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹³ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁴

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Peletier.¹⁵

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

¹⁴ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁵ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.

Military Influence Ordinance¹

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¹ To the extent the Town currently regulates military-related land uses, this sample Military Influence Ordinance represents a baseline for repealing, supplementing, or revising existing regulations.

1.0 Purpose & Intent

- (A) In accordance with the objectives of the 2016 Regional Joint Land Use Study for MCAS Cherry Point and the laws of the State of North Carolina, the purposes of the MCAS Cherry Point Military Influence Overlay regulations are to protect community compatibility, assist MCAS Cherry Point in the preservation of its operational capability, and to promote the public health, safety, and general welfare.
- (B) The intent of these regulations is to promote compatibility between military operations at MCAS Cherry Point and its outlying facilities and the use and development of private property, by ensuring that, as provided herein, the Town of Pollocksville and MCAS Cherry Point officials coordinate on land use activities impacting or impacted by military operations and training activities.
- (C) It is the further intent of these regulations to provide reasonable protection against incompatible land uses in the vicinity of MCAS Cherry Point and its outlying facilities.
- (D) These purposes are achieved by the adoption of:
 - (1) regulations generally consistent with other local governments coordinating with MCAS Cherry Point through similar regulations and a coordination agreement;
 - (2) reasonable requirements for notice and coordination between the Town of Pollocksville and MCAS Cherry Point; and
 - (3) reasonable regulations within the Town of Pollocksville, to the extent that the added restrictions are limited to:
 - (a) the height of man-made structures,
 - (b) incompatible uses of land, and
 - (c) incompatible development activities.

2.0 Authority

- (A) This Ordinance is adopted pursuant to _____.²
- (B) In addition, the Town of Pollocksville is a party to the Military Planning and Coordination Agreement, which specifies additional commitments to coordinate with MCAS Cherry Point and other parties to the Military Planning and Coordination Agreement. To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall govern.

² The Town's legal counsel should verify the source authority upon which the Town relies to adopt a Military Influence Ordinance or related revisions to its code, whether Chapter 160D, general police powers, or other (see e.g., N.C.G.S. 160D-9-4 and 63A-29, *et seq.* authorizing "airport zoning" and "land development regulations," which if deemed by counsel to be applicable, include requirements in addition to those in Chapter 160D). Note that, in 2019, N.C.G.S. Chapter 160D repealed and replaced N.C.G.S. Chapter 153A, Article 18 and Chapter 160A, Article 19, regarding local planning and development regulation.

3.0 Applicability

- (A) Nothing herein requires a change or alteration to land uses or structures existing on the effective date of this Ordinance.
- (B) This Ordinance applies to a new land use established after the effective date of this Ordinance or the reestablishment of a land use after its discontinuance of *<to be determined locally>* years³ or more.
- (C) In addition to the standards set forth in this Ordinance, all uses and structures must comply with all other applicable local, State, and Federal regulations, including Title 14, Part 77 CFR [Code of Federal Regulations].
- (D) Compliance with this Ordinance does not exempt an applicant from complying with other requirements of the Town of Pollocksville ordinances.

4.0 Definitions

The following terms have the following meanings for purposes of enforcing and interpreting this Ordinance.

AIRPORT OBSTRUCTION OR INTERFERENCE: Any structure, object, or use of land the MCAS Cherry Point base commander determines impedes operations at MCAS Cherry Point or its outlying facilities, in any manner described below.

1. A Potential Incompatible Development, or its anticipated impacts, protrude above the planes or surfaces as contained in Title 14, Part 77 CFR [Code of Federal Regulations];
2. A Potential Incompatible Development, or its anticipated impacts, interfere with pilot vision, communication, radar, or otherwise interferes with the safe and effective operation of military aircraft;
3. Structures are proposed within 10 feet of approach/departure or transitional surfaces;
4. The Potential Incompatible Development produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of military aircraft;
5. The Potential Incompatible Development produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, MCAS Cherry Point, or other air traffic control facility; and

MCAS CHERRY POINT COORDINATING OFFICIAL: The Director of the Community Plans & Liaison Office who acts as a liaison with the Town of Pollocksville for the purposes of coordination under the provisions of this Ordinance. The MCAS Cherry Point Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Pollocksville and as otherwise required by this Ordinance or state law.

³ This timeframe may be consistent with the Town's existing regulations concerning nonconforming uses and structures, or a new timeframe may be specified. Conversely, the Town may opt to require that only new structures and land uses comply with this Ordinance.

MILITARY PLANNING AND COORDINATION AGREEMENT: A cooperative agreement between the Town of Pollocksville, other local governments, MCAS Cherry Point, and other military entities. The Military Planning and Coordination Agreement includes protocol for compliance with the requirements of this Ordinance and state law, as well as other cooperative efforts between the parties to the agreement, and may be amended from time to time.

POTENTIAL INCOMPATIBLE DEVELOPMENT: The following land uses or structures proposed in the Town of Pollocksville:

1. Buildings or structures of 50' in height or greater; and
2. The following land uses:
 - (a) Private and general aviation airports or runways;
 - (b) Landfills;
 - (c) Feeding stations;
 - (d) Renewable Energy Facilities;⁴
 - (e) Open pit mining and sand or gravel dredging operations;
 - (f) Agricultural and research uses;
 - (g) Stormwater detention or retention;
 - (h) Created wetlands; and other wildlife attractants; and
 - (i) Any other land use or structure the Town of Pollocksville Coordinating Official determines, after consultation with the MCAS Coordinating Official, to pose a potential threat to or encroachment on military training and operations.

RENEWABLE ENERGY FACILITY⁵: A facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

1. Generates electric power by the use of a renewable energy resource.
2. Generates useful, measurable combined heat and power derived from a renewable energy resource.
3. Is a solar thermal energy facility.

TOWN OF POLLOCKSVILLE: The Town of Pollocksville Board of Commissioners or an administrative designee of the Board of Commissioners.

TOWN OF POLLOCKSVILLE COORDINATING OFFICIAL: The *<insert position title and department/division>* or the *<insert position title and department/division>*'s designee.

⁴ Note that a Wind Energy Facility, which is a Renewable Energy Facility, would be prohibited jurisdiction-wide, as currently drafted.

⁵ This definition is taken from N.C.G.S. §62-133.8(a)(7).

WIND ENERGY FACILITY⁶: A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structure utilizing propeller blades.

5.0 Administration

The Town of Pollocksville *<insert name of department or division>* is responsible for implementing the provisions of this Ordinance.

6.0 Coordinating Officials

For the purpose of coordination under the provisions of this Ordinance and the Military Planning and Coordination Agreement, at all times following the effective, the Town of Pollocksville and MCAS Cherry Point will designate and maintain the following positions:

- (A) Town of Pollocksville Coordinating Official.
- (B) MCAS Cherry Point Coordinating Official.

7.0 Compatible Use Standards

7.1. Limitations on Incompatible and Potential Incompatible Developments⁷

- (A) **Generally.** Certain land uses by their very nature or location may present threats to military airspace operations, and therefore, are considered a Potential Incompatible Development, and are subject to the limitations of this Section 7.1.
- (B) **Wind Energy Facilities.**⁸ Wind Energy Facilities are prohibited within the Town of Pollocksville.⁹
- (C) **Airport Obstructions or Interference Prohibited.** Potential Incompatible Developments that the MCAS Cherry Point base commander, through the MCAS Cherry Point Coordinating Official, determines creates an Airport Obstruction or Interference, shall be prohibited.

⁶ This definition is taken the City of Havelock's Unified Development Ordinance, which prohibits Wind Energy Facilities within the City (see City of Havelock Unified Development Ordinance, § 155.0706(G)).

⁷ Determinations under Section 7.1(A) (**Incompatible Developments**) will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

⁸ Under the proposed MIOD, Wind Energy Facilities are prohibited within the town, based on the importance of the ongoing military mission in the region as reflected, in part, on the General Assembly’s Vertical Obstruction Impact on the N.C. Military Mission, which may be accessed at www.ncleg.gov/rnr/MilitaryOps.

⁹ The Town may defer to existing or alternative policies with respect to Wind Energy Facilities, including requiring a determination by MCAS Cherry Point on a case-by-case basis, as some jurisdictions currently are doing.

- (D) **Procedures.** Coordination under this Section 7.1 shall be pursuant to the process in Section 8.o.

7.2. Limitations on Height of Structures¹⁰

- (A) **Applicability.** This section applies to all buildings and structures proposed to be established, expanded, or replaced in the Town of Pollocksville.
- (B) **Proposed Structures Less Than 50 feet in Height.** A determination by MCAS Cherry Point of whether a proposed structure creates an Airport Obstruction or Interference is not required for structures proposed the Town of Pollocksville that are less than 50 feet in height.
- (C) **Proposed Structures 50 feet or Greater in Height.**
- (1) When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
 - (2) Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.¹¹
 - (3) In addition, the Town of Pollocksville will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of Oak Grove OLF, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).
- (D) **Procedures.** Coordination under this Section 7.2 shall be pursuant to the process in Section 8.o.

8.0 Notice & Coordination with MCAS Cherry Point

8.1. Generally

- (A) The Town of Pollocksville Coordinating Official will provide notice to and receive comments from the MCAS Cherry Point base commander, through the MCAS Coordinating Official, for the consideration of the Town of Pollocksville staff and other decision-makers, regarding Potential Incompatible Development proposed within the

¹⁰ Determinations under Section **7.2(C) (height)** will require a determination by MCAS Cherry Point in order to determine whether a proposed use is allowed. This may be by “special use permit” (or similar), which allow determinations or input from MCAS Cherry Point to be taken into consideration by a board of adjustment, planning board, or governing body prior to a final decision.

¹¹ Note that the Military Lands Protection Act of 2013 (N.C.G.S. § 143-151.70, *et seq.*) prohibits local governments from approving certain buildings and structures 200' or more in height, proposed within 5 miles of a “major military installation,” except upon demonstration of compliance with the Act. Based on the definition of “major military installation,” during the Study, MCAS Cherry Point indicated it had “oversight and control” over Bogue ALF, Atlantic OLF, Oak Grove OLF, BT-9 Brant Shoal, BT-11 Piney Island, in addition to MCAS Cherry Point, consistent with N.C.G.S. § 143-151.70, *et seq.* Oak Grove OLF is the only “major military installation” within 5 miles of Pollocksville’s jurisdiction.

Town of Pollocksville, as provided in Sections 7.1 and 7.2, as required by the North Carolina General Statutes.

- (B) The Military Planning and Coordination Agreement, to which the Town of Pollocksville is a party, describes the agreed to protocol for complying with the provisions of this Ordinance and state law. Coordination pursuant to the Military Planning and Coordination Agreement may extend beyond the requirements of state law and this Ordinance. A copy is available on file.
- (C) In addition, state level coordination is required for, but may not be limited to:
 - (1) As provided in Section 8.2, certain modifications to the zoning map or of permitted uses of land, if proposed within 5 miles of Oak Grove OLF (see N.C.G.S. § 160D-6-1(b));¹²
 - (2) Certain tall buildings and structures proposed within 5 miles of Oak Grove OLF (see N.C.G.S. § 143-151.77 *et seq.*); and
 - (3) Proposed Wind Energy Facilities that require approval by the N.C. Department of Environmental Quality. (see N.C.G.S. 143-215.115, *et seq.*)
 - (4) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement and state law, state law shall prevail.

8.2. Modifications to Zoning Map or Permitted Uses of Land¹³

- (A) Pursuant to N.C.G.S. § 160D-6-1, the Town of Pollocksville will notify and receive comments from the MCAS Cherry Point base commander prior to any public hearing or final decision related to a change in the zoning map or a change that would affect the uses permitted on a property within 5 miles of Oak Grove OLF.
- (B) The procedures for facilitating coordination with MCAS Cherry Point in compliance with N.C.G.S. § 160D-6-1 are described in the Military Planning and Coordination Agreement.
- (C) To the extent there is a conflict between the terms of the Military Planning and Coordination Agreement or this Ordinance and state law, state law governs.

9.0 Public Awareness and Notice of Military Impacts

- (A) **Application Notice.** The Town of Pollocksville will provide notice on certain application approvals, as provided in the Military Planning and Coordination Agreement, indicating that occupants of the land to be developed may experience the impacts of military training and operational activities.

¹² N.C.G.S. § 160D-6-1(b) requires coordination with “military bases” within the jurisdictions. However, at the time of this Study, the statutes did not contain a definition of “military bases,” so the steering committees, after consultation from MCAS Cherry Point, applied the term to the same installations as were determined to be “major military installations” under N.C.G.S. § 143-151.77.

¹³ This section implements N.C.G.S. § 160D-6-1(b), in conjunction with the provisions of the Military Planning and Coordination Agreement.

- (B) **Real Estate Disclosures.** A real estate disclosure, as provided in the Military Planning and Coordination Agreement, is required for all real property transfers and for leases of greater than 90 days disclosing the proximity of military installations and the likely presence of military training impacts.¹⁴

10.0 No Delegation of Local Authority

Nothing herein is intended to, and should not be interpreted to, authorize or require approval by MCAS Cherry Point of a development or land use action proposed in the Town of Pollocksville.¹⁵

11.0 Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses, shall not be affected thereby.

12.0 Effective Date

This Ordinance shall be effective from and after _____, 20____.

¹⁴ N.C.G.S. Chapter 47E provides for required disclosures under state statute for residential sales. It does not require disclosure of military-related impacts or land uses or expressly authorize local governments to require disclosures. It also does not address leased properties or commercial real estate transactions. Notably, the N.C. Real Estate Commission's standard real estate disclosure form, nonetheless, does require some, but not all, impacts from "military sources," be disclosed. The Town should consider the advice of local legal counsel before deciding whether to mandate disclosures beyond those expressly authorized by statute.

¹⁵ The Ordinance is not intended to delegate authority to MCAS Cherry Point or any other party. As drafted, the Ordinance provides that the Town will rely on the determinations of the base commander as to whether a Potential Incompatible Development would create an Airport Obstruction or Interference with respect to air operations at MCAS Cherry Point or an outlying facility. The Town's reliance on MCAS Cherry Point for its final decisions should be consistent with local procedures and confirmed by local counsel.