

Homestead Airport Zoning Ordinance

City Review Draft Ordinance

City of Homestead

June 2, 2010

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Ordinance No. 2010-____ - ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA REPEALING AND REPLACING SECTION 30-6 OF THE CODE OF ORDINANCES, RELATED TO AIRPORT ZONING, INCLUDING REQUIREMENTS FOR LAND USE DEVELOPMENT WITHIN DESIGNATED AREAS IN PROXIMITY OF HOMESTEAD AIR RESERVE BASE; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2003, the Vision Council for the Miami-Dade Defense Alliance prepared the Homestead Air Reserve Base Encroachment Study; and

WHEREAS, in 2004, the U.S. Air Force prepared an Air Installation Compatible Use Zone (AICUZ) Study for the 482nd Fighter Wing; and

WHEREAS, between 2005 and 2007, City representatives participated in the development of the Joint Land Use Study for the Homestead Air Reserve Base, dated March 2007 (the 2007 JLUS); and

WHEREAS, in 2007, an updated AICUZ (the 2007 AICUZ Study) was prepared, which analyzed, among other things, the effects of aircraft noise, accident potential, compatible land use, and development on existing and future development in the vicinity of the HARB; and

WHEREAS, updates to the AICUZ Study or the addition of aircraft in operation at the Homestead Air Reserve Base may necessitate subsequent amendments to this Ordinance; and

WHEREAS, the 2007 JLUS recommends certain compatibility tools for implementing its recommendations and the recommendations of the 2007 AICUZ Study; and

WHEREAS, the 2007 AICUZ Study found that the Homestead Air Reserve Base (HARB) infuses over \$190,000,000 into the local economy each year, employs over 2,300 personnel (including over 850 civilian workers and contractors), generates an additional 600 local, off-base jobs; and

WHEREAS, in 2007, HARB expanded its attack fighter capabilities by adding 9 F-16C aircraft to its current squadron, bringing it to a total of 24 Primary Authorized Aircraft; and

WHEREAS, the 2007 AICUZ Study projects over 36,000 annual airfield operations at HARB, including about 60 total daily operations by F-16Cs and 7 daily operations by F-15Cs; and

WHEREAS, HARB serves a critical role in military, special operations, drug enforcement and interdiction, training, and hurricane response; and

WHEREAS, significant residential and commercial growth has occurred within proximity to HARB and, as of 2005, the City projected a total of 14,500 additional residential units by 2015; and

WHEREAS, the 2007 AICUZ Study established noise contours and zones around HARB, including within the City, 70-74 dBA (A-weighted decibels) and 65-69 dBA; and

WHEREAS, the 2007 AICUZ Study, based on the recommendations of federal agencies, deems residential units and other noise-sensitive land uses “normally unacceptable” within areas exposed to noise between 65 and 75 dBA and, therefore these land uses are discouraged or strongly discouraged in these areas; and

WHEREAS, HARB officials have established accident potential and hazard zones within the City, as follows:

- (a) Clear Zone (CZ) – areas within the City nearest the HARB runway, within which the highest incidents of aircraft accidents typically occur;
- (b) Accident Potential Zone 1 (APZ1): an area southwest of the CZ, within which there is a significant potential for accidents;
- (c) Accident Potential Zone 2 (APZ2): an area extending southwest of the APZ1, within which there is a lower, but measurable risk of aircraft accidents; and
- (d) Explosive Clear Zone (ECZ): an area with high potential for accidents resulting from explosive material and specified exposures.

WHEREAS, the 2007 AICUZ Study includes “Land Use Compatibility Guidelines” that identify land uses compatible within designated accident potential and hazard zones and noise zones; and

WHEREAS, federal AICUZ guidelines recommend maximum concentrations of 25 people/acre in Accident Potential Zone 1 and 50 people/acre in Accident Potential Zone 2 (OPNAV Instruction 11010.36B, Dec. 12, 2002); and

WHEREAS, the City has considered the policies and recommendations of the 2007 AICUZ Study, as provided in the “City of Homestead Comprehensive Plan,” adopted November 21, 2005, as amended in accordance with the recommendations of City’s most recent amendments to its Comprehensive Plan based on its most recent Evaluation and Appraisal Report, dated July 7, 2009 (the “2009 EAR-Based Amendments”); and

WHEREAS, Policies 1.16 and 1.17 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to incorporate noise attenuation construction standards into the Land Development Code related to development within designated noise zones within the HARB Military Zone (HARB MZ); and

WHEREAS, Policy 1.18 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City enforce applicable requirements within the HARB Military Zone related to height restrictions, floor area ratios, and lot coverage; and

WHEREAS, Policy 13.1 of the Future Land Use Element of the 2009 EAR-Based Amendments designates as the HARB Military Zone all areas of geographic concern, including those within designated noise contours of 65 DNL or higher, clear zones, and Accident Potential Zones I and II; and

WHEREAS, Policy 13.5 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to adopt lighting standards that minimize unnecessary uplift around and within the HARB Military Zone; and

WHEREAS, Policy 13.6 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to inform developers of required noise reduction practices for all noise sensitive uses within the HARB Military Zone; and

WHEREAS, Policy 13.8 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to establish a zoning overlay district for new development within the HARB Military Zone, in coordination with Miami-Dade County; and

WHEREAS, Policy 13.9 of the Future Land Use Element of the 2009 EAR-Based Amendments provides that the City will revise the Comprehensive Airport Zoning Ordinance, Sec. 30 – 6, adopted August 19, 1991, to consider the most current Air Force AICUZ compatibility standards; and

WHEREAS, Objective 8 of the Transportation Element of the 2009 EAR-Based Amendments provides for, among other things, the City's ongoing coordination with HARB, including at least quarterly meetings; prohibiting structures that would obstruct air operations or navigation; and coordination regarding the planning of transportation facilities within APZs and noise zones;

WHEREAS, Policy 1.9 of the Capital Improvements Element of the 2009 EAR-Based Amendments provides for the coordination with Miami-Dade County and HARB with to ensure consultation and guidance from HARB with respect to any planned public facilities in close proximity to the HARB Military Zone; and

WHEREAS, Policy 3.1 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provides that the City will coordinate with HARB and the Miami-Dade Property Appraiser to disclose notification that a property for sale or rent is within the HARB Military Zone; and

WHEREAS, Policy 3.2 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provides that the City will coordinate with HARB regarding Comprehensive Plan amendments, land development code changes, and other proposed developments within the HARB Military Zone; and

WHEREAS, Policy 3.5 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provides that the City will notify HARB regarding any vertical structure in excess of two-hundred (200) feet proposed within the HARB Military Zone and

any vertical structure in excess of five-hundred (500) feet proposed within ten (10) miles of the HARB Military Zone; and

WHEREAS, Policies 3.6 and 3.7 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provide that the City will coordinate with, among others, HARB regarding proposed developments that would attract a significant bird population near HARB or the extension of public facilities within close proximity to HARB; and

WHEREAS, in addition to the standards identified in the AICUZ Study, the City has conferred with HARB personnel in development of this Ordinance and the standards included herein which are reasonable and necessary to protect the health, safety, and welfare of the public; and

WHEREAS, the City has considered, among other things, the character of flying operations expected to be conducted at the HARB, the nature of the terrain and the character of the neighborhoods within the areas affected by this Ordinance, the uses to which the property to be affected is put and adaptable, and the impact of any new use, activity, or construction on the airport's operating capability and capacity; and

WHEREAS, the City approved the Rockefeller Group Foreign Trade Zone Master Plan on April 16, 2001 by Ordinance 2001-03-08, which was later amended in September 2008 by the "Master Development Plan: for Homestead Park of Commerce/Homestead, Florida", and is recorded at ORB 26564, Pages 3345-3368 of the Public Records of Miami-Dade County, Florida (hereinafter referred to as the "HPOC Master Plan"); and

WHEREAS, the HPOC Master Plan provides for development standards for approximately 275 acres of land included within the Homestead Park of Commerce Plat, as recorded at Plat Book 157, Page 38 of the Public Records of Miami-Dade County, Florida; and

WHEREAS, the HPOC Master Plan is intended to guide the development of a light manufacturing, light assembly, office and distribution center, and commercial district including convenience retail, hotel, and conference facilities; and

WHEREAS, the HPOC Master Plan provides for specific development and compatibility standards for these uses which have been determined by the City Council to be consistent with the City's Comprehensive Plan and land development regulations; and

WHEREAS, owners of property within the HPOC Master Plan have acquired such property and attained development entitlements with the expectation and intention of development of such property consistent with the approved manufacturing, light assembly, office and distribution center, and commercial land use classifications of the HPOC Master Plan, in accordance with the specific use and compatibility regulations included in the HPOC Master Plan and all applicable City zoning regulations and requirements; and

WHEREAS, the HPOC Master Plan provides for a detailed set of development compatibility and use regulations, which are consistent with the City's Comprehensive Plan and vision for the development of the area included within the Plan; and

WHEREAS, on August 19, 1991, the City Council adopted the “Homestead Comprehensive Airport Zoning Ordinance” to regulate and restrict the height of structures and natural growth, and regulating the use of land and mode of construction of structures within areas in proximity to the Homestead Air Force Base (Ordinance 91-08-66) in accordance with the requirements of Section 333.03, Florida Statutes; and

WHEREAS, it is further the intent of the City Council that this Ordinance shall be adopted pursuant to the authority set forth in Section 333.03, Florida Statutes, in order to prevent the creation of airport obstructions and incompatible land uses in accordance with the intent of said statute, and that Chapter 30, “Zoning,” Article I, “In General,” Section 30-6, “Homestead Airport Zoning Ordinance,” will be repealed and replaced by this Ordinance; and

WHEREAS, it is the intent of the City Council that the requirements of this Ordinance shall be in addition to any other requirement of the Code, including but not limited to Chapter 30, Zoning; and

WHEREAS, this Ordinance was heard and recommended by the Planning and Zoning Advisory Board, in its capacity as the City’s Local Planning Agency; and

WHEREAS, the City Council has reviewed this Ordinance at a duly noticed hearing and determined that it is consistent with the City’s comprehensive plan; and

WHEREAS, the City Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA:

Section 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

Section 2. Code Repealed. Chapter 30, “Zoning,” Article I, “In General,” Section 30-6, “Homestead Comprehensive Airport Zoning Ordinance,” attached as Exhibit A to this Ordinance, is hereby repealed.

Section 3. Code Adopted. Chapter 30, “Zoning,” Article I, “In General,” Section 30-6, “Homestead Airport Zoning Ordinance adopted by reference,” is hereby adopted to read as follows:

HOMESTEAD AIRPORT ZONING

The purpose of this section is to establish standards related to airport obstructions, noise impacts, and land use compatibility, so as to promote the public health, safety, and welfare and to protect the utility and capacity of Homestead Air Reserve Base (HARB). In addition to certain requirements that apply citywide, this section creates specific zones of differing height restrictions and noise level reductions; establishes certain land use

limitations by zone; and establishes procedures for their orderly administration and enforcement.

1.1 DEFINITIONS

As used in this section, unless the context otherwise requires:

(1) ACCIDENT POTENTIAL ZONE 1 (APZ1)

This is an area extending outward from the southwestern end of the CZ an additional 5,000 feet, with a width of 3,000 feet, where there is a significant potential for accidents, thereby, extra protection is required. APZ1 includes all lands encompassed within the area designated APZ1 on the Accident Potential and Hazard Map set forth in Appendix E to this section.

(2) ACCIDENT POTENTIAL ZONE 2 (APZ2)

This is an area extending outward from the southwestern end of the APZ1 an additional 7,000 feet, with a width of 3,000 feet, where there is a measurable potential for accidents, thereby, extra protection is required. APZ2 includes all lands encompassed within the area designated APZ2 on the Accident Potential and Hazard Map set forth in Appendix E to this section.

(3) AIR INSTALLATION COMPATIBLE USE ZONE STUDY (AICUZ Study)

The "Air Installation Compatible Use Zone Study for Homestead Air Reserve Base, Florida," Headquarters Air Force Reserve Command, October 2007.

(4) AIRPORT OBSTRUCTION

Any structure, object, or use of land that protrudes above the planes or surfaces within the Height & Hazard Zone described in paragraph 1.4(1) of this section, any man-made object that extends more than five hundred (500) feet above the ground at the site of the structure; any obstruction that would exceed the federal obstruction standards as contained in Title 14, Part 77 CFR; or any structure, object, or use of land, which the HARB Coordinating Official determines otherwise obstructs the airspace required for flight of aircraft in taking off, maneuvering, or landing of aircraft or may otherwise be hazardous to the taking-off, maneuvering, or landing of aircraft from HARB.

(5) APPROACH/DEPARTURE CLEARANCE SURFACE

An inclined plane (glide angle), symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach/departure clearance surface is 50 to 1 along the extended runway (glide angle)

centerline extended until it reaches an elevation of 500 feet above glide angle. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is 2,000 feet; it flares uniformly and the width at 50,000 is 16,000 feet.

(6) AVIGATION EASEMENT

The assignment of a right to HARB to a portion of the total benefits of the ownership of real property.

(7) CLEAR ZONE (CZ)

All lands encompassed within the area designated Clear Zone or CZ on the HARB Accident Potential and Hazard Map set forth in Appendix E to this section. These areas have a high potential for accidents.

(8) CLEAR ZONE SURFACE

This surface defines the limits of the obstruction clearance requirements in the vicinity contiguous to the end of the primary surface. For a single runway end, measures 3,000 feet by 3,000 feet.

(9) CONICAL SURFACE

A surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.

(10) DAY/NIGHT NOISE LEVEL (DNL)

A cumulative measurement of community noise exposure established by the Federal government, used to determine the sound pressure present in a 24-hour period, with a ten (10) decibel penalty applied to each aircraft event that occurs between 10:00 p.m. and 7:00 a.m. DNL values are shown as a series of noise contours surrounding HARB on Appendix D.

(11) dB Decibel

The measurement of sound by its pressure or energy level. The decibel scale is logarithmic. Noise energy doubles with each increase of three (3) decibels.

(12) dBA

The measurement of sound pressure using an A-weighted scale to best represent the range of human hearing.

(13) DEVELOPMENT

For purposes of this section, "development" shall mean:

- (a) The division of a parcel of land into two (2) or more parcels;
- (b) The construction, reconstruction, conversion, structural alteration, relocation, intensification, or enlargement of any buildings;
- (c) Any new use or change in use of any buildings or land, including any extension of any nonconforming use of land; or
- (d) Any clearing, grading, or other movement of land for which permission is required pursuant this Chapter.

(14) DIRECTOR

The Director of the City's Department of Development Services, who is responsible for administering and enforcing the requirements of this section, or the Director's designee.

(15) EXPLOSIVE CLEAR ZONE (ECZ)

All lands encompassed within the area designated Explosive Clear Zone on the HARB Accident Potential and Hazard Map set forth in Appendix E to this section. These areas have a high potential for accidents resulting from explosive material and specified exposures.

(16) HARB Coordinating Official

The HARB Mission Support Group Commander or the Commander's designee.

(17) INNER HORIZONTAL SURFACE

A plane, oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these areas with tangents.

(18) NOISE LEVEL

The quantity in decibels measured by an instrument satisfying the requirements of American Standard Specification for Type I Sound Level Meters. The sound level shall be the frequency weighted sound pressure level obtained with the frequency weighting "A" and the standardized dynamic characteristics "SLOW."

(19) NOISE LEVEL REDUCTION (NLR)

The difference in dBA between the noise level outside the building and the noise level inside the building or a designated room in the building.

(20) NOISE ZONES

Areas for which the boundaries are represented by DNL noise contour ranges and including all lands encompassed within the areas

designated “Noise Zone 65dBA” and “Noise Zone 70 dBA” on the Noise Zone Map set forth in Appendix D to this section.

(21) NONCONFORMING USE

Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this section, or amendments thereto.

(22) OUTER HORIZONTAL SURFACE

A plane located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.

(23) PERSON

Individual, firm, partnership, corporation, company, association, joint stock association, or political body including the trustee, receiver, assignee, administrator, executor, guardian, or other representative.

(24) PRIMARY SURFACE

A surface located on the ground or water longitudinally centered on each runway, including runway shoulders and lateral safety zones and extending two hundred (200) feet beyond the runway ends. The width of the primary surface for runways is 2,000 feet.

(25) QUALIFIED ACOUSTICAL CONSULTANT

A person having sufficient training and experience in the science and technology of acoustics and knowledge of construction methods and materials to be qualified to evaluate the adequacy of acoustical design, materials, and methods of construction for attenuation of noise.

(26) RUNWAY

Defined areas at HARB prepared for landing and takeoff of aircraft along its length.

(27) STRUCTURE

Any object, constructed or installed by man, including but not limited to: buildings, towers, smoke stacks, utility poles, and overhead transmission lines.

(28) TRANSITIONAL SURFACES

These surfaces connect the primary surfaces, the clear zone surfaces, and the approach/departure clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface, or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

1.2 CITYWIDE; GENERAL REQUIREMENTS

(1) APPLICABILITY

- (a) The provisions of this section apply to any new development for which a complete application is submitted after the effective date of this section.
- (b) Compliance with the provisions of this section does not constitute compliance with other local, federal, or state requirements related to land use impacts on aviation, and all such requirements are in addition to the requirements of this section.

(2) CONFLICT

All development is subject to the provisions of this section, in addition to any other applicable Code provision. In the event of a conflict between the requirements of this section and another Code provision, the more restrictive applies.

(3) DIRECTOR

It shall be the duty of the Director to administer and enforce the requirements prescribed herein.

(4) PLANNING AND ZONING BOARD AND CITY COUNCIL, AS BOARD OF ADJUSTMENT

The Planning and Zoning Board and the City Council are hereby appointed to serve as the board of adjustment for purposes of deciding any appeal or variance under this section, pursuant to the provisions of section 333.10, Fla. Stat.

(5) NONCONFORMING USES – GENERALLY

- (a) Unless provided for otherwise by its express terms, this section shall not be construed to necessitate the removal, change, or alteration to any nonconforming use structure, land use, or tree existing on the effective date of this section.
- (b) Before any nonconforming use, tree, or structure is improved such that the costs equal or exceed fifty percent (50%) of the pre-improvement market value, as established by section 30-546(6), a permit must be secured from the City authorizing the improvement of the nonconforming use, tree, or structure in conformance with the requirements of this section.
- (c) No permit shall be granted that would allow the establishment or creation of an obstruction hazardous to aircraft operations or permit a nonconforming use, structure, or tree to be made

or increased in height so as to become a greater hazard to air navigation than it was as of the effective date of this section.

- (d) Whenever the Director determines that a nonconforming use, structure, or tree has been more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, no permit shall be granted that would allow said use, structure, or tree to be repaired, reconstructed, or restored except by a conforming use, structure, or tree.
- (e) If a use or structure that does not conform to the requirements of this section is abandoned for twelve (12) consecutive months following the effective date of this section, then such use or structure shall thereafter be reestablished only in compliance with this section, regardless of the intent of the owner in discontinuing the use or structure.
- (f) If a landowner refuses to bring a use, tree, or structure into conformity with these provisions, the City may enforce such provisions and assess the costs of enforcement upon the object or the land whereon it is or was located, in accordance with section 333.07(1)(b), Fla. Stat. and by any other authorized means.

(6) ADOPTION OR AMENDMENT TO THIS SECTION

The adoption of this section and any change or amendment hereto shall be according to the public hearing and notice requirements of section 333.05(1), Fla. Stat. and a copy of same shall be provided to the Department of Transportation.

(7) DETERMINATION OF BOUNDARIES

- (a) This section establishes the geographic zones within which specified regulations apply, which areas are shown on maps in the Appendices. The Department of Development Services maintains a copy of each of these maps on file in a GIS format so that the location of zone boundaries may be established on a parcel-by-parcel basis.
- (b) Unless otherwise provided expressly herein, for purposes of applying the provisions of this section to parcels lying in more than one (1) geographic designation or zone, only the portion of the parcel within the area or zone shall be subject to the requirements applicable to the area or zone.

- (c) Where interpretation is needed as to the location of an area or zone boundary, the Director shall make the necessary interpretation, in consultation, as necessary, with the HARB Coordinating Official or other airport officials.

(8) CITY COORDINATION WITH HARB AND MIAMI-DADE COUNTY

The City will coordinate with the HARB Coordinating Official and officials at Miami-Dade County, as follows:

- (a) The Director shall designate the HARB Coordinating Official as a member of the development review committee pursuant to Section 30-55 of the Code of Ordinances. The HARB Coordinating Official's review shall be limited to those proposed developments which are within the HARB Military Zone Overlay or otherwise subject to this section.
- (b) The Director shall forward to the HARB Coordinating Official information relating to proposed changes to the comprehensive plan, plan amendments, and land development regulations, as required by section 163.3175(4), Florida Statutes, allowing the HARB Coordinating Official to provide comments that may address, among other matters, those set forth in section 163.3175(5), Florida Statutes. Any comments provided by the HARB Coordinating Official with respect to a proposed comprehensive plan amendment shall be forwarded by the Director to the Department of Community Affairs.
- (c) If the AICUZ Study is updated or a new study is completed, the Director will cooperate with the HARB Coordinating Official by providing needed background data, reviewing draft documents, and coordinating amendments to this section to reflect study recommendations.
- (d) At least ninety (90) days before any official consideration by the City Council to fund or plan for a transportation, water, or sewer capital improvement that would expand the development capacity within the HARB Military Zone Overlay, the Director will notify the HARB Coordinating Official and will identify the location and timing of the proposed capacity-expanding capital improvements.
- (e) The Director will utilize best efforts to coordinate with the Miami-Dade County Property Appraiser to graphically link noise zones, accident potential and hazard zones, and regulations related to wildlife attractants to the property search function

of the County website and to disclose that a property for sale or rent is within the HARB Military Zone Overlay or otherwise subject to the requirements of this section.

(9) NOTICE

- (a) Public notice through the use of maps depicting HARB Military Zone Overlay, and other designated areas or zones, shall be available at the City of Homestead Department of Development Services.
- (b) The Director will use best efforts to coordinate with the Miami-Dade Property Appraiser to maintain a list of all property within the HARB Military Zone Overlay and other designated areas and zones, which shall be made available to the public. The listing will be compiled by the Miami-Dade County Tax Assessor from public records and shall be updated at least once each year. The listing will be available for use by title companies, real estate agencies, and individuals to determine the notice required to be given to prospective transferees, tenants, and purchasers of residential property.
- (c) A Disclosure Statement as shown in Appendix B shall be made available to the public to be included with real estate listing agreements, marketing materials for the sale or lease of real property, and provided in conjunction with the sale or lease of all property located within a designated accident potential zone, clear zone, explosive clear zone, or noise zone surrounding the HARB. In the case of property sales, the Disclosure Statement shall be filed with the property deed. In the case of leases, the disclosure statement shall be presented to the lessee and executed prior to the lessee taking possession of the property.
- (d) The following development approvals concerning property located within a designated accident potential zone, clear zone, explosive clear zone, or noise zone surrounding the HARB shall include a disclosure of the property's location within the applicable zone, that the property is subject to accident potential and/or noise from aircraft, and that all development activities shall comply with the requirements of each zone within which the property is located and other applicable requirements of this section:
 - (i) Plat and subdivision;

- (ii) Site plan;
- (iii) Rezoning;
- (iv) Planned Unit Development;
- (v) Future Land Use Map amendment;
- (vi) Building permit.

1.3 HARB MILITARY ZONE OVERLAY ESTABLISHED; APPLICABILITY

- (1) There is hereby established the HARB Military Zone Overlay to include all areas designated within the HARB Military Zone Overlay Map set forth in Appendix A to this section.
- (2) The HARB Military Zone Overlay may encompass all or a portion of other regulatory zones created by this section, which govern the use of land. An applicant for development within the HARB Military Zone Overlay shall comply with the requirements of each zone within which the subject property is located. In the event of a conflict between requirements of this section, the more restrictive applies.
- (3) The variance to or waiver of any such more restrictive requirement does not constitute a variance or waiver of the less restrictive requirement.

1.4 HEIGHT AND HAZARD ZONE

- (1) In addition to the HARB Military Zone Overlay, there is hereby created and established a Height and Hazard Zone, which includes all of the land and air within the approach/departure, primary, transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to HARB and the land beneath these surfaces. The imaginary surface boundaries are defined herein and generally illustrated on the Height and Hazard Zone Map attached to this section and made a part hereof as Appendix C. An area located in more than one of the described zones is considered to be only in the zone with the more restrictive height limitation.
- (2) The Director will notify the HARB Coordinating Official in the event that any development or use of land listed in paragraph 1.4(4) of this section is proposed within the Height and Hazard Zone. The City will provide the HARB Coordinating Official at least ten (10) business days to forward a written recommendation to the Director with respect to the development or land use, before the City makes any decision or recommendation related to the application.
- (3) Airfield elevation and runway coordinates for HARB are as follows:

- (a) Airfield Elevation: five (5) feet above mean sea level.
- (b) Runway 05/23 Coordinates:

25 Degrees	28 Minutes	43.40 Seconds	North Latitude
80 Degrees	23 Minutes	47.20 Seconds	West Longitude
25 Degrees	29 Minutes	55.39 Seconds	North Latitude
80 Degrees	22 Minutes	15.20 Seconds	West Longitude
- (4) Within the Height and Hazard Zone:
 - (a) no airport obstructions are permitted;
 - (b) the development of the following shall be prohibited if the use interferes with pilot vision and the operation of HARB aircraft: sanitary landfills, feeding stations, sand and gravel dredging operations, storm water retention ponds, created wetlands, or the growing of vegetation determined to be a wildlife attractant;
 - (c) no structure shall be approved that would be situated within ten (10) feet of approach/departure or transitional surfaces;
 - (d) no development shall be approved that produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of HARB aircraft;
 - (e) no development shall be approved that produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, HARB, or other air traffic control facility;
 - (f) notwithstanding the provisions of paragraph 1.2(5) of this section, no condition shall be maintained that attracts wildlife into the Height and Hazard Zone, which the HARB Coordinating Official determines to create a hazard to operations within the HARB Military Zone Overlay;
 - (g) any variance or permit granted for development under this section shall, as a specific condition, require the owner to mark and light the structures to indicate to aircraft pilots the presence of an obstruction. Such marking and lighting shall conform to the specific standards established by Chapter 14-60.009, Rules of the Department of Transportation and Federal Aviation Administration Advisory Circular 70/7460-1K (AC 70/7460-1K), as amended.

1.5 NOISE ZONES

(1) ESTABLISHMENT OF NOISE ZONES.

- (a) There are hereby created and established two (2) noise zones as designated on the HARB Noise Zone Map attached to this section and made a part hereof as Appendix D. The noise zones contained herein are based on a projection of future noise environments arising from aircraft flight operations at HARB.
- (b) For purposes of applying the noise level reduction provisions of this section to parcels lying in more than one (1) noise zone, only the portion of the parcel within the area or zone shall be subject to the requirements applicable to the area or zone. However, where a portion of a building or room lies within more than one (1) noise zone or only partially within a noise zone, the more restrictive noise level reduction requirements apply to the entire building or room, as applicable.

(2) NOISE ZONE BOUNDARIES:

- (a) **Noise Zone 65 dBA.** Areas so designated on the HARB Noise Zone Map attached to this section and made a part hereof as Appendix D.
- (b) **Noise Zone 70 dBA.** Areas so designated on the HARB Noise Zone Map attached to this section and made a part hereof as Appendix D.

(3) INDOOR NOISE LEVEL REDUCTION REQUIREMENTS

- (a) The indoor noise level reduction compliance standards in the following subsection (b) apply to those noise-sensitive uses identified by a footnote in the Land Use Compatibility Standards Chart in Appendix F, based on the minimum noise level reduction required therein.
- (b) Development within a designated noise zone, which, pursuant to Appendix F, requires noise level reduction, shall not be approved unless:
 - (i) the applicant provides a testing certificate from a qualified acoustical consultant that all structures associated with the noise-sensitive use will achieve an average minimum dBA reduction equal to or greater than the required minimum noise level reduction; or

- (ii) in lieu of the required test, the applicant submits an engineering judgment signed and sealed by an engineer licensed in the state of Florida, that in his or her opinion a structure built according to submitted plans will meet the minimum required noise level reduction, based on the construction standards in section 4 or section 5, as applicable, in Appendix D of the "Guidelines for Sound Insulation of Residences Exposed to Aircraft Operations," prepared for the Department of the Navy, by Wyle Research and Consulting, Arlington Virginia, April 2005, on file with the Office of Legislative Services.

(4) ADMINISTRATION AND ENFORCEMENT

The Building Inspector may require, prior to granting a certificate of occupancy for a building subject to the requirements of this section, at the expense of the owner, field tests by a qualified acoustical consultant to verify the noise level reduction of the building.

(5) NONCONFORMING USES AND STRUCTURES – NOISE ZONES

Buildings or structures to which additions, alteration, or repairs are made shall comply with all the requirements of this section as follows:

- (a) When additions, alterations, or repairs within any three year period exceed 50 percent of the value of an existing building or structure, such buildings or structures shall be made to conform to the noise level reduction requirements of this section.
- (b) Not more than 50 percent of the roof covering of any building or structure shall be replaced in any three year period unless the next roof covering is made to conform with the noise level reduction requirements of this section.

1.6 LAND USE RESTRICTIONS

(1) LAND USE RESTRICTION ZONES

- (a) In addition to the Height and Hazard Zone and the Noise Zones, there are hereby created and established a clear zone, two (2) accident potential zones, and an explosive clear zone as designated on the HARB Accident Potential and Hazard Map attached to this section and made a part hereof as Appendix E.
- (b) Development located within the "Master Development Plan for: Homestead Park of Commerce/Homestead, Florida", recorded at Official Records Book 26564 Pages 3345-3368 in

the Public Records of Miami-Dade County, Florida, shall be exempt from the provisions of subsection 1.6(1), (2), and (3)(c)-(e).

(2) PERMITTED AND RESTRICTED ACTIVITIES.

- (a) Notwithstanding the zoning district regulations or other provisions of the Code, no development shall be approved within the HARB Military Zone Overlay except in accordance with the requirements of this section, including the Land Use Compatibility Standards Chart attached and made a part hereof as Appendix F.
- (b) Land use requirements within the applicable zones are designated in three (3) categories;
 - (i) Prohibited (X): regardless of whether the use is otherwise permitted in the zoning classification of the parcel, the land use is prohibited based on the provisions of this section.
 - (ii) Allowable (A): the provisions of this section do not prohibit the land use, though all other zoning, City requirements, and applicable provisions of this section apply to the parcel.
 - (iii) Conditional (C): though allowed, the land use must meet the guidelines set forth in the footnotes to the Land Use Compatibility Standards Chart.
- (c) Land uses not specifically listed in the Land Use Compatibility Standards Chart shall be governed by the standards applicable to the land use most similar to the proposed use based on its similarity to the listed use with respect to noise sensitivity and accident potential, based on the AICUZ Study and related federal guidelines.

(3) ADDITIONAL RESTRICTIONS

Unless otherwise specified in the Land Use Compatibility Standards Chart, the following additional restrictions apply within the HARB Military Zone Overlay:

- (a) All applications for development, including rezonings, site plans, Planned Unit Developments (PUD), Future Land Use Map amendments, plats, subdivisions, and building permits, shall include a reference to the disclosure requirements of Paragraph 1.2(9)(d) of this section.

- (b) No development shall be approved that produces light emissions that would interfere with pilot vision; therefore exterior lighting:
 - (i) used in conjunction with street, parking, signs, or use of land and structures shall be arranged and operated in such manner that it is not misleading or dangerous to aircraft operating from HARB; and
 - (ii) except for lighting provided in association with single-family homes, mobile homes, and duplexes, exterior lighting, must be fully shielded so that all light emitted by the fixture projects below the horizontal direction and contain shielding permanently affixed to the fixture.
- (c) APZ1: No land use shall be established which concentrates on a regular basis more than twenty-five (25) people/acre, on a non-aggregated basis.
- (d) APZ2: No land use shall be established which concentrates on a regular basis more than fifty (50) people/acre, on a non-aggregated basis.
- (e) For purposes of subparagraphs (d) and (e), non-aggregated means that no more than 25 or 50 people, respectively, may be concentrated on any given acre of land, regardless of the total size of tract or parcel being developed.

1.7 VARIANCES

- (1) Any person desiring to use his or her property not in accordance with the regulations prescribed in this section may apply for a variance.
- (2) At the time of filing, the applicant shall forward a copy of his or her application for variance by certified mail/return receipt requested to:
 - (a) the Airspace and Land Use Manager, Florida Department of Transportation, M.S. 46, 605 Suwannee Street, Tallahassee, Florida 32399-450; and
 - (b) the HARB Coordinating Official, 482 MSG/CC, 29050 Coral Sea Blvd., Bldg. 360, Homestead ARB, Florida 33039-1299.
- (3) The Department and HARB shall have 45 days from receipt of the application to provide comments to the applicant and the Planning and Zoning Board after which time that right is waived.

- (4) No application for a variance may be considered unless the applicant shows evidence the requirement for Notice of Construction or Alteration under 14 Code of Federal Regulations Part 77 has been complied with, and a valid aeronautical evaluation has been submitted as required by Section 333.025(8), Fla. Stat.
- (5) The Planning and Zoning Board may proceed with consideration of an application only upon receipt of Department of Transportation and HARB comments or the waiver of those rights as demonstrated by the applicant's filing a copy of a return receipt showing the 45 days have elapsed.
- (6) Variances to the provisions of this section shall be granted only where a literal application or enforcement of the provisions of this section would result in practical difficulty or unnecessary hardship, and where relief granted is not contrary to the public interest but would do substantial justice and be in accordance with the spirit of this section and Section 333.07(2), Fla. Stat.
- (7) No variance shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other federal aviation regulation.
- (8) In determining whether to issue or deny a variance, the following criteria shall be considered:
 - (a) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.
 - (b) Technological advances.
 - (c) The safety of persons on the ground and in the air.
 - (d) Land use density.
 - (e) The safe and efficient use of navigable airspace.
 - (f) The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.
- (9) In granting any variance, the Planning and Zoning Board and the City Council, as the board of adjustment designated by this section, may prescribe appropriate conditions, requirements, and safeguards in conformity with this section and the intent hereof, or may accept

voluntary avigation easements as appropriate to effectuate a variance or terms of the Code.

1.8 APPEALS

Any person aggrieved, or taxpayer affected, by any decision of the City made in its administration of this section, which person is of the opinion that a decision of the City is an improper application of this section to such person, may appeal to the Planning and Zoning Board and the City Council, as provided by this section and section 333.08, Fla. Stat.

1.9 SEVERABILITY

If any of the provisions of this section or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provisions or application, and to this end the provisions of this section are declared severable.

1.10 EFFECTIVE DATE

This section shall become effective immediately upon adoption on second reading.

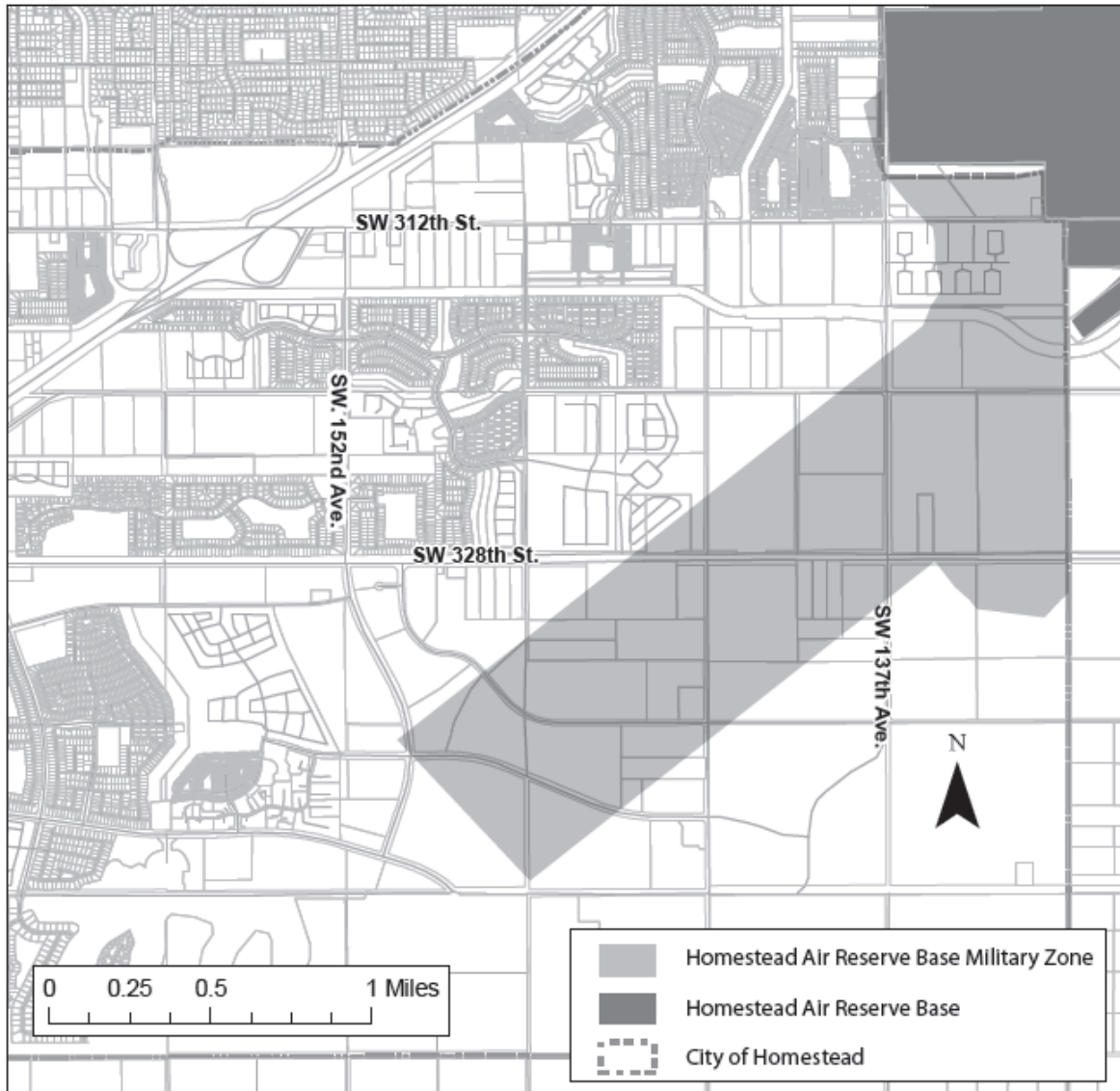
APPENDICES

- A. Homestead Air Reserve Base Military Zone Overlay Map
- B. Developer Disclosure Statement
- C. Height and Hazard Zone Map
- D. Noise Zone Map
- E. Accident Potential and Hazard Map
- F. Land Use Compatibility Standards Chart

HOMESTEAD AIR RESERVE BASE
HARB MILITARY ZONE OVERLAY
JUNE 21, 2010 (HARB)

Appendix A: HARB Military Zone Overlay Map

Homestead Air Reserve Base Military Zone Overlay Map



Appendix B: Developer Disclosure Statement

HOMESTEAD AIR RESERVE BASE REAL ESTATE SALE/LEASE DISCLOSURE

Pursuant to the section 30-6 of the Code of the City of Homestead, any owner of real property who sells or leases that real property within a designated Accident Potential Zone, Clear Zone, Explosive Clear Zone, or Noise Zone surrounding the Homestead Air Reserve Base (HARB) is required to disclose to any buyer or lessee that the property is subject to varying degrees of accident potential and/or noise from aircraft.

In the case of properties being sold, this disclosure must be executed prior to closing and filed with the property deed. In the case of leases, this disclosure must be presented to the lessee and executed prior to the lessee taking possession of the property.

To: _____
(Buyers or Lessees)

The Property at: _____
(Street Address & Zip Code)

Is located within the following Noise Zone(s):

- _____ Noise Zone 65 dBA (having an average Day/Night noise Level [DNL] of 65-69 dBA)
- _____ Noise Zone 70 dBA (having an average Day/Night noise Level [DNL] of 70-74 dBA)

Is located within the following Accident or Hazard Zones:

- _____ Accident Potential Zone 1
- _____ Accident Potential Zone 2
- _____ Clear Zone
- _____ Explosive Clear Zone

CERTIFICATION:

AS TO SELLER/LANDLORD:

Signature

Printed Name

WITNESSED BY:

Signature

Printed Name

WITNESSED BY:

HOMESTEAD AIR RESERVE BASE
HARB MILITARY ZONE OVERLAY
JUNE 21, 2010 (HARB)

Signature

Printed Name

AS TO BUYER/LESSEE:

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

WITNESSED BY:

Signature

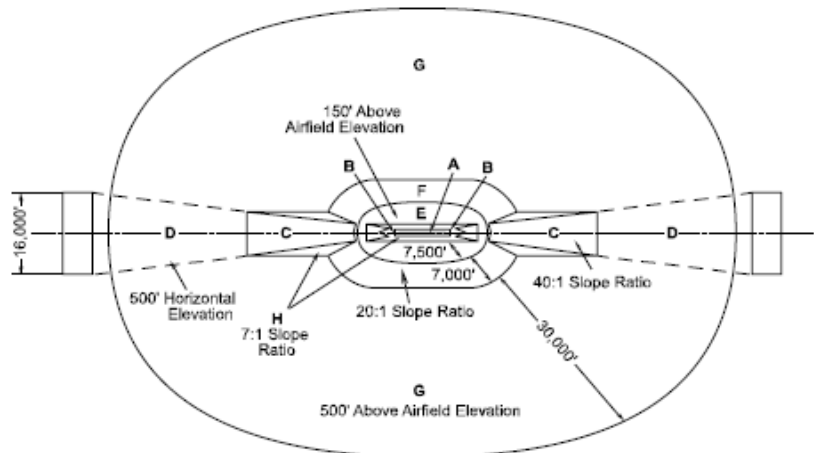
Printed Name

WITNESSED BY:

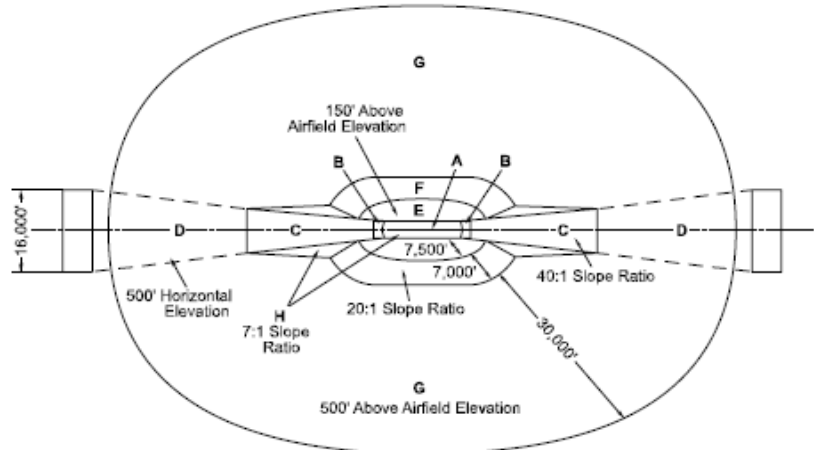
Signature

Printed Name

Appendix C: Height and Hazard Zone Map



CLASS A IFR RUNWAY



CLASS B IFR RUNWAY

LEGEND

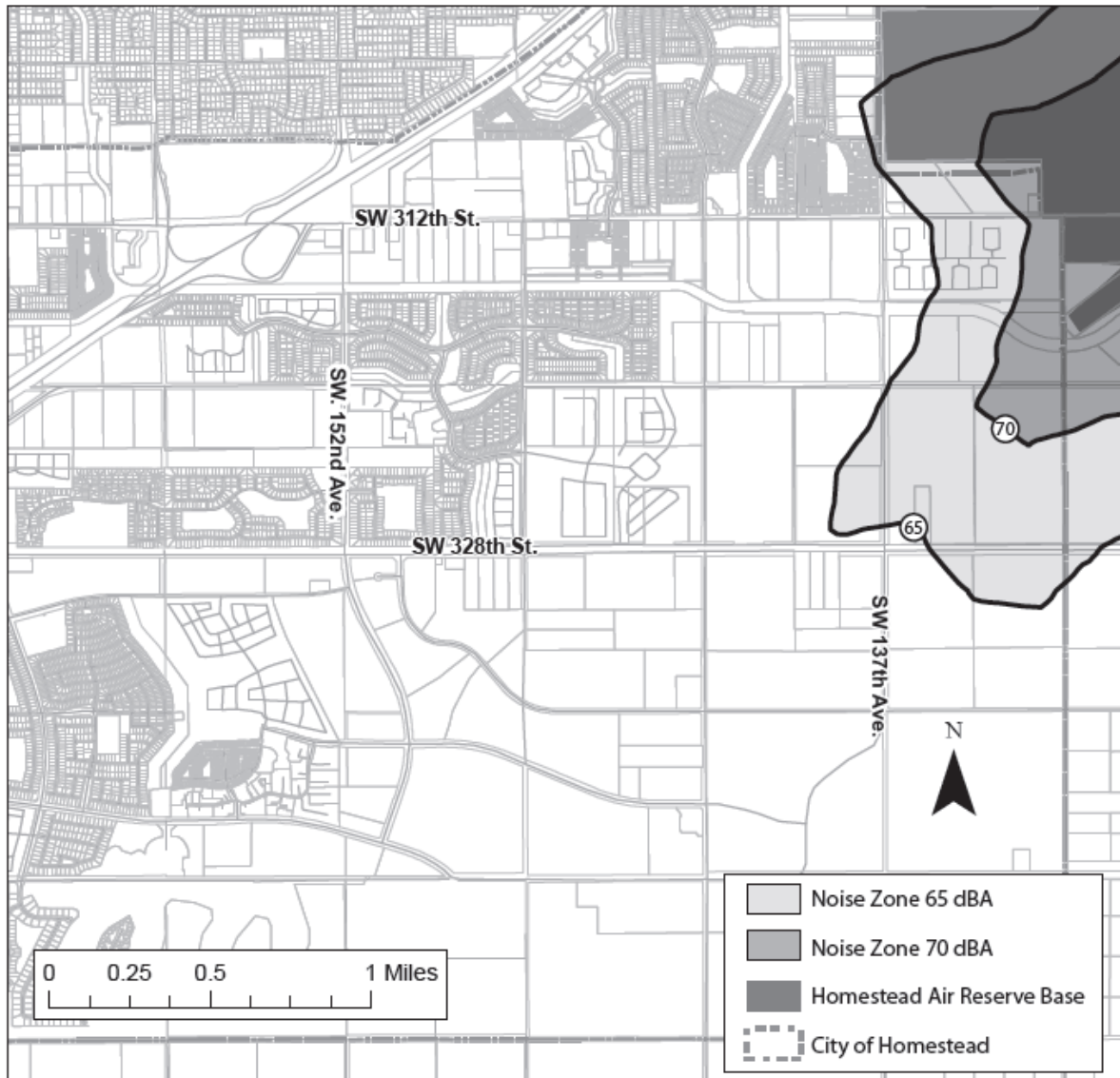
- | | |
|---|-----------------------------------|
| A Primary Surface | E Inner Horizontal Surface |
| B Clear Zone Surface | F Conical Surface |
| C Approach/Departure Clearance Surface (Glide Angle) | G Outer Horizontal Surface |
| D Approach/Departure Clearance Surface (Horizontal) | H Transitional Surface |

- Notes:**
- Datum elevation for:
 - surface D, E, F, and G is the established airfield elevation
 - surface C is the runway centerline elevation at the threshold
 - surface H varies at each point along the runway centerline.
 - The intersections shown on the plan are for the case of a level runway.

HOMESTEAD AIR RESERVE BASE
HARB MILITARY ZONE OVERLAY
JUNE 21, 2010 (HARB)

Appendix D: Noise Zone Map

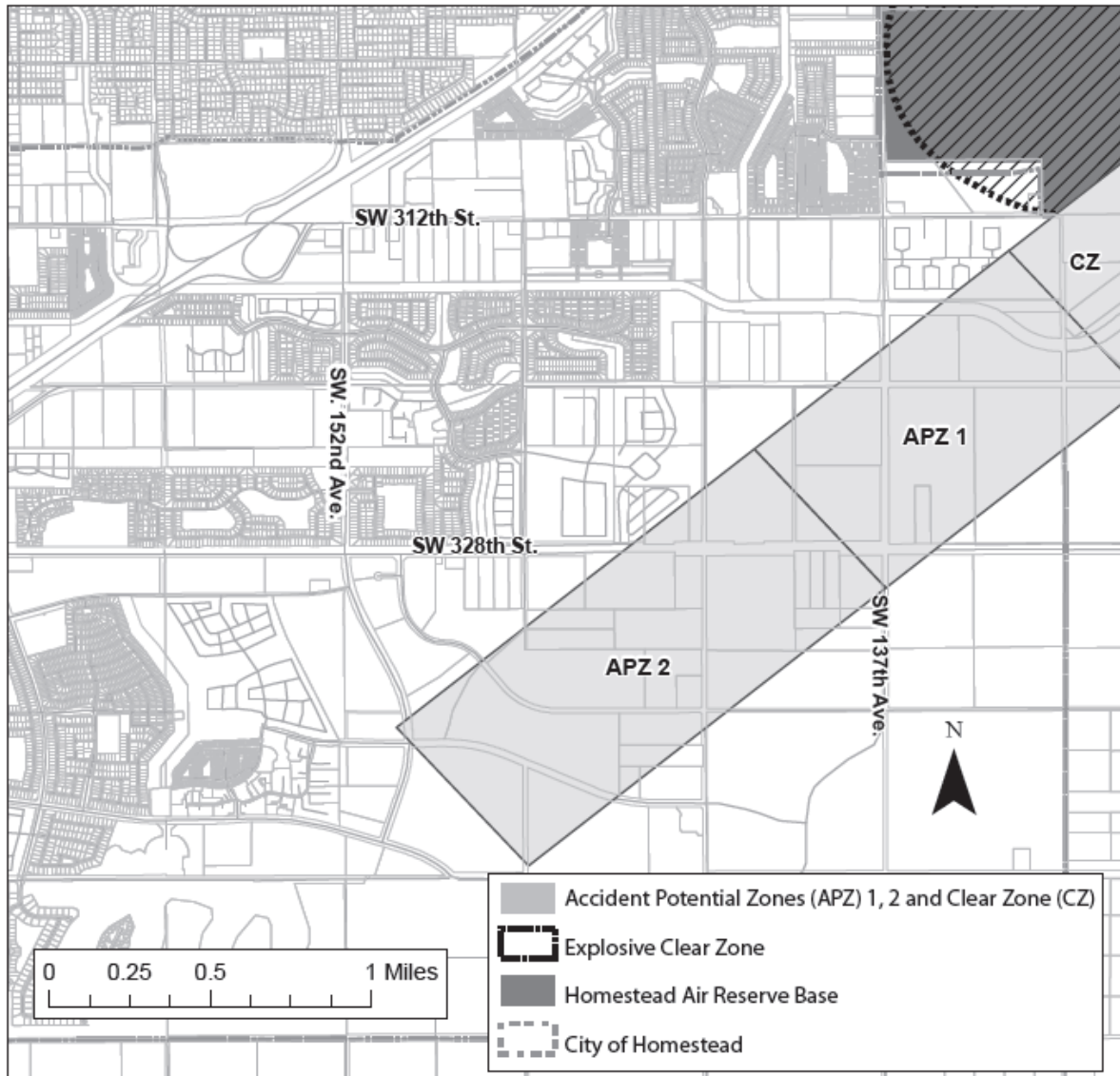
Homestead Air Reserve Base Noise Zone Map



HOMESTEAD AIR RESERVE BASE
HARB MILITARY ZONE OVERLAY
JUNE 21, 2010 (HARB)

Appendix E: HARB Accident Potential and Hazard Map

Homestead Air Reserve Base Accident Potential & Hazard Map



Appendix F: Land Use Compatibility Standards Chart

HOMESTEAD AIR RESERVE BASE
HARB MILITARY ZONE OVERLAY
JUNE 21, 2010 (HARB)

Land Use	Accident & Hazard Zones			Noise Zones	
	CZ/ ECZ	APZ 1	APZ 2	Noise Zone 65 dBA	Noise Zone 70 dBA
Residential					
Single units; detached	X	X	C ¹	C ²	X
Single units; semidetached	X	X	X	C ²	X
Single units; attached row	X	X	X	C ²	X
Two units; side-by-side	X	X	X	C ²	X
Two units; one above the other	X	X	X	C ²	X
Apartments; walk-up	X	X	X	C ²	X
Apartments; elevator	X	X	X	C ²	X
Group quarters	X	X	X	C ²	X
Residential hotels	X	X	X	C ²	X
Mobile home parks or courts	X	X	X	X	X
Transient lodgings	X	X	X	C ²	X
Manufacturing					
Food and kindred products; manufacturing	X	X	A	A	C ⁵
Textile mill products; manufacturing	X	X	A	A	C ⁵
Apparel and other finished products made from fabrics, leather, and similar materials; manufacturing	X	X	C ⁴	A	C ⁵
Lumber and wood products (except furniture); manufacturing	X	C ⁴	A	A	C ⁵
Furniture and fixtures; manufacturing	X	C ⁴	A	A	C ⁵
Paper and allied products; manufacturing	X	C ⁴	A	A	C ⁵
Printing, publishing, and allied industries	X	C ⁴	A	A	C ⁵
Chemicals and allied products; manufacturing	X	X	X	A	C ⁵
Petroleum refining and related industries	X	X	X	A	C ⁵

HOMESTEAD AIR RESERVE BASE
HARB MILITARY ZONE OVERLAY
JUNE 21, 2010 (HARB)

Land Use	Accident & Hazard Zones			Noise Zones	
	CZ/ ECZ	APZ 1	APZ 2	Noise Zone 65 dBA	Noise Zone 70 dBA
Manufacturing					
Rubber and misc. plastic products; manufacturing	X	C ⁴	A	A	C ⁵
Stone, clay, and glass products manufacturing	X	C ⁴	A	A	C ⁵
Primary metal industries	X	C ⁴	A	A	C ⁵
Fabricated metal products; manufacturing	X	C ⁴	A	A	C ⁵
Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks; manufacturing	X	X	X	A	C ⁵
Transportation, communications, and utilities					
Railroad, rapid rail transit, and street railroad transportation	X	C ⁶	A	A	C ⁵
Motor vehicle transportation	X	A	A	A	C ⁵
Aircraft transportation	X	C ⁶	A	A	C ⁵
Marine craft transportation	X	C ⁶	A	A	C ⁵
Highway and street right-of-way	X	A	A	A	C ⁵
Automobile parking	X	C ⁶	A	A	C ⁵
Communications	X	C ⁶	A	A	C ⁵
Utilities	X	C ⁶	A	A	A
Other transportation communications and utilities	X	C ⁶	A	A	C ⁵
Trade					
Wholesale trade	X	C ⁴	A	A	C ⁵
Retail trade: building materials, hardware, and farm equipment	X	C ⁴	A	A	C ⁵
Retail trade: general merchandise	X	C ⁴	C ⁴	A	C ⁵
Retail trade: food	X	C ⁴	C ⁴	A	C ⁵
Retail trade: automotive, marine craft, aircraft, and accessories	X	C ⁴	C ⁴	A	C ⁵

HOMESTEAD AIR RESERVE BASE
HARB MILITARY ZONE OVERLAY
JUNE 21, 2010 (HARB)

Land Use	Accident & Hazard Zones			Noise Zones	
	CZ/ ECZ	APZ 1	APZ 2	Noise Zone 65 dBA	Noise Zone 70 dBA
Retail trade: apparel and accessories	X	C ⁴	C ⁴	A	C ⁵
Retail trade: furniture, home furnishings, and equipment	X	C ⁴	C ⁴	A	C ⁵
Retail trade: eating and drinking establishments	X	X	C ⁴	A	C ⁵
Other retail trade	X	C ⁴	C ⁴	A	C ⁵
Services					
Finance, insurance, and real estate services	X	X	C ⁸	A	C ⁵
Personal services	X	X	C ⁸	A	C ⁵
Cemeteries	X	C ⁷	C ⁷	A	C ⁵
Business services	X	A	A	A	C ⁵
Repair services	X	C ⁴	A	A	C ⁵
Professional services	X	X	A	A	C ⁵
Hospitals, nursing homes	X	X	X	C ²	C ³
Other medical facilities	X	X	X	C ²	C ⁵
Contract construction services	X	C ⁸	A	A	C ⁵
Governmental services	X	X	C ⁸	A	C ⁵
Educational services	X	X	X	C ²	C ³
Cultural, entertainment, and recreational					
Cultural activities	X	X	X	C ²	C ³
Nature exhibits	X	C ⁴	A	X	X
Public assembly	X	X	X	C ²	C ⁵
Auditoriums, concert halls	X	X	X	C ²	C ⁵

Land Use	Accident & Hazard Zones			Noise Zones	
	CZ/ ECZ	APZ 1	APZ 2	Noise Zone 65 dBA	Noise Zone 70 dBA
Outdoor music shell, amphitheaters	X	X	X	X	X
Outdoor sports arenas, spectator sports	X	X	X	X	X
Amusements	X	X	X	X	X
Recreational activities (including golf courses, riding stables, water recreation)	X	X	C ⁹	A	C ⁵
Resorts and group camps	X	X	X	C ²	C ³
Parks	X	X	C ⁹	A	C ⁵
Other cultural, entertainment, and recreation	X	C ⁹	C ⁹	C ²	C ³
Resources production and extraction					
Agriculture (except livestock)	C ¹⁰	A	A	C ¹¹	C ¹²
Livestock farming and animal breeding	C ¹⁰	A	A	C ¹¹	C ¹²
Agricultural-related activities	C ¹⁰	A	A	C ¹¹	C ¹²
Forestry activities and related services	C ¹⁰	A	A	C ¹¹	C ¹²
Fishing activities and related services	X	C ¹⁰	A	A	A
Mining activities and related services	X	C ¹⁰	A	A	A
Other resources production and extraction	X	C ¹⁰	A	C ¹¹	C ¹²

Notes:

1 Maximum density may not exceed one (1) dwelling unit per acre.

2 Development is conditioned on design and construction providing for an average minimum Noise Level Reduction (NLR) of average minimum twenty-five (25) dBA throughout the facility or dwelling. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, and design and use of berms and barriers can help mitigate outdoor exposure, particularly from near ground level sources.

3 Development is conditioned on design and construction providing for an average minimum Noise Level Reduction (NLR) of average minimum thirty (30) dBA throughout the facility or dwelling. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, and design and use of berms and barriers can help mitigate outdoor exposure, particularly from near ground level sources.

4 Small neighborhood stores and uses are allowed but shopping malls and shopping centers are prohibited.

5 Development is conditioned on design and construction providing for an average minimum Noise Level Reduction (NLR) of average minimum twenty-five (25) dBA in the portions of these buildings where the public is received, office areas, noise-sensitive areas, employee lounge areas, or where the normal noise level is low.

6 No passenger terminals or aboveground transmission lines.

7 Chapels are prohibited.

8 Office uses that do not involve the regular reception of customers are allowed. Meeting places, auditoriums, and similar structures are prohibited.

9 Clubhouses and other enclosed gathering places are not allowed.

10 Enclosed buildings are prohibited.

11 Residential buildings require an average minimum NLR of average minimum twenty-five (25) dBA throughout the dwelling.

12 Residential buildings require an average minimum NLR of average minimum thirty (30) dBA throughout the dwelling.