

# Kingsville JLUS Implementation Program

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*A Joint Effort by:*



Kleberg County



NAS Kingsville

*prepared by:*



**Matrix Design Group, Inc.**  
An Employee-Owned Company

FINAL

**September 2010**

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This document is available on the Internet at: <http://www.landusecompatibility.com/>

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The development of the Kingsville JLUS Implementation Program was the result of a proactive effort by the City of Kingsville, Kleberg County, NAS Kingsville and other concerned stakeholders in the region. Their combined diligence in addressing compatibility issues before they occur will help:

- Protect the public health, safety and welfare;
- Maintain an environment where NAS Kingsville can continue their vital training mission; and
- Allow surrounding landowners and jurisdictions the ability to pursue compatible economic development opportunities.

We would like to thank the following individuals for their support in completing this important program.

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### CITY OF KINGSVILLE



- **Sam Fugate**, Mayor
- **Alfonso R. Garcia**, Mayor Protem
- **Stanley L. Laskowski, Jr.**, Commissioner
- **Arturo Pecos**, Commissioner
- **Charles E. Wilson**, Commissioner

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### KLEBERG COUNTY



- **Judge Pete De La Garza**
- **David Rosse**, Precinct 1 Commissioner
- **Norma Nelda Alvarez**, Precinct 2 Commissioner
- **Roy Cantu**, Precinct 3 Commissioner
- **Romeo Lomas**, Precinct 4 Commissioner

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### NAS KINGSVILLE



- **CAPT Philip L. Waddingham**, Commanding Officer

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### KINGSVILLE-KLEBERG JOINT AIRPORT ZONING BOARD (JAZB)

- **William Bledsoe**, Chairman, appointed by other four JAZB members
  - **David Cano**, Appointed by City of Kingsville
  - **Ramon Perez Jr**, Appointed by City of Kingsville
  - **Anse Windham**, Appointed by Kleberg County
  - **Brad Womack**, Appointed by Kleberg
-

## ACKNOWLEDGEMENTS

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Director of Development Services,  
City of Kingsville
- **Judge Pete De La Garza**  
Kleberg County Judge
- **Dave Delaney**  
King Ranch
- **Marilynn Fowlet**  
Texas A & M Kingsville
- **Sam Fugate**  
Mayor, City of Kingsville
- **Al Garcia**  
Mayor Protem, City of Kingsville
- **Glenn Jones**  
Community Plans & Liaison Officer (CPLO),  
NAS Kingsville
- **Lt. Jody Kite**  
NAS Kingsville
- **Commissioner David Rosse**  
Kleberg County Commissioner, Precinct 1
- **Captain Philip L. Waddingham**  
Commanding Officer, NAS Kingsville
- **Carlos Yerena**  
City Manager, City of Kingsville

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# Implementation Program

There are many positive interactions among local jurisdictions, agencies, and the military; however, the activities and actions of one entity can also pose unintended negative impacts on another, resulting in conflicts. As jurisdictions develop and expand in response to growth and market demands, land use approvals have the ability to locate urban development within proximity of military installations and operational / training areas. This can initiate new or amplify existing land use and other compatibility issues, often referred to as encroachment. Encroachment can have negative impacts on community safety and economic development, as well as the sustainment of military activities and readiness.

Recognizing the close relationship that exists between an installation and its surrounding region, the Department of Defense, through the Office of Economic Adjustment (OEA), developed the Joint Land Use Study (JLUS) program. The objective of this program is to address existing and future compatibility issues and enhance communication and coordination among all affected stakeholders. Although a JLUS is primarily funded by a grant from OEA, it is produced by, and for, local stakeholders.

The JLUS planning process is accomplished through the collaborative efforts of a comprehensive group of stakeholders in a defined study area. These stakeholders include local, state, and federal officials; residents and landowners; business representatives; Native American tribal governments; and the military. By working together, these stakeholders can identify current and future compatibility issues, discuss existing plans and programs, and identify compatible land use and management strategies and actions. These strategies and actions can be applied by the various stakeholders in the areas adjacent to military installations and use areas to help prevent or reduce encroachment issues associated with current and future military missions and local growth.

## ***Kingsville JLUS***

Starting in December 2006, the City of Kingsville, Kleberg County, Naval Air Station (NAS) Kingsville and other interested stakeholders in the region began the process of preparing the Kingsville JLUS. The goal of the Kingsville JLUS was to develop a set of strategies designed to protect the viability of current and future missions at NAS Kingsville while at the same time accommodating growth, sustaining the economic health of the region, and protecting public health and safety. To help meet this goal, three primary guiding principles were identified.

- **Understanding.** Work with community and NAS Kingsville representatives to study the issues in an open forum, taking into consideration both community and military viewpoints and needs. This includes public outreach and input.
- **Collaboration.** Encourage cooperative land use and resource planning between NAS Kingsville and surrounding communities so that future community growth and development are compatible with the training and operational missions on the installation while at the same time seeking ways to reduce operational impacts on adjacent lands.

## Introduction

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- **Actions.** Provide a set of tools, activities, and procedures from which local jurisdictions, agencies, and the installation can select and then use to implement the recommendations developed during the JLUS process. The actions proposed include both operational measures to mitigate installation impacts and local government and agency approaches to reduce impacts on military operations.

A number of factors influence whether community, agency and military plans, programs, and activities are compatible or in conflict. As part of the Kingsville JLUS, current and potential compatibility factors were identified. These compatibility factors are divided into three broad categories: man-made, natural resources, and competition for scarce resources.

### Man-Made

- Land Use
- Safety Zones
- Vertical Obstruction
- Local Housing Availability
- Infrastructure Extensions
- Anti-Terrorism / Force Protection
- Noise
- Dust, Smoke and Steam
- Light and Glare
- Alternative Energy Development
- Frequency Spectrum Impedance and Interference
- Legislative Initiatives
- Interagency Coordination

### Natural Resources

- Water Quality / Quantity

### Competition for Scarce Resources

- Land, Air, and Sea Spaces
- Ground Transportation Capacity

To proactively address current and potential compatibility issues, the Kingsville JLUS proposed a range of strategies (actions) that would be accomplished by the City of Kingsville, Kleberg County, NAS Kingsville, and other agencies and organizations in the region. These strategies ranged from enhanced communications and coordination to development of a Joint Airport Zoning Board (JAZB) to address land use regulation in the unincorporated areas near NAS Kingsville.

The Kingsville JLUS was completed in April 2008. As part of the JLUS effort, a total of 43 strategies were identified for future action.



Following completion of the JLUS, stakeholders in the region engaged in efforts to implement the strategies identified. As a first step, the stakeholders applied for an implementation grant from the Office of Economic Adjustment (OEA). This grant, which was awarded in early 2009, provided funding to work again with local stakeholders to implement the short-term strategies identified in the JLUS (those strategies identified in the JLUS for implementation within two years of the completion of the JLUS).

Following award of the implementation grant, the City of Kingsville, Kleberg County and NAS Kingsville worked together to form the JLUS Implementation Committee (Strategy 15 in the JLUS). With the committee established, work was started on the implementation program.

### Implementation Program

The following package contains the implementation plan for each of the short-term strategies contained in the Kingsville JLUS. Each strategy and its supporting materials are organized behind the tab of the same number. That is, Strategy 1 is included behind Tab 1, Strategy 2 is behind Tab 2, and so forth. For strategies that were identified as “on-going” or “3-5 years” for completion in the Kingsville JLUS, the strategy is provided for reference along with a note that these will be undertaken as part of future programs. The materials for each strategy are organized using the same presentation format, as described below.

- 1 The box at the top of the page shows the strategy number(s) being addressed and the title of the strategy(ies). Some strategies had common solution sets. In these cases, they were combined, as shown in the example in Figure 1. A white box (instead of a solid blue box as shown here) means that the strategy has an “on-going” or “3-5 years” timeline.
- 2 **JLUS Strategy.** Following the strategy title(s) is a copy of the strategy text from the final Kingsville JLUS. This includes the strategy statement as well as a list of the entities responsible for implementing the strategy.
- 3 **Background.** Information on the strategy or the compatibility issue being addressed is provided as appropriate for the discussion.
- 4 **Steps to Implement.** The last item shown on this sample page is a listing of the steps taken to implement the strategy. For each strategy, these tables highlight at which JLUS Implementation Committee meeting this step was discussed (numbered 1 – 6) or if it was a follow-on (FO) activity. Items marked with a solid square (■) have been completed, and items marked with a hollow square (□) show items that will be addressed in the future.

Regulate Outdoor Lighting in Vicinity of NAS Kingsville 23 1

Develop or Update Light and Glare Controls 36 2

JLUS Strategy	Responsibility / Partner
<b>23. Regulate Outdoor Lighting in Vicinity of NAS Kingsville</b> As per recently adopted legislation (80(R) HB 1852), the County shall regulate the use of outdoor lighting within a 5-mile radius of NAS Kingsville.	<b>Primary Responsibility</b> ■ Kleberg County <b>Partners</b> ■ NAS Kingsville
<b>36. Develop or Update Light and Glare Controls</b> Review existing Zoning Ordinance and incorporate distinctive light and glare regulations to protect the operational environment near NAS Kingsville. These controls should be designed to reduce the amount of light that spills into surrounding areas and impacts regional ambient illumination.	<b>Primary Responsibility</b> ■ City of Kingsville <b>Partners</b> ■ NAS Kingsville

**Background**

Light sources from commercial, industrial and residential uses can cause glare (day or night) and excess illumination (at night), which can negatively impact training and flight operations due to vision impairment, distraction, and minimize the ability to use of night vision devices during ground and air operations.

If areas of concern are identified, provide proposed changes to zoning or building codes to address. Depending on area identified, this may also just become a component of the Joint Airport Zoning Board (JAZB) regulations (see also JLUS Strategy 33).

**Steps to Implement JLUS Strategies #23 & 36**

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
				■	■		1	Incorporate general light and glare controls in JAZB Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations (JAZB Regulations). Refer to JLUS Strategy #33 and Section 6.E. in the JAZB Regulations.	JAZB
					■		2	Revise JLUS Strategy 23 to apply to the City of Kingsville, Kleberg County and the JAZB.	Consultant
					■		3	Revise JLUS Strategy 36 to apply to the JAZB as well.	Consultant
					■		4	Review proposed light and glare control ordinance model from City of San Antonio for use by City of Kingsville and JAZB	Committee
					■		5	Public hearing / consideration on JAZB Regulations.	JAZB
					■		6	Draft Outdoor Lighting Ordinance for City of Kingsville.	City of Kingsville Consultant
					■		7	Draft JAZB Outdoor Lighting Regulation.	Consultant
					□		8	Public hearing / consideration for approval.	City of Kingsville
					□		9	Public hearing / consideration for approval.	JAZB

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**Figure 1. Sample Strategy**


## Introduction

The JLUS Implementation Committee met on the following six dates. Each of these meetings was open to the public, and public input was taken into consideration during discussions. All of the items included in this document have been reviewed and approved by the JLUS Implementation Committee at one of these meetings.

- August 26, 2009
- November 16, 2009
- January 13, 2010
- March 31, 2010
- June 2, 2010
- July 21, 2010

**5 Supporting Materials.** During development of the Implementation Program, examples from other jurisdictions, installations, or organizations were presented for discussion. Key documents that were used as the basis for this program are included in the document under this heading.

**6 Results.** This component provides the materials that were produced to support implementation of the strategy(ies) being discussed. The example in Figure 2 shows two types of changes. At the top are changes recommended to the text of the JLUS strategy. These changes, shown in a redline/strikeout format, were recommended to better fit current needs and capabilities.

The second typical component under “Results” is the attachment. Attachments, noted with a document symbol (like this  ) provide the regulations, maps or other results that were developed to implement the JLUS strategy. These attachments are included in this document following the presentation of each strategy, as applicable.

**7 Next Steps.** If follow-on actions are needed, they are listed under this heading.

**23**  
**36**

Regulate Outdoor Lighting in Vicinity of NAS Kingsville

Develop or Update Light and Glare Controls

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**Supporting Materials**

- Following review by the Committee, the City of San Antonio Military Lighting Overlay District (Chapter 35, Article III, Division 4 of the City Code of San Antonio) Section 35-339.04 was used as the model ordinance upon which the proposed regulations for the City of San Antonio and JAZB were based.

5

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**Results**

- Modify JLUS Strategies 23 and 36 as follows:

6

JLUS Strategy	Responsibility / Partner
<p><b>23. Regulate Outdoor Lighting in Vicinity of NAS Kingsville</b></p> <p>As per recently adopted legislation (80(R) HB 1852), the <del>City of Kingsville, Kleberg County</del> shall regulate the use of outdoor lighting within a 5-mile radius of NAS Kingsville.</p> <p><del>The JAZB will regulate light and glare pursuant to the regulation of hazards pursuant to the authority conferred by the Airport Zoning Act, Texas Local Government Code, §§ 241.001</del></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>■ City of Kingsville</li> <li>■ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>■ JAZB</li> <li>■ NAS Kingsville</li> </ul>
<p><b>36. Develop or Update Light and Glare Controls</b></p> <p><del>For the City of Kingsville, R</del>review the City's existing Zoning Ordinance and incorporate distinctive light and glare regulations to protect the operational environment near NAS Kingsville. These controls should be designed to reduce the amount of light that spills into surrounding areas and impacts regional ambient illumination.</p> <p><del>For the JAZB, prepare specific JAZB Outdoor Lighting Regulations to augment the general protections provided under the NAS Kingsville Compatible Land Use Zoning Regulations (see JLUS Strategy 33).</del></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>■ City of Kingsville</li> <li>■ JAZB</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>■ NAS Kingsville</li> </ul>

**ATTACHMENT 23/36-1**

Draft Outdoor Lighting Ordinance for City of Kingsville

**ATTACHMENT 23/36-2**

Draft JAZB Outdoor Lighting Regulation

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**Next Steps**

- Schedule a public hearing with the City of Kingsville Commission to take public testimony and consider adoption of the drafted Outdoor Lighting Ordinance.
- Schedule a public hearing with the JAZB to take public testimony and consider adoption of the drafted JAZB Outdoor Lighting Regulation.

7

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Figure 2. Sample Strategy (Page 2)

JLUS Strategy	Responsibility / Partner
<p><b>1. Define and Establish MIA Zones</b></p> <p>Create MIAs that reflect the types and intensity of compatibility issues. The MIA zones should be utilized by local jurisdictions to identify areas where specific compatibility issues are more likely to occur. Recommended zones include:</p> <ul style="list-style-type: none"> <li>■ <b>MIA 1 (Safety)</b> - Existing AICUZ (APZ I, APZ II, Clear Zones)</li> <li>■ <b>MIA 2 (Noise, Safety, Future Operations)</b> - Area east of US 77, north of Santa Gertrudis, east of 14th Street, north of Corral Road, east of Young Drive, north of FM 1717, 2000’ buffer around the noise contours on the eastern side of the installation</li> <li>■ <b>MIA 3 (Operations Area)</b> – 5 mile radius from center of NAS Kingsville airfield, this area is of concern to the installation for instrument approaches to the airfield</li> </ul> <p>The Zoning and Subdivision Ordinances for the City of Kingsville should be updated to include the MIAs and all requirements herein recommended. A future zoning map should be prepared to reflect these zones and the projected land use recommendations.</p> <p>The MIAs should also be incorporated into the Kleberg County subdivision regulations.</p> <p>To assist in this effort, geographic information systems (GIS) files of these boundaries were prepared as a component to this JLUS. Updates to the data relative to noise contours shall be provided by the base as a result of updates to the AICUZ study. Updates to the City and County ordinances and maps should occur as a result of these changes.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>■ City of Kingsville</li> <li>■ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>■ NAS Kingsville</li> </ul>

## Background

The concept of Military Influence Areas (MIA) was introduced during the development of the Kingsville Joint Land Use Study (JLUS). Strategy 1 is the direct result of that work.

In other JLUS documents, terms such as Area of Military Influence (AMI), Region of Military Influence (RMI), Military Influence Planning District (MIPD), Military Influence Overlay District (MIOD), Military District Disclose District (MIDD), Airfield Influence Planning District (AIPD), and Areas of Critical State Concern (ACSC) have also been used to describe similar areas. For the Kingsville JLUS, a total of three types of MIAs were designated.

In general, the MIAs identified were designed to accomplish the following purposes.

- Protect public health, safety, and welfare.
- Promote an orderly transition between community and military land uses to promote a compatible land use pattern.
- Maintain operational capabilities of military installations and areas.
- Create an enhanced framework for making land use and resource management decisions near military installations and operations.
- Enhance the accuracy in identifying areas that can affect, or be affected, by military missions.
- Promote the awareness of the size and scope of military operations and training areas, in addition to the actual installation (i.e., critical air space) that are critical to maintaining the military’s mission.

# 1

## Define and Establish MIA Zones

- Identify the locations where strategies should be applied to address compatibility issues. This helps to ensure that regulatory changes match the areas needing the enhanced protections.

The three MIAs developed for the Kingsville JLUS area shown in the figure below.

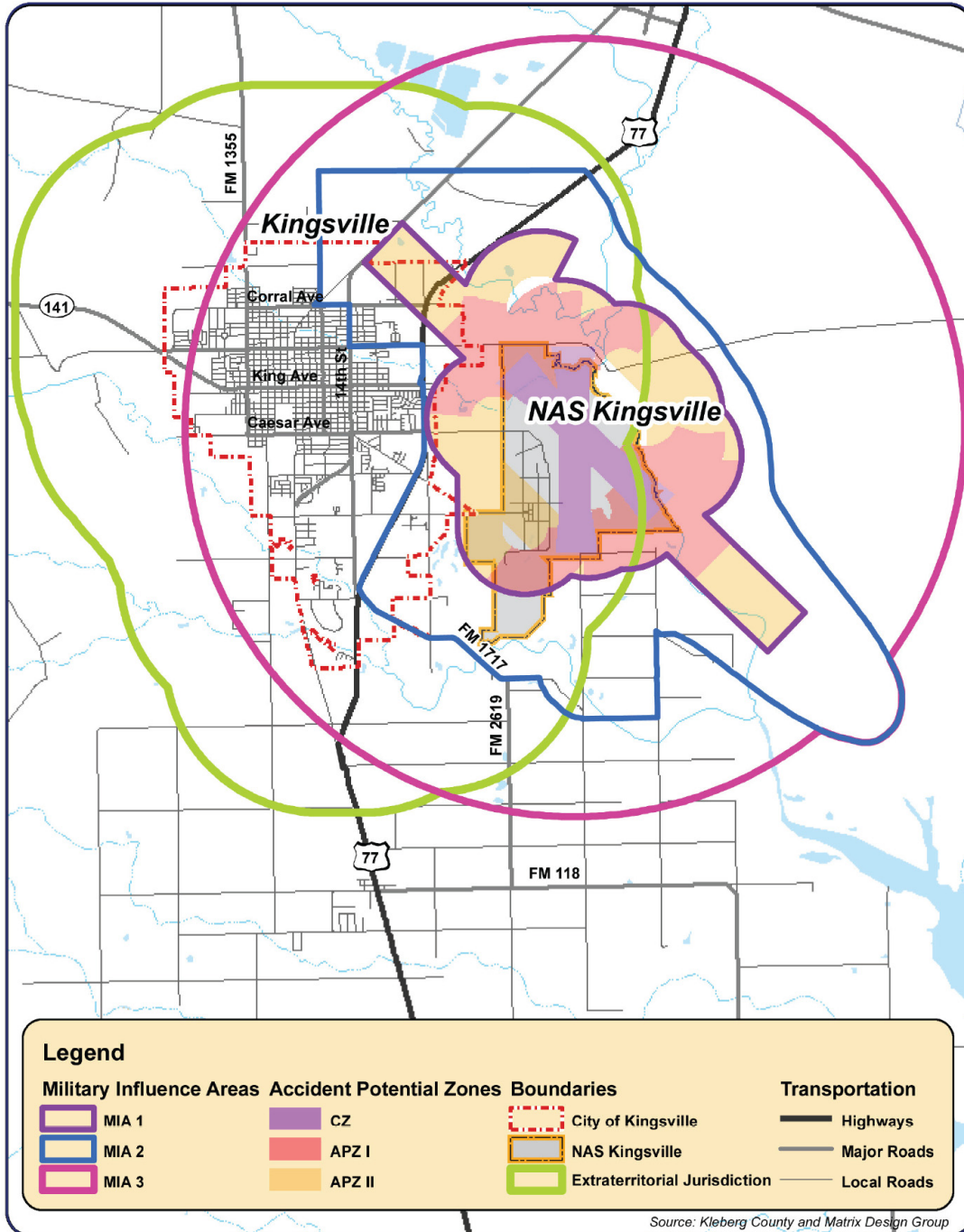


Figure 5-2, Military Influence Areas  
Kingsville Joint Land Use Study

The three MIAs were used during the JLUS Implementation Program to guide the geographic areas that needed to be covered by the tools developed. It should be noted that during the development of the implementation tools, the geographic areas were refined based on community and Implementation Committee input. For instance, the development of the Joint Airport Zoning Board and their primary regulation (see JLUS Strategy 33) used the MIAs for guidance, but the actual area covered was also directed by State law and the refined level of information available at this stage.

**Steps to Implement JLUS Strategy #1**

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
■	■						1	Discuss MIAs as presented in JLUS <ul style="list-style-type: none"> <li>▪ Committee noted that the APZs for the north-south runways were missing from Figure 5-2 in the Kingsville JLUS.</li> <li>▪ At Meeting #1 and #2, it was determined that the definition of MIAs was more complex than a simple map could convey. While the MIAs would guide general areas of interest, the MIAs would need to be modified and shaped as needed to meet the needs of specific regulations. Direction was to evaluate the geographic areas that would guide actions such as Strategies 23/36 concerning application of light and glare regulations, Strategy 33 (Joint Airport Zoning Board), and so forth.</li> </ul>	Committee
		■					2	Discuss changes needed to City regulations. <ul style="list-style-type: none"> <li>▪ The City’s current application of AICUZ guidance was deemed appropriate.</li> <li>▪ Discussion that light and glare regulations could cover the entire City (since most of the City is within MIA 3).</li> <li>▪ Disclosure notification within the entire City was also deemed appropriate.</li> </ul>	Committee
			■				3	Review MIAs in relation to existing ordinances (see other Strategies for required changes).	Consultant
				■			4	<ul style="list-style-type: none"> <li>▪ Revise MIAs to reflect APZs on north-south runway.</li> <li>▪ Present to Committee for review.</li> <li>▪ Committee approves revisions to MIA 2 to reflect all APZs.</li> </ul>	Consultant / Committee
					■		5	Provide GIS data on all MIAs, noise contours, and zoning to City of Kingsville.	Consultant

# 1

## Define and Establish MIA Zones

### Supporting Materials

---

- Kingsville JLUS
  - MIA map
- Kingsville Air Installations Compatible Use Zones (AICUZ) Study, 1998
  - Provided information on APZ locations for all runways

### Results

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- Updated MIAs to reflect APZs for north-south runways.
- Refined MIAs as part of the Controlled Compatible Land Use Area and various noise and hazard subareas as part of JLUS Strategy 33 (see JLUS Strategy 33 for more information).

JLUS Strategy	Responsibility / Partner
<p><b>2. Identify Priority Locations for Acquisition</b></p> <p>Identify priority locations for acquisition programs (property purchase or easement) should funds become available.</p> <ul style="list-style-type: none"> <li>NAS Kingsville to work with local jurisdictions to identify locations requiring additional protections</li> <li>Identify locations that provide protections to the installation and also provide habitat values that can be used to identify properties acceptable under DOD Conservation Partnering opportunities</li> </ul> <p>Work with State congressional delegation to obtain necessary appropriations in the DOD budget for the purchase of critical parcels and conservation easements that protect current and future missions of NAS Kingsville.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>City of Kingsville</li> <li>Kleberg County</li> <li>NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>Land Trust Organizations</li> </ul>

**Background**

As part of the Kingsville JLUS, this strategy was included in case it was determined that there were significant safety or resource issues that would require acquisition in order to protect public safety, operations at NAS Kingsville, or a specific resource.

**Steps to Implement JLUS Strategy #2**

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■							1	Committee reviewed current need for strategy. <ul style="list-style-type: none"> <li>In discussions with Committee, no areas were identified as requiring an acquisition at this time based on current operations and land uses.</li> <li>With the implementation of other JLUS strategies (specifically, JLUS Strategy 33 that establishes a Joint Airport Zoning Board [JAZB] and associated regulations), it was felt that future issues will likely be avoided.</li> </ul>	Committee
	■						2	Change strategy to have a 3-5 year timeline. <ul style="list-style-type: none"> <li>Although not a current issue, Committee agreed to change the timeframe for implementation of this strategy from 0-2 years to the 3-5 year timeframe. This will allow the chance to revisit this issue and confirm there are no pressing needs for acquisition.</li> </ul>	Committee
						□	3	Review strategy again during the 3-5 year period following completion of the Kingsville JLUS (2011 to 2013).	City of Kingsville JAZB

## 2

## Identify Priority Locations for Acquisitions

### Supporting Materials

---

- No materials necessary to support this strategy.

### Results

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The Committee reviewed the current noise and safety information from the installation and existing land use development and patterns, and determined that there were no locations needing protection through acquisition at this time.

Timeframe of strategy changed to 3-5 years.

### Next Steps

---

Review strategy again during the 3 - 5 year period following completion of the Kingsville JLUS (2011 to 2013).



JLUS Strategy	Responsibility / Partner
<p><b>3. Establish Voluntary Acquisition Program</b></p> <p>Establish and promote a voluntary acquisition program.</p> <ul style="list-style-type: none"> <li>▪ Program should include provision of fee simple acquisition or the acquisition of development rights through the implementation of a conservation easement.</li> <li>▪ Program should include transfer to a trust of property or conservation easement limiting future uses of the land.</li> <li>▪ Program should include preparation of brochures or other educational materials to disseminate information</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ DOD (Navy)</li> <li>▪ Land Trust Organizations</li> </ul>

### Next Steps

This strategy was not designated as a short-term program in the Kingsville JLUS, and was therefore not covered in the scope of this initial implementation effort. This strategy will be pursued in the future as needed.

**3**

## Develop Voluntary Acquisition Program

*Please see next page.*

JLUS Strategy	Responsibility / Partner
<p><b>4. Develop Conservation Partnering Program</b></p> <p>Focus on conservation partnering possibilities where easements benefit protection of NAS Kingsville operations, but also protect other community values, such as preservation of agricultural land or habitat protection. Acquisition of easements assumes a willing seller. Components of a conservation partnering program should include an educational component designed to inform land owners of the various benefits of conservation easements.</p> <p>As a component of this implementation measure, efforts should be made to engage the State of Texas as partners with other successful conservation partnering programs, such as the State of Florida’s Florida Forever program. This relationship should be fostered as a means for information exchange and dissemination of best practices information.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> <li>▪ State of Texas</li> </ul>

### Background

As part of the Kingsville JLUS, this strategy was included in case it was determined that there were safety or resource issues that would require conservation easements in order to protect public safety, operations at NAS Kingsville, or a specific resource.

Conservation easements can be acquired through a number of mechanisms, but are primarily donated or purchased. With donation, there are a number of incentives for the property owner, such as a federal income tax deduction, making this option more desirable to the property owner. A conservation easement is a more cost effective method to acquire land than outright purchase and allows the property owner to retain more private property rights than other methods of acquisition.

### Steps to Implement JLUS Strategy #4

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■							1	Committee reviewed need for strategy. <ul style="list-style-type: none"> <li>▪ The Committee determined that this strategy was not currently needed, but may be applicable in the future as an option to acquisition. Tie this strategy to the results of Strategy 2.</li> </ul>	Committee
	■						2	Change strategy to have a 3-5 year timeline. <ul style="list-style-type: none"> <li>▪ Although not a current issue, Committee agreed to change the timeframe for implementation of this strategy from 0-2 years to the 3-5 year timeframe. This will allow the chance to revisit this issue and confirm there are no pressing needs for acquisition.</li> </ul>	Committee
						□	3	Review strategy again during the 3-5 year period following completion of the Kingsville JLUS (2011 to 2013).	City of Kingsville JAZB

# 4

## Develop Conservation Partnering Program

### Supporting Materials

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- No materials necessary to support this strategy.

### Results

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- The Committee reviewed the current noise and safety information from the installation and existing land use development and patterns, and determined that there were no locations needing protection through acquisition at this time.
- This strategy may provide an option to fee simple acquisition in the future. Tie strategy to the future evaluation of acquisitions sites (JLUS Strategy 2).
- Timeframe of strategy changed to 3-5 years.
- This strategy moves outside the scope of the current JLUS Implementation program.

### Next Steps

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- Review strategy again during the 3 - 5 year period following completion of the Kingsville JLUS (2011 to 2013).

JLUS Strategy	Responsibility / Partner
<p><b>5. Use DOD Conservation Partnering Program</b></p> <p>Pursue conservation opportunities near the installation utilizing the Navy Encroachment Partnering (EP) Program and the DOD Readiness and Environmental Protection Initiative (REPI) Conservation Buffer Program to identify priority locations for acquisition programs (property purchase, land deed transfer, or easement purchase).</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ Land trust organizations</li> <li>▪ NAVFAC</li> <li>▪ State of Texas</li> </ul>

**Next Steps**

This strategy was not designated as a short-term program in the Kingsville JLUS, and was therefore not covered in the scope of this initial implementation effort. This strategy will be pursued in the future as needed.

**5**

## Use DOD Conservation Partnering Program

*Please see next page.*

# Explore Development of a Transfer of Development Rights Program

6

JLUS Strategy	Responsibility / Partner
<p><b>6. Explore Development of a Transfer of Development Rights Program</b></p> <p>Explore the feasibility for the development of a Transfer of Development Rights (TDR) Program. As a market based technique that encourages the voluntary transfer of growth from places where the community would like to see less development (called sending areas) to places where a community would like to see more development (called receiving areas), this program should focus on the transfer of rights from MIAs 1 and 2 to more compatible locations identified within the City and County.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"><li>▪ City of Kingsville</li><li>▪ Kleberg County</li></ul> <p><b>Partners</b></p> <ul style="list-style-type: none"><li>▪ NAS Kingsville</li><li>▪ Land Trust Organizations</li></ul>

## Next Steps

This strategy was not designated as a short-term program in the Kingsville JLUS, and was therefore not covered in the scope of this initial implementation effort. This strategy will be pursued in the future as needed.

6

## Explore Development of a Transfer of Development Rights Program

*Please see next page.*



JLUS Strategy	Responsibility / Partner
<p><b>7. Conduct Full AICUZ Update</b></p> <p>NAS Kingsville to request a full update to the existing AICUZ based on current operational tempo.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul>
<p><b>34. Include AICUZ Overlay District in Zoning Regulations</b></p> <p>Adopt an AICUZ Overlay District to modify the “Air Installation Zoning Regulations (Sections 15-6-35 to 15-6-41)” within the zoning ordinance. The Overlay District shall be based on the NAS Kingsville AICUZ map and include military training routes and areas with potential AICUZ encroachment issues based on future operations (MIA 2).</p> <ul style="list-style-type: none"> <li>▪ As a component of this action, the Navy guidelines adopted as the current land use designations for the AICUZ areas shall be tailored to be compatible with both the desired vision of the City of Kingsville and the mission of the installation.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>

## Background

The current NAS Kingsville AICUZ study was last updated in 1998. A new update is desired to reflect changes in flight patterns (including a change to avoid overflight of the Child Development Center on installation) and the addition of an Army helicopter mission planned to come to NAS Kingsville.



### ATTACHMENT 7/34-1

The City of Kingsville’s current “Air Installation Zoning Regulations” (Zoning Ordinance Sections 15-6-35 to 15-6-41) is shown as part of **Attachment 7/34-1**. This attachment also shows proposed changes to the ordinance in a redline/strikeout format.

In the review of the existing ordinance, several deficiencies were noted for correction. These are:

- The ability to utilize updates to the AICUZ that are prepared in the future so that the regulation stays current.
- The need to identify and define an “AICUZ Overlay Zone” to define the area of interest for which this ordinance applies.
- The need to standardize Definitions section of ordinance (Section 15-6-36).
- The need, from a structural standpoint, of removing use restrictions from the Definitions section and integrating into the Use Restrictions section of the ordinance (Section 15-6-37).
- The need to clarify the actions to which this ordinance applies (Section 15-6-38).

Relative to an AICUZ Overlay Zone, the purpose of this zone (and the overall ordinance) is to accomplish the following:

- Promote an orderly transition between community and military land uses so that land uses remain compatible.
- Protect public health, safety, and welfare.

# 7

## AICUZ Update and Implementation

### 34

#### Include AICUZ Overlay District in Zoning Regulations

- Maintain operational capabilities of military installations and areas.
- Promote the awareness of the size and scope of military training areas in order to protect areas separate from the actual military installation (i.e., critical air and sea space) used for training purposes.
- Establish compatibility requirements within the designation area, such as requirements for sound attenuation, real estate disclosure, and aviation easements.

Overlay Districts should be incorporated into the local planning process through the community’s general plan and zoning ordinance.

#### Steps to Implement JLUS Strategies #7 & 34

Meeting							F O	Step	Actions	Responsible
1	2	3	4	5	6					
■								1	Received update from NAS Kingsville on new AICUZ. <ul style="list-style-type: none"> <li>■ Representatives from NAS Kingsville stated that an updated is currently planned to start during 2010 or 2011.</li> </ul>	NAS Kingsville
	■							2	Review status of AICUZ study and any plans for updates. <ul style="list-style-type: none"> <li>■ Representatives from NAS Kingsville confirmed that funding for AICUZ update has been secured, and they are looking for the study to start in 2010.</li> <li>■ New AICUZ will reflect changes in flight patterns (to avoid overflight of Child Development Center on installation) and the Army helicopter mission planned to come to NAS Kingsville.</li> <li>■ Discussed need to make City ordinance (15-6-35) a “living” ordinance that reflects future AICUZ changes.</li> </ul>	NAS Kingsville
		■						3	Revise strategy to reflect need to update City ordinances and JAZB regulations in future as AICUZ is updated.	Consultant / Committee
			■					4	Update City Ordinance (15-6-35). <ul style="list-style-type: none"> <li>■ Modify ordinance to incorporate the noise contours, findings and recommendations contained in future AICUZ studies.</li> <li>■ Update language to clarify intent and implementation.</li> </ul> Committee reviewed and approved changes proposed.	Consultant / Committee
			■					5	Public hearing on revised Kingsville Ordinance 15-6-35. <ul style="list-style-type: none"> <li>■ Changes approved on May 17, 2010.</li> </ul>	City of Kingsville

Include AICUZ Overlay District in Zoning Regulations

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
						<input type="checkbox"/>	6	AICUZ Update Program: <ul style="list-style-type: none"> <li>Finalize updated AICUZ</li> <li>Provide updated version to City of Kingsville, Kleberg County and JAZB</li> <li>Provide technical support for changes, as needed</li> </ul>	NAS Kingsville
						<input type="checkbox"/>	7	City of Kingsville and JAZB shall review current regulations and propose updates to match changes in noise contours and APZs in updated AICUZ, as deemed appropriate. <ul style="list-style-type: none"> <li>Ensure future updates to AICUZ (and changes in land use and safety recommendations contained in Chief of Naval Operations Instructions OPNAVINST 11010.36B) are recognized and incorporated as appropriate.</li> </ul>	City of Kingsville JAZB
						<input type="checkbox"/>	8	Consider adding requirement for an avigation easement for land inside of or within ¼ mile of the current 65 dB Ldn contour.	

Supporting Materials



ATTACHMENT 7/34-1

City of Kingsville, Ordinance 15-6-35, Air Installation Zoning Regulations

This attachment also shows proposed changes to the ordinance in a redline/strikeout format.

- Kingsville Air Installations Compatible Use Zones (AICUZ) Study, 1998

Results

- Committee revised JLUS Strategy 7 as shown below:

JLUS Strategy	Responsibility / Partner
<p><b>7. <del>Conduct Full</del> AICUZ Update <u>and Implementation</u></b></p> <p>NAS Kingsville to request a full update to the existing AICUZ based on current operational tempo.</p> <p><u>The City of Kingsville and the Joint Airport Zoning Board (JAZB) shall review existing ordinances to determine the appropriate mechanism to update ordinances to reflect AICUZ updates in the future.</u></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>■ NAS Kingsville</li> <li>■ <a href="#">City of Kingsville</a></li> <li>■ <a href="#">JAZB</a></li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>■ <del>City of Kingsville</del></li> <li>■ Kleberg County</li> </ul>

**ATTACHMENT 7/34-1**

City of Kingsville adopted ordinance revising Code of Ordinances, Section 15-6-35, Air Installation Zoning Regulations (Redline / strikethrough version showing revisions).

**ATTACHMENT 7/34-2**

City of Kingsville adopted ordinance revising Code of Ordinances, Section 15-6-35, Air Installation Zoning Regulations (adopted May 17, 2010).

## Next Steps

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- NAS Kingsville to complete update to AICUZ study.
- NAS Kingsville to provide copies of updated AICUZ study to the City of Kingsville, Kleberg County and the JAZB.
- NAS Kingsville to provide a briefing to elected / appointed decision makers (relative to land use) and planning staff for the City of Kingsville, Kleberg County and the JAZB.
- City of Kingsville shall update Air Installation Zoning Regulations (Zoning Ordinance Sections 15-6-35 to 15-6-41) as needed to ensure new AICUZ maps are incorporated into City regulations.
- JAZB shall update Air Installation Zoning Regulations (Zoning Ordinance Sections 15-6-35 to 15-6-41) as needed to ensure new AICUZ maps are incorporated into JAZB regulations.

**ATTACHMENT 7/34-3**

When the new AICUZ is released to the public, reevaluate if avigation easements may be warranted (sample Avigation Easement attached).

## AIR INSTALLATION ZONING REGULATIONS

Sec. 15-6-35. Statutory authorization; findings of facts; purpose; methods of mitigation.

(A) *Statutory authorization.* In Tex. Local Gov. Code § 51.001 et seq. and § 241.001 et seq, the legislature of the state of Texas has delegated the responsibility to local government to adopt regulations to minimize airport hazards and incompatible development.

(B) *Findings of fact.*

- (1) An airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;
- (2) An airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft tending to destroy or impair the utility of the airport and the public investment in the airport;
- (3) The creation of any airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;
- (4) It is necessary in the interest of the public health, public safety, and general welfare to prevent, the creation of an airport hazard;
- (5) The creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation;
- (6) The prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, the marking and lighting of an airport hazard are the public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land;
- (7) The Naval Air Station (NAS) Kingsville fulfills an essential community purpose by training naval aviators to support the nation's defense;
- (8) The current NAS Kingsville Air Installations Compatible Use Zones (AICUZ) ~~study footprint has been revised to~~ reflects the results of recent mission changes and an analysis of aircraft noise, accident potential, and land use compatibility, ~~operational alternatives~~ associated with aircraft now in use and aircraft to be used in the reasonably immediate future;
- (9) Adoption of the land use recommendations for noise zones, contained in Table 2, Air Installations Compatible Use Zones Suggested Land Use Compatibility in Noise Zones, Chief of Naval Operations Instruction (OPNAVINST) 11010.36B, 19 Dec 2002 (or as subsequently updated), and Accident Potential Zones, contained in Table 3, Air Installations Compatible Use Zones Suggested Land Use Compatibility in Accident

Potential Zones, OPNAVINST 11010.36B, 19 Dec 2002 (or as subsequently updated), balances the rights of private landowners, the public interest in protecting NAS Kingsville from encroachment and in protecting the need to minimize injury to person and property due to noise and accident;

(10) Upon public release of an updated AICUZ study for NAS Kingsville, the AICUZ study, including current noise contours, safety zones, and height limitation areas, which define the revised AICUZ footprint Overlay Zone, shall be filed as a matter of public record with the city; and

~~(11) The area covered by the AICUZ footprint referred to in division (B)(10) is within the "controlled compatible land use area;" and~~

~~(12) Due to changing seasonal wind patterns, NAS Kingsville has four primary runways. To determine the most northern, southern, eastern, and western boundaries of the area subject to regulation, the "controlled compatible land use area," as defined in 241.003(7) of the Texas Airport Zoning Act, must be measured from the center line of the runway situated to the outside relative to its adjacent runway.~~

(C) *Purpose.*

- (1) Protect human life and health;
- (2) Minimize expenditures of public money for land acquisition, easements, or other methods of mitigation;
- (3) Minimize damage to property from aircraft operations and accidents;
- (4) Help maintain a sound local economy and stable tax base by assuring the continued operation and efficiency of the Naval Air Station; and
- (5) Insure that potential buyers of property are notified the property is near an airport and affected by aircraft operations;
- (6) Insure that allowed development in noise zones is built to achieve noise decibel mitigation and that allowed development in Accident Potential Zones (APZs) is built to achieve density mitigation, as defined in the Chief of Naval Operations Instruction (OPNAVINST) 11010.36B (December 22, 2002) and as shown in the AICUZ footprint defined by the NAS Kingsville AICUZ Study (1998) as developed by the Department of Navy or as subsequently updated.

(D) *Methods of mitigation.* In order to accomplish its purpose this article uses the following methods:

- (1) Restriction or prohibition of uses sensitive to aircraft noise or that constitutes an incompatible, use or risk;

- (2) Restriction of minimum lot size, maximum lot coverage or floor area ratio; and
- (3) Require construction techniques and materials that will achieve maximum noise attenuation consistent with the purposes herein.

(Ord. 2005-25, passed 7-11-05)

Sec. 15-6-36. Definitions.

(A) There are hereby created and established certain airport hazard zones. These zones are defined as follows:

(1) Accident potential zone, (APZ). An area where an accident is most likely to occur if one occurs. APZ's are not predictors of accidents.

(2) Accident Potential Zone 1, (APZ 1). The area normally beyond the Clear Zone (CZ), which possesses a significant potential for accidents.

(3) Accident Potential Zone 2, (APZ 2). The area normally beyond APZ 1 which has a measurable potential for accidents. (See Map)

(4) AICUZ Overlay Zone. This area is defined as a polygon that completely encapsulates the areas defined in the current NAS Kingsville AICUZ study for the approach / departure zones, transitional zone, and the 65 dB DNL contour line(s). (See Map)

(5) Approach; departure zones. The area longitudinally centered on each runway extended center line, with an inner boundary 200 feet out from the end of the primary zone and the same width as the primary zone then extending outward for a distance of 50,000 feet expanding uniformly in width to 16,700 feet at the outer boundary. ~~Height limits within the approach zones commence at the height of the runway end and increase at the rate of one foot vertically for every 50 feet horizontally for a distance of 25,000 feet at which point it remains level at 500 feet above airport elevation to the outer boundary.~~ (See Map)

(6) Clear zone. The area at the ends of the runways that possesses a high potential for accidents and in which no development is permitted. The fanned shaped area extending outward from the end of the primary zone. The inner boundary commences at and is the same width as the primary zone (2,200') and extends outward for a distance of 2,800' to an outer width of 3,012'. The designation for the Clear Zone is "CZ." (See Map)

(7) Conical zone. The area extending outward from the periphery of the inner horizontal zone for a distance of 7,000 feet. ~~Height limits in the conical zone commence at a height of 150 feet above airport elevation at the inner boundary where it adjoins the inner horizontal distance measured outward from the inner boundary to a height of 500 feet above airport elevation at the outer boundary.~~ (See Map)

(8) Controlled Compatible Land Use Area. Due to changing seasonal wind patterns, NAS Kingsville has four primary runways. To determine the most northern, southern, eastern, and western boundaries of the area subject to regulation, the "Controlled Compatible Land Use Area," as defined in 241.003(7) of the Texas Airport Zoning Act, must be measured from the center line of the runway situated to the outside relative to its adjacent runway.

~~(9) Height limitations.~~ Areas where the height of structures is considered to be hazardous due to the flight operations of the airport. Except as otherwise provided, no structure shall be constructed or maintained or tree permitted to grow, within any zone created in excess of the height limitation established herein. An area located in more than one of the described zones shall be considered to be only in the zone with the more restrictive height limitation. (See Map) The various zones and height limitations are more fully defined as follows:-

~~(103) Inner horizontal zone.~~ The area (excluding the primary zone, clear zone, transitional zone, and the approach-departure zone) with an outer perimeter formed by swinging arcs 7,500 feet radius about the extended center line of each runway at the end of each primary zone and connecting adjacent arcs by lines tangent to these arcs. ~~No structure or obstruction will be permitted in the inner horizontal zone of a greater height than 150 feet above airport elevation.~~ (See Map)

~~(114) Primary zone.~~ The area longitudinally centered on each runway, and extending 200 feet beyond the runway end and 2,200' wide (750' out from the center line of each runway and the 700' distance between the center lines of each runway). ~~No structure or obstruction that is not a part of the landing and take-off area is permitted in the primary zone if it is of a greater height than the nearest point on the runway.~~ (See Map)

~~(2) Clear zone.~~ The fanned shaped area extending outward from the end of the primary zone. The inner boundary commences at and is the same width as the primary zone (2,200') and extends outward for a distance of 2,800' to an outer width of 3,012'. ~~No structure or obstruction not a part of the landing and takeoff area is permitted if it is of a greater height than the end of the runway.~~ (See Map)

~~(125) Outer horizontal zone.~~ The area extending outward from the outer periphery of the conical zone for a distance of 30,000 feet. ~~The height limit within the outer horizontal zone is 500 feet above airport elevation.~~ (See Map)

~~(137) Transitional zone.~~ The area with an inner boundary formed by the periphery of the primary zone, the sides of the clear zone and the approach-departure zone, extended outward at right angle to the runway center line and extended center line until the height matches the adjoining inner horizontal zones, conical zone and outer horizontal zone height



limit. The height limit at the inner boundary is the same as the height of the adjoining inner horizontal zone and increases at the rate of one foot vertically for every seven feet horizontally to the outer boundary of the transitional zone, where it again matches the height of the adjoining outer horizontal zone. (See Map)

(14) Noise zones. Areas between noise contours, having certain land use recommendations. The noise contours are given in decibels for a Day-Night Average Sound Level, DNL (sometimes also called Ldn). Areas where the restriction or prohibition of development or use sensitive to aircraft noise or that constitutes an incompatible use or risk. The designation for the Noise Zones in this article are less than 65 DNL, 65-70 DNL, 70-75 DNL and greater than 75 DNL. (See Map)

(B) The zones created herein, and the maps and tables referenced, are based in substantial part on the Air Installation Compatible Use Zone (AICUZ) 1992, NAS Kingsville Zones, as developed by the Department of Navy or as subsequently updated.

(Ord. 2005-25, passed 7-11-05)

Sec. 15-6-37. Use restrictions.

(A) Land Use Restrictions. Notwithstanding any provisions of the Air Installation Zoning Regulations, the permitted land use for any property, or portion thereof, within the ~~e~~Controlled ~~e~~Compatible ~~L~~and ~~u~~Use ~~a~~Area or AICUZ Overlay Zone, as shown on the Map, shall be in conformity with Tables 2 and 3 attached hereto and incorporated by reference.

(B) Height Limitations. Areas where the height of structures is considered to be hazardous due to the flight operations of the airport. Except as otherwise provided, no structure shall be constructed or maintained or tree permitted to grow, within any zone created in excess of the height limitation established herein. An area located in more than one of the described zones shall be considered to be only in the zone with the more restrictive height limitation. (See Map) The various zones and height limitations are more fully defined as follows:

(1) Primary zone. No structure or obstruction that is not a part of the landing and take-off area is permitted in the primary zone if it is of a greater height than the nearest point on the runway. (See Map)

(2) Clear zone. No structure or obstruction not a part of the landing and takeoff area is permitted if it is of a greater height than the end of the runway. (See Map)

(3) Conical zone. Height limits in the conical zone commence at a height of 150 feet above airport elevation at the inner boundary where it adjoins the inner horizontal distance measured outward from the inner boundary to

a height of 500 feet above airport elevation at the outer boundary. (See Map)

(c) Inner horizontal zone. No structure or obstruction will be permitted in the inner horizontal zone of a greater height than 150 feet above airport elevation. (See Map)

(e) Outer horizontal zone. The height limit within the outer horizontal zone is 500 feet above airport elevation. (See Map)

(f) Approach; departure zones. Height limits within the approach zones commence at the height of the runway end and increase at the rate of one foot vertically for every 50 feet horizontally for a distance of 25,000 feet at which point it remains level at 500 feet above airport elevation to the outer boundary. (See Map)

(g) Transitional zone. inner horizontal zones, conical zone and outer horizontal zone height limit. The height limit at the inner boundary is the same as the height of the adjoining inner horizontal zone and increases at the rate of one foot vertically for every seven feet horizontally to the outer boundary of the transitional zone, where it again matches the height of the adjoining outer horizontal zone. (See Map)

(Ord. 2005-25, passed 7-11-05)

Sec. 15-6-38. General provisions.

(A) Land to which this article applies. This article shall apply to discretionary development applications for any property located within (or partially within) the Controlled Compatible Land Use Area or AICUZ Overlay Zone (as shown on the Map) that have not been approved or denied by the City Commission or Planning and Zoning Commission as of the date of adoption of this Article.

(B) Discretionary Development Application. For purposes of this Article, discretionary development applications shall include applications for:

(1) Rezoning, including conditional zonings;

(2) Conditional use permits for new uses or structures, or for alterations or enlargements of existing conditional uses where the occupant load would increase; and

(3) Conversions or enlargements of nonconforming uses or structures, except where the application contemplates the construction of a new building or structure or expansion of an existing use or structure where the total occupant load would not increase.

to all areas designated as being an Air Installation Compatible Use Zone within the jurisdiction of the city or as may hereafter come within said jurisdiction, to the extent that such areas lie within the area defined in 241.003(7) of the Airport Zoning Act.

~~(CB)~~ *Permit required.* A building permit is required to ensure conformance with this article.

~~(DE)~~ *Compliance.* No structure, building, or land shall hereafter be located, moved, built, altered or have its use changed without full compliance with the terms of this article and other applicable regulations.

~~(ED)~~ *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article or another conflict or overlap, whichever imposes the more stringent restriction shall apply.

~~(EE)~~ *Interpretation.* In the interpretation of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statute.

~~(GF)~~ *Warning and disclaimer of liability.* The measures required by this article are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. Accidents and noise impacts outside of the areas designated may occur. Alteration in flight paths, operations, and aircraft type can increase or decrease the nature of the impact and geographic area affected. This article does not imply land outside the AICUZ areas will be free from aircraft noise or accidents. This article does not imply or create liability on the part of the city or, any officer or employee thereof for any damages or harm that may result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. 2005-25, passed 7-11-05)

Sec. 15-6-39. Administration and restrictions.

(A) *Planning Director designated.* The Director of Planning is hereby appointed to administer and implement the provisions of this article. The Director may assign appropriate duties to the Building Official or other personnel.

(B) *Duties and responsibilities.* The Planning Director's duties shall include, but not be limited to:

- (1) Maintain and hold open for public inspection all records pertaining to this article;
- (2) Review, approve, deny or otherwise process applications made under the provisions of this article;
- (3) Interpret, as needed, the exact boundaries of noise and accident zones on the AICUZ map. Where actual field conditions or data supplied by

licensed public surveyors conflict with the mapped boundary, the Planning Director shall establish the boundary; and

(4) Any decision or interpretation of Planning Director or regulation of this article may be appealed to the Zoning Board of Adjustment. Any decision to overturn a ruling by the Planning Director or grant a variance must be supported by findings of fact and specifically enumerated by the Board.

(C) *Permit procedures.*

(1) Applications shall be made by submission of a site plan indicating the location, dimensions, existing and proposed structures, floor area (square footage) of all structures and proposed use(s);

(2) Permits shall be issued upon a finding that the proposed land use is compatible with the land use limitations contained in Table 1, as further amplified and explained in Table 2, *supra*.

(D) *Authority of Zoning Adjustment Board.*

(1) Variance authority.

(a) A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the Board of Adjustment for a variance from the regulation.

(b) The Board shall allow a variance from an airport zoning regulation if:

1. A literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and
2. The granting of the relief would:
  - a. Result in substantial justice being done;
  - b. Not be contrary to the public interest; and
  - c. Be in accordance with the spirit of the regulation and this article.

(c) The Board may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this article.

(2) Variance procedure.

(a) The Zoning Board of Adjustment as established by the city shall hear and render judgments on requests for variances from the requirements of this title.

(b) The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the Board of Adjustment may appeal such decision in the court of competent jurisdiction.

(d) Variance shall be granted only upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship rather than economic loss to the applicant; and
3. The conditions causing the hardship are unique to the property in the area and not caused or created by the applicant or some previous owner.

(E) *Subdivisions.* Subdivisions shall comply with all use and density requirements contained in this title.

(Ord. 2005-25, passed 7-11-05)

Sec. 15-6-40. Nonconforming uses.

(A) Nonconforming uses may be continued unless abandoned for a continuous period of six months after which they may not be resumed.

(B) A nonconforming use shall not be changed to any other type of nonconforming use within any AICUZ area.

(C) Any nonconforming structure or building may be maintained unless damaged in excess of 50% of the market value of the building or structure. Repairs to a structure or building so damaged shall be in conformance with all current regulations.

(D) Existing buildings and structures may be remodeled, enlarged, expanded or altered provided additions, expansions and enlargements conform to this code and the remodeling/alteration does not decrease the degree of conformance.

(Ord. 2005-25, passed 7-11-05)

Sec. 15-6-41. Responsibility of developers: subdivisions.

(A) Each developer or landowner who owns property lying within the "controlled compatible land use area" must notify any prospective purchaser of such property of the existence of this article by having each buyer execute a "Disclosure Statement" containing the following language:

"I have been advised that this property is adjacent to a military airport and installation and lies within the 'controlled compatible land use area' as defined by the legislature of the state of Texas in Tex. Local Gov. Code § 241003. I understand that I shall have to include special noise attenuation materials and construction techniques in any construction undertaking designated as having decibel readings above 65 DNL. I am aware that development and construction within this area must conform to guidelines contained in the City of Kingsville Air Installation Zoning Regulation and other applicable law."

(B) Such "Disclosure Statement" shall be executed simultaneously with any "earnest money" contract or other agreement to buy land, and if no "earnest money" contract or other agreement to buy land is executed, prior to the "date of closing" as that term is understood in real estate transactions.

(C) Development within the noise zones designated on the current AICUZ map shall be built to mitigate the ~~noise~~ level to 45 DNL (indoors). It shall be the responsibility of the developer to provide to the Director of Development Services how this will be accomplished, to include site layout and type of material used.

(Ord. 2005-25, passed 7-11-05)

ORDINANCE NO. ORD2010-09

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, LAND USE, ARTICLE 6, ZONING, SECTIONS 35-41 OF AIR INSTALLATION ZONING REGULATIONS; CHANGING RESTRICTIONS AND UPDATING LANGUAGE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, the City of Kingsville has obtained a Joint Land Use Study (JLUS) Implementation Grant to assist with the implementation of recommendations from the JLUS approved by the City Commission in April of 2008;

**WHEREAS**, the JLUS Implementation Committee has recommended approval of this ordinance amendment in order to comply with the JLUS;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Sections 15-6-35 through 15-6-41 of the Air Installation Zoning Regulations of Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

***AIR INSTALLATION ZONING REGULATIONS***

**Sec. 15-6-35. STATUTORY AUTHORIZATION; FINDINGS OF FACTS; PURPOSE; METHODS OF MITIGATION.**

(A) *Statutory authorization.* In Tex. Local Gov. Code § 51.001 et seq. and § 241.001 et seq, the legislature of the state of Texas has delegated the responsibility to local government to adopt regulations to minimize airport hazards and incompatible development.

(B) *Findings of fact.*

(1) An airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;

(2) An airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft tending to destroy or impair the utility of the airport and the public investment in the airport:

(3) The creation of any airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;

(4) It is necessary in the interest of the public health, public safety, and general welfare to prevent, the creation of an airport hazard;

(5) The creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation;

(6) The prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, the marking and lighting of an airport hazard are the public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land;

(7) The Naval Air Station (NAS) Kingsville fulfills an essential community purpose by training naval aviators to support the nation's defense;

(8) The current NAS Kingsville Air Installations Compatible Use Zones (AICUZ) study reflects an analysis of aircraft noise, accident potential, and land use compatibility associated with aircraft now in use and aircraft to be used in the reasonably immediate future;

(9) Adoption of the land use recommendations for noise zones, contained in Table 2, Air Installations Compatible Use Zones Suggested Land Use Compatibility in Noise Zones, Chief of Naval Operations Instruction (OPNAVINST) 11010.36B, 19 Dec 2002 (or as subsequently updated), and Accident Potential Zones, contained in Table 3, Air Installations Compatible Use Zones Suggested Land Use Compatibility in Accident Potential Zones, OPNAVINST 11010.36B, 19 Dec 2002 (or as subsequently updated), balances the rights of private landowners, the public interest in protecting NAS Kingsville from encroachment and in protecting the need to minimize injury to person and property due to noise and accident;

(10) Upon public release of an updated AICUZ study for NAS Kingsville, the AICUZ study, including current noise contours, safety zones, and height limitation areas, which define the AICUZ Overlay Zone, shall be filed as a matter of public record with the city; and

(C) *Purpose.*

(1) Protect human life and health;

(2) Minimize expenditures of public money for land acquisition, easements, or other methods of mitigation;

(3) Minimize damage to property from aircraft operations and accidents;

(4) Help maintain a sound local economy and stable tax base by assuring the continued operation and efficiency of the Naval Air Station;



(5) Insure that potential buyers of property are notified the property is near an airport and affected by aircraft operations;

(6) Insure that allowed development in noise zones is built to achieve noise decibel mitigation and that allowed development in Accident Potential Zones (APZs) is built to achieve density mitigation, as defined in the Chief of Naval Operations Instruction (OPNAVINST) 11010.36B (December 22, 2002) and as shown in the AICUZ footprint defined by the NAS Kingsville AICUZ Study (1998) as developed by the Department of Navy or as subsequently updated.

(D) *Methods of mitigation.* In order to accomplish its purpose this article uses the following methods:

(1) Restriction or prohibition of uses sensitive to aircraft noise or that constitutes an incompatible, use or risk;

(2) Restriction of minimum lot size, maximum lot coverage or floor area ratio; and

(3) Require construction techniques and materials that will achieve maximum noise attenuation consistent with the purposes herein.

#### **Sec. 15-6-36. DEFINITIONS.**

(A) There are hereby created and established certain airport hazard zones. These zones are defined as follows:

(1) **Accident potential zone, (APZ).** An area where an accident is most likely to occur if one occurs. APZ's are not predictors of accidents.

(2) **Accident Potential Zone 1, (APZ 1).** The area normally beyond the Clear Zone (CZ), which possesses a significant potential for accidents.

(3) **Accident Potential Zone 2, (APZ 2).** The area normally beyond APZ 1 which has a measurable potential for accidents. (See Map)

(4) **AICUZ Overlay Zone.** This area is defined as a polygon that completely encapsulates the areas defined in the current NAS Kingsville AICUZ study for the approach / departure zones, transitional zone, and the 65 dB DNL contour line(s). (See Map)

(5) **Approach; Departure Zones.** The area longitudinally centered on each runway extended center line, with an inner boundary 200 feet out from the end of the primary zone and the same width as the primary zone then extending outward for a distance of 50,000 feet expanding uniformly in width to 16,700 feet at the outer boundary. (See Map)

(6) **Clear Zone.** The area at the ends of the runways that possesses a high potential for accidents and in which no development is permitted. The fanned shaped area extending outward from the end of the primary zone. The inner boundary commences at and is the same width as the primary zone (2,200') and extends outward for a distance of 2,800' to an outer width of 3,012'. The designation for the Clear Zone is "CZ." (See Map)

(7) **Conical Zone.** The area extending outward from the periphery of the inner horizontal zone for a distance of 7,000 feet. (See Map)

(8) **Controlled Compatible Land Use Area.** Due to changing seasonal wind patterns, NAS Kingsville has four primary runways. To determine the most northern, southern, eastern, and western boundaries of the area subject to regulation, the "Controlled Compatible Land Use Area," as defined in 241.003(7) of the Texas Airport Zoning Act, must be measured from the center line of the runway situated to the outside relative to its adjacent runway.

(9) **Inner Horizontal Zone.** The area (excluding the primary zone, clear zone, transitional zone, and the approach-departure zone) with an outer perimeter formed by swinging arcs 7,500 feet radius about the extended center line of each runway at the end of each primary zone and connecting adjacent arcs by lines tangent to these arcs. (See Map)

(10) **Primary Zone.** The area longitudinally centered on each runway, and extending 200 feet beyond the runway end and 2,200' wide (750' out from the center line of each runway and the 700' distance between the center lines of each runway. (See Map)

(11) **Outer Horizontal Zone.** The area extending outward from the outer periphery of the conical zone for a distance of 30,000 feet. (See Map)

(12) **Transitional Zone.** The area with an inner boundary formed by the periphery of the primary zone, the sides of the clear zone and the approach-departure zone, extended outward at right angle to the runway center line and extended center line until the height matches the adjoining inner horizontal zones, conical zone and outer horizontal zone height limit. The height limit at the inner boundary is the same as the height of the adjoining inner horizontal zone and increases at the rate of one foot vertically for every seven feet horizontally to the outer boundary of the transitional zone, where it again matches the height of the adjoining outer horizontal zone. (See Map)

(13) **Noise Zones.** Areas between noise contours, having certain land use recommendations. The noise contours are given in decibels for a Day-Night Average Sound Level, DNL (sometimes also called Ldn). Areas

where the restriction or prohibition of development or use sensitive to aircraft noise or that constitutes an incompatible use or risk. The designation for the Noise Zones in this article are less than 65 DNL, 65-70 DNL, 70-75 DNL and greater than 75 DNL. (See Map)

(B) The zones created herein, and the maps and tables referenced, are based in substantial part on the Air Installation Compatible Use Zone (AICUZ) 1992, NAS Kingsville Zones, as developed by the Department of Navy or as subsequently updated.

### **Sec. 15-6-37. USE RESTRICTIONS.**

(A) *Land Use Restrictions.* Notwithstanding any provisions of the Air Installation Zoning Regulations, the permitted land use for any property, or portion thereof, within the Controlled Compatible Land Use Area or AICUZ Overlay Zone, as shown on the Map, shall be in conformity with Tables 2 and 3 attached hereto and incorporated by reference.

(B) *Height Limitations.* Areas where the height of structures is considered to be hazardous due to the flight operations of the airport. Except as otherwise provided, no structure shall be constructed or maintained or tree permitted to grow, within any zone created in excess of the height limitation established herein. An area located in more than one of the described zones shall be considered to be only in the zone with the more restrictive height limitation. (See Map) The various zones and height limitations are more fully defined as follows:

(1) *Primary Zone.* No structure or obstruction that is not a part of the landing and take-off area is permitted in the primary zone if it is of a greater height than the nearest point on the runway. (See Map)

(2) *Clear Zone.* No structure or obstruction not a part of the landing and takeoff area is permitted if it is of a greater height than the end of the runway. (See Map)

(3) *Conical Zone.* Height limits in the conical zone commence at a height of 150 feet above airport elevation at the inner boundary where it adjoins the inner horizontal distance measured outward from the inner boundary to a height of 500 feet above airport elevation at the outer boundary. (See Map)

(4) *Inner Horizontal Zone.* No structure or obstruction will be permitted in the inner horizontal zone of a greater height than 150 feet above airport elevation. (See Map)

(5) *Outer Horizontal Zone.* The height limit within the outer horizontal zone is 500 feet above airport elevation. (See Map)

(6) *Approach; Departure Zones.* Height limits within the approach zones commence at the height of the runway end and increase at the rate

of one foot vertically for every 50 feet horizontally for a distance of 25,000 feet at which point it remains level at 500 feet above airport elevation to the outer boundary. (See Map)

(7) Transitional Zone, Inner Horizontal Zone, Conical Zone and Outer Horizontal Zone Height Limit. The height limit at the inner boundary is the same as the height of the adjoining inner horizontal zone and increases at the rate of one foot vertically for every seven feet horizontally to the outer boundary of the transitional zone, where it again matches the height of the adjoining outer horizontal zone. (See Map)

#### **Sec. 15-6-38. GENERAL PROVISIONS.**

(A) *Land to which this article applies.* This article shall apply to discretionary development applications for any property located within (or partially within) the Controlled Compatible Land Use Area or AICUZ Overlay Zone (as shown on the Map) that have not been approved or denied by the City Commission or Planning and Zoning Commission as of the date of adoption of this Article.

(B) *Discretionary Development Application.* For purposes of this Article, discretionary development applications shall include applications for:

- (1) Rezoning, including conditional zonings;
- (2) Conditional use permits for new uses or structures, or for alterations or enlargements of existing conditional uses where the occupant load would increase; and
- (3) Conversions or enlargements of nonconforming uses or structures, except where the application contemplates the construction of a new building or structure or expansion of an existing use or structure where the total occupant load would not increase.

(C) *Permit required.* A building permit is required to ensure conformance with this article.

(D) *Compliance.* No structure, building, or land shall hereafter be located, moved, built, altered or have its use changed without full compliance with the terms of this article and other applicable regulations.

(E) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article or another conflict or overlap, whichever imposes the more stringent restriction shall apply.

(F) *Interpretation.* In the interpretation of this article, all provisions shall be:

- (1) Considered as minimum requirements;

- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statute.

(G) *Warning and disclaimer of liability.* The measures required by this article are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. Accidents and noise impacts outside of the areas designated may occur. Alteration in flight paths, operations, and aircraft type can increase or decrease the nature of the impact and geographic area affected. This article does not imply land outside the AICUZ areas will be free from aircraft noise or accidents. This article does not imply or create liability on the part of the city or, any officer or employee thereof for any damages or harm that may result from reliance on this article or any administrative decision lawfully made thereunder.

### **Sec. 15-6-39. ADMINISTRATION AND RESTRICTIONS.**

(A) *Planning Director designated.* The Director of Planning is hereby appointed to administer and implement the provisions of this article. The Director may assign appropriate duties to the Building Official or other personnel.

(B) *Duties and responsibilities.* The Planning Director's duties shall include, but not be limited to:

- (1) Maintain and hold open for public inspection all records pertaining to this article;
- (2) Review, approve, deny or otherwise process applications made under the provisions of this article;
- (3) Interpret, as needed, the exact boundaries of noise and accident zones on the AICUZ map. Where actual field conditions or data supplied by licensed public surveyors conflict with the mapped boundary, the Planning Director shall establish the boundary; and
- (4) Any decision or interpretation of Planning Director or regulation of this article may be appealed to the Zoning Board of Adjustment. Any decision to overturn a ruling by the Planning Director or grant a variance must be supported by findings of fact and specifically enumerated by the Board.

(C) *Permit procedures.*

- (1) Applications shall be made by submission of a site plan indicating the location, dimensions, existing and proposed structures, floor area (square footage) of all structures and proposed use(s);
- (2) Permits shall be issued upon a finding that the proposed land use is compatible with the land use limitations contained in Table 1, as further amplified and explained in Table 2, supra.

(D) *Authority of Zoning Adjustment Board.*

(1) Variance authority.

(a) A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the Board of Adjustment for a variance from the regulation.

(b) The Board shall allow a variance from an airport zoning regulation if:

1. A literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and

2. The granting of the relief would:

a. Result in substantial justice being done;

b. Not be contrary to the public interest; and

c. Be in accordance with the spirit of the regulation and this article.

(c) The Board may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this article.

(2) Variance procedure.

(a) The Zoning Board of Adjustment as established by the city shall hear and render judgments on requests for variances from the requirements of this title.

(b) The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the Board of Adjustment may appeal such decision in the court of competent jurisdiction.

(d) Variance shall be granted only upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship rather than economic loss to the applicant; and

3. The conditions causing the hardship are unique to the property in the area and not caused or created by the applicant or some previous owner.

(E) *Subdivisions.* Subdivisions shall comply with all use and density requirements contained in this title.

#### **Sec. 15-6-40. NONCONFORMING USES.**

(A) Nonconforming uses may be continued unless abandoned for a continuous period of six months after which they may not be resumed.

(B) A nonconforming use shall not be changed to any other type of nonconforming use within any AICUZ area.

(C) Any nonconforming structure or building may be maintained unless damaged in excess of 50% of the market value of the building or structure. Repairs to a structure or building so damaged shall be in conformance with all current regulations.

(D) Existing buildings and structures may be remodeled, enlarged, expanded or altered provided additions, expansions and enlargements conform to this code and the remodeling/alteration does not decrease the degree of conformance.

#### **Sec. 15-6-41. RESPONSIBILITY OF DEVELOPERS: SUBDIVISIONS.**

(A) Each developer or landowner who owns property lying within the "controlled compatible land use area" must notify any prospective purchaser of such property of the existence of this article by having each buyer execute a "Disclosure Statement" containing the following language:

**"I have been advised that this property is adjacent to a military airport and installation and lies within the 'controlled compatible land use area' as defined by the legislature of the state of Texas in Tex. Local Gov. Code § 241003. I understand that I shall have to include special noise attenuation materials and construction techniques in any construction undertaking designated as having decibel readings above 65 DNL. I am aware that development and construction within this area must conform to guidelines contained in the City of Kingsville Air Installation Zoning Regulation and other applicable law."**

(B) Such "Disclosure Statement" shall be executed simultaneously with any "earnest money" contract or other agreement to buy land, and if no "earnest money" contract or other agreement to buy land is executed, prior to the "date of closing" as that term is understood in real estate transactions.

(C) Development within the noise zones designated on the current AICUZ map shall be built to mitigate the noise level to 45 DNL (indoors). It shall be the responsibility of the developer to provide to the Director of Development Services how this will be accomplished, to include site layout and type of material used.

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.


THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 10th day of May, 2010.

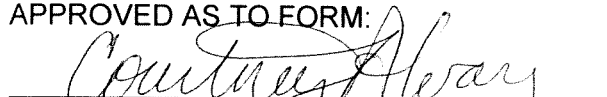
PASSED AND APPROVED on this the 17<sup>th</sup> day of May, 2010.

  
\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

  
\_\_\_\_\_  
Edna S. Lopez, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Courtney Alvarez, City Attorney

EFFECTIVE DATE: June 2, 2010



Mail Recorded Document  
To: Planning Department  
P.O. BOX 1458  
Kingsville. TX 8364

### AVIGATION EASEMENT

THIS GRANT OF AVIGATION EASEMENT (this "Avigation Easement") made this \_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ whose mailing address is \_\_\_\_\_ ("Grantor, "which term shall include singular and plural, masculine and feminine), and City of Kingsville, TX, Keberg County, a political subdivision of the State of Texas, acting by and through its duly authorized City Commissioners, whose mailing address is P.O. Box 1458, Kingsville, TX 78364 ("Grantee").

### WITNESSETH

WHEREAS Grantor is the owner of certain real estate property located in the City of Kingsville, Kleberg County, Texas, which property has been improved with, \_\_\_\_\_ (collectively, the "Improvements"); and

WHEREAS, Grantee requires, as a condition precedent to the subdivision of the property into a legally subdivide lot, conveyance from Grantor of an Avigation Easement; and

WHEREAS, Grantor has agreed to grant an Avigation Easement to Grantee in and over Grantor's property under the terms and conditions set forth in this instrument;

NOW, THEREFORE, Grantor, for good and valuable consideration the receipt and sufficiency of which is acknowledged, does grant to Grantee and Grantee's heirs, assigns, successors, and legal representatives, a perpetual Avigation Easement in and over the following described property (Property).

See legal description attached as Exhibit A.

This Avigation Easement is granted with the following express terms and conditions:

1. Grantor grants, bargains, sells, and conveys to Grantee its successors and assigns, for the use and benefit of Grantee and any civilian or military airfields that may be located in City of Kingsville, Kleberg County and any operators, owners, users, of civilian or military Aircraft that may operate in the airspace in and above The City of Kingsville, Texas, a perpetual Avigation Easement for the free and unobstructed flight of Aircraft ("Aircraft" being defined for the purpose of this instrument as a contrivance now known or hereafter invented, used, or designed for flight in and through the air) in and through the airspace above, over and across the surface of the Property together with the right to create or cause in the airspace such noise, vibrations, odors, vapors, exhaust, smoke, dust, or other effects that may be inherent in the operation of Aircraft, and for the use of the airspace by Aircraft for launching from, maneuvering about, and landing at local civilian or military airfields. In granting this Avigation Easement, Grantor

expressly reserves the right to: (a) continue to use Grantor's Property for its current use, (b) replace the Improvements with other future improvements so long as such future improvements are not more than thirty feet (30') taller than the current Improvements, and (3) notwithstanding any language to the contrary herein does not give permission for Grantee to remove any of the Improvements.

2. Nothing in this instrument shall operate to preclude claims by Grantor, his heirs, assigns, successors, and legal representatives, for any physical injuries or damages caused by Aircraft crashing into or otherwise coming into direct contact with the Property or persons located thereon.
3. Grantor, for himself, his heirs, assigns, successors, and legal representatives, expressly releases and forever discharges Grantee, its elected or appointed officials, representatives, agents, employees, and any operators, owners, or users of civilian or military Aircraft or airfields, from any and all liability whatsoever, including any and all suits, claims, debts, obligations, costs, expenses, actions, or demands, vested or contingent, known or unknown, whether for injuries to persons or damages to property, which Grantor may own, hold, or assert by reason of noise, vibrations, odors, vapors, exhaust, smoke, dust or other effects that may be inherent in the operation of Aircraft, caused or created by the flight or passage of Aircraft in or through the airspace subject to the easement described in this instrument. Additionally, Grantor, for himself, his heirs, assigns, successors, and legal representatives, waives any and all right to sue Grantee, its elected or appointed officials, representatives, agents or employees, and any operators, owners, or users, of civilian, or military Aircraft or airfields, and agrees to dismiss any and all such suits that may be now or subsequently asserted against Grantee, its elected or appointed officials, representatives, agents or employees, and any operators, owners, or users of civilian or military Aircraft or airfields, for injuries to persons or damage of property arising from noise, vibrations, odors, vapors, exhaust, smoke, dust, or other effects that may be inherent in the operation of Aircraft, caused or created by the flight or passage of Aircraft in or through the airspace subjected to the easement described in this instrument. Grantor acknowledges that the above stated consideration is all that
4. Grantor will receive for this easement and no promise for any other or further consideration has been made by anyone. Grantor further acknowledges that Grantor is executing this instrument solely in reliance upon his own knowledge, belief, and judgment and not upon any representations made by any party released or others in their behalf.
5. Grantor shall not build, construct, cause or permit to be built or constructed, or permit to remain on the Property any building structure that would interfere with the rights conveyed by this instrument that would violate any local, state, or federal law or regulation, regarding the operation of Aircraft or airfields.
6. Grantor shall not use or permit the use of the Property in such a manner as to create electrical, electronic, or other interference with radio, radar, microwave, or other similar means of Aircraft communications, or to make it difficult for pilots to distinguish between airfield navigation lights, and visual aids and other lights, or to result in glare or other condition that would impair the vision of pilots, or to otherwise endanger the operation of Aircraft.
7. In the event of any violation of the rights and restrictions contained in this instrument, Grantee shall have the right, at its sole option after giving five (5) days prior to notice to Grantor, to use

any and all means to remedy the violation, Additionally, Grantee shall have a perpetual easement for the ingress to and egress from the Property for the purpose of inspecting or removing any instrumentality that may be causing or contributing to a violation of the rights and restrictions conveyed by this instrument.

8. Grantor acknowledges that the Property is located in an area impacted by Aircraft noise and that present and future Aircraft noise may interfere with the unrestricted use and enjoyment of the Property. Grantor further acknowledges Aircraft noise may change over time by virtue of greater numbers of Aircraft, louder Aircraft, variations in airfield operations, and changes in airfield and air traffic control procedures.
9. This Avigation Easement and all of the terms and conditions described in this instrument shall run with the land in perpetuity and shall be binding upon Grantor and his heirs, assigns, successors, and legal representatives.
10. In the event that one or more of the provisions contained in this instrument or any part thereof or any application thereof shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired and shall remain in full force and effect.
11. Grantor for himself and his heirs, assigns, successors, and legal representatives, covenants with Grantee, its successors and assigns, that Grantor is lawfully seized and possessed of the Property in fee simple, has a good right and full power to grant, Bargain, sell and convey this Avigation Easement over the Property.

DRAFT

*Please see the next page.*

DRAFT

JLUS Strategy	Responsibility / Partner
<p><b>8. Develop and Distribute BASH Educational Materials</b></p> <p>NAS Kingsville should provide educational information on reducing the potential for bird and wildlife attractions that may impede safe air operations to local jurisdictions and agencies in the region.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ King Ranch</li> <li>▪ Texas A&amp;M Kingsville (Cesar Kleberg Wildlife Center)</li> <li>▪ Texas Commission on Environmental Quality (TCEQ)</li> <li>▪ U.S. Fish and Wildlife</li> </ul>

## Background

The Bird/Animal Strike Hazard (BASH) program is aimed at minimizing collisions between military aircraft and birds. Knowledge of where birds travel, nest, and feed helps military aviators avoid problem areas, and therefore save lives and avoid the destruction of valuable aircraft. The program considers not only birds and animals within the confines of the airfield, but also in neighboring areas.

The objective of the BASH program is to reduce the potential for collisions between aircraft and birds or other animals, and to minimize damage and injuries when collisions occur. The BASH program promotes both land management practices that minimize bird attractants and safety procedures to recognize, control, and avoid hazardous bird concentrations.

Part of controlling BASH issues is providing information to surrounding property owners and resource management agencies on potential attractants to birds and wildlife, the issues associated with this attraction, and techniques that can be used to avoid encouragement of birds and wildlife to areas near the airfield and flight paths. This strategy is designed to address this public outreach.

## Steps to Implement JLUS Strategy #8

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■							1	<p>Discuss existing educational materials and efforts.</p> <ul style="list-style-type: none"> <li>▪ At Meeting #1, the Committee discussed making a tri-fold brochure. NAS Kingsville representatives thought they may have a brochure that would fit this need. Lt. Kite was to check with Public Affairs and bring in copies if one exists. Committee can review and decide if updates / new brochure needed.</li> </ul>	Committee

# 8

## Develop and Distribute BASH Educational Materials

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
	■						2	Review materials currently used by NAS Kingsville. <ul style="list-style-type: none"> <li>▪ The Committee discussed updating the existing NAS Kingsville brochure to meet current needs. NAS Kingsville volunteered to update text and submit to Committee for review.</li> </ul>	Committee
		■					3	Create / revise BASH brochure: <ul style="list-style-type: none"> <li>▪ NAS Kingsville prepared updated text for BASH brochure.</li> </ul>	NAS Kingsville
			■				4	Review and accept draft brochure text for use.	Committee
				■			5	Revise brochure to be part of larger Compatibility Planning at a Regional Level brochure package.	Consultant
			■		■		6	Determine how brochure will be distributed. The options for distribution include. <ul style="list-style-type: none"> <li>▪ <b>Mass mailing.</b> Mail to all residents and businesses as part of utility billing.</li> <li>▪ <b>Key locations.</b> Have hard copies of the brochure available at key locations for residents to pick up. These would include local governmental buildings, post offices, and NAS Kingsville.</li> <li>▪ <b>Online.</b> Maintain an electronic copy on websites for the City of Kingsville and NAS Kingsville.</li> </ul>	Committee
						■	7	Finalize BASH brochure: <ul style="list-style-type: none"> <li>▪ Design to match the general look of the Compatible Regional Growth brochure</li> </ul>	Consultant
						□	8	Distribute the final BASH brochure.	City of Kingsville, Kleberg County, NAS Kingsville

### Supporting Materials



#### ATTACHMENT 8-1

Draft BASH language for brochure update (provided by NAS Kingsville).

### Results



#### ATTACHMENT 8-2

Updated BASH Brochure

NAS Kingsville would like to introduce you to a new program of record in the Navy. The program is called **Bird Aircraft Strike Hazard** or BASH for short. While collisions between birds and aircraft are not uncommon, the Navy, after the recent loss of aircraft, has invested a great deal of time and money to officially stand-up this revolutionary program. This new program will allow us to mitigate the risk of catastrophic losses and repair costs and to greatly improve flight safety. The program does not focus solely on birds though, as mammals such as deer, hogs, and coyotes on runways are also a threat to aircraft.

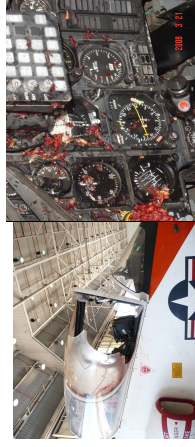
Wildlife, however, is also one of our most valuable natural resources. Many families depend on revenue generated by these renewable natural resources. People from all walks of life often come together to enjoy nature and the wildlife therein. Protecting aircraft and the pilots who fly them, as well as wildlife and their habitat, is key to all of our efforts. It is with this mindset that the Navy will approach its BASH program.

The goal of NAS Kingsville's BASH program is to identify and mitigate wildlife threats to aviation safety. We accomplish this while insuring that specific wildlife species are not adversely affected.

NAS Kingsville utilizes a multifaceted approach to minimize the risk to aircraft. As the environment and weather changes, methods that work one season may not be effective the next. Therefore, we must take an integrated approach to solving our BASH

issues. This means that we must look at every element of the problem, and come up with answers that will not adversely affect overall populations of wildlife, but will effectively reduce the risks to aviation safety.

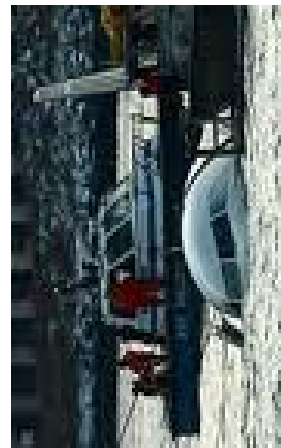
NAS Kingsville is the training home for over half of all Navy and Marine Corps jet pilots – training here in Kingsville in the Boeing T-45 single-engine jet. In 2005, a T-45 training jet crashed when it collided with a common Turkey Vulture 1.5 miles east of the airfield. Both the instructor and the student ejected safely, but the jet was a total loss. Again, in September 2007, a second T-45 training jet crashed after colliding with a group of Broad-winged Hawks 2 miles north of the airfield. Again, the student (flying a solo training mission) ejected safely. These two incidents alone over the past 5 years cost the American taxpayer almost \$50M in aircraft losses.



The Commanding Officer of NAS Kingsville is responsible for insuring the safety of both military assets and personnel. He takes this responsibility very seriously, and under his leadership, NAS Kingsville has developed one of the Navy's best and most proactive BASH programs.

In an effort to continue to be proactive about wildlife risks to aviation, NAS Kingsville would like to invite YOU to be a volunteer member of the BASH team. You can help us by reporting wildlife activity that may come into conflict with aviation activities. The USFWS (US Fish and Wildlife Service) estimates that almost 8 million birds move through this area during a single migration period. Local ornithological groups have documented over 100,000 raptors moving through the area around Hazel Bazemore Park in a single day. Information about large groups of birds moving through areas that are commonly used by aircraft is very useful to us. Timely information will allow us to avoid these areas until the threat has passed. Many of our neighbors utilize land for agriculture, livestock production or hunting activities. Proper animal carcass disposal will reduce or eliminate vulture activity. We recommend applying lime to carcass remains that cannot be buried or otherwise disposed. Lime at any hardware store costs around \$10.00 a bag and a single bag will reduce the attractant for two large cows or an entire season of deer remains. However, just being aware that there is an attractant and a general location would be useful information to NASK.

Navel Air Station Kingsville will remain one of the Navy's greatest assets long into the 21<sup>st</sup> century. This is in no small way due to the cooperation we receive from our neighbors in Kingsville and Orange Grove. We look forward to working with each of you on a regular basis.



To report bird activity that may pose threats to aviation, please call the NAS Kingsville USDA Biologist at:

(361) 516-4370.

We are here to answer any questions you may have about our BASH Program.

**FAA Reported wildlife strikes by year**

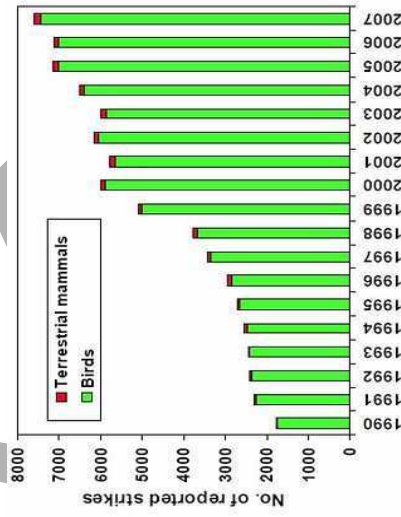


Figure 1. Number of reported bird (N = 79,972) and terrestrial mammal (N = 1,737) strikes to civil aircraft, USA, 1990-2007. Additionally, 253 and 95 strikes involving bats and reptiles, respectively, were reported for this 18-year period for a total of 82,057 strikes by all species of wildlife (see Table 1).



**NAS Kingsville  
Bird Aircraft Strike  
Hazard Program**







## NAS Kingsville Bird / Animal Aircraft Strike Hazard (BASH) Program

**NAS Kingsville** would like to introduce you to a program of record in the Navy. The program is called Bird / Animal Aircraft Strike Hazard or BASH for short. While collisions between birds and aircraft are not uncommon, the Navy, after the recent loss of aircraft, has invested a substantial amount of time and money to officially implement this program. The BASH program will allow us to mitigate the risk of catastrophic losses and repair costs while improving flight safety. The program does not focus solely on birds though, as mammals such as deer, hogs, and coyotes on runways are also a threat to aircraft.



Wildlife, however, is also one of our most valuable natural resources. Many families depend on revenue generated by these renewable natural resources. People from all walks of life often come together to enjoy nature and the wildlife therein. Protecting aircraft and the pilots who fly them, as well as wildlife and their habitat, is key to all of our efforts. It is with this mindset that the Navy approaches its BASH program.

The goal of Naval Air Station (NAS) Kingsville's BASH program is to identify and mitigate wildlife threats to aviation safety. We accomplish this while insuring that wildlife species are not adversely affected.

NAS Kingsville utilizes a multifaceted approach to minimize the risk to aircraft. As the environment and weather changes, methods that work one season may not be effective the next. Therefore, we must take an integrated approach to solving our BASH issues. This means that we must look at every element of the problem, and come up with answers that will not adversely effect overall populations of wildlife, but will



effectively reduce the risks to aviation safety and the public safety and welfare.

NAS Kingsville, using the T-45 single-engine jet, provides training for over half of all Navy and Marine Corps jet pilots. In 2005, a T-45 training jet crashed when it collided with a common Turkey Vulture 1.5 miles east of the airfield. Both the instructor and the student ejected safely, but the jet was a total loss. In September 2007, a second T-45 training jet crashed after colliding with a group of Broad-Winged Hawks 2 miles north of the airfield. Again, the student (flying a solo training mission) ejected safely but the aircraft was destroyed. These two incidents, over the past five years, cost the American taxpayer almost \$50M in aircraft losses.

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# NAS Kingsville Bird / Animal Aircraft Strike Hazard (BASH) Program

Timely reporting will allow us to avoid these areas until the threat has passed. Many of our neighbors utilize land for agriculture, livestock production or hunting activities. Proper animal carcass disposal will reduce or eliminate vulture activity. We recommend applying lime to carcass remains that cannot be buried or otherwise disposed. Lime at any hardware store costs around \$10.00 a bag and a single bag will reduce the attractant for two large cows or an entire season of deer remains. However, just being aware that there is an attractant and a general location would be useful information to NAS Kingsville.

NAS Kingsville will remain one of the Navy's greatest assets long into the 21st century. This is in no small way due to the cooperation we receive from our neighbors in Kingsville and Orange Grove. We look forward to working with each of you on a regular basis.



## NAS Kingsville

Community Planning and Liaison Officer  
Air Ops Department  
311 N. Mitscher Ave. Ste. 212  
NAS Kingsville, TX 78363-5002

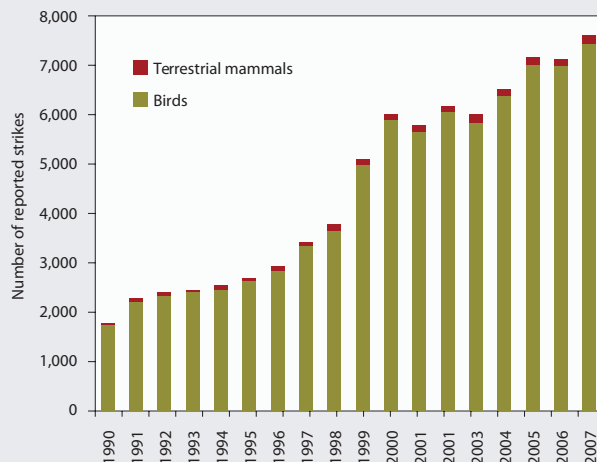
Place  
Stamp  
Here

To report bird activity that may pose threats to aviation, please call the NAS Kingsville USDA Biologist at:

**(361) 516-4370**

We are here to answer any questions you may have about our BASH Program.

**FAA Reported Wildlife Strikes by Year**



Number of Reported bird (79,972) and terrestrial mammal (1,737) strikes to civil aircraft, USA, 1990-2007. Additionally, 253 and 95 strikes involving bats and reptiles, respectively, were reported for this 18-year period for a total of 82,057 strikes by all species of wildlife.

JLUS Strategy	Responsibility / Partner
<p><b>9. Control Bird and Wildlife Attractions Near Base</b></p> <p>Work directly with local jurisdictions and other appropriate agencies to explore various methods to control bird and wildlife attractions in the immediate vicinity of the base. Potential programs/actions may include the following:</p> <ul style="list-style-type: none"> <li>Coordination with Texas A&amp;M University to develop research programs to identify characteristics of bird and wildlife species and develop safe and effective methods of deterrence from the known information.</li> <li>Development of a Points of Contact list for the installation and local entities for BASH coordination.</li> <li>Development of memorandums of understanding (MOU) or other agreements to allow Navy personnel onto private property under designated conditions and agreed procedures to perform BASH actions (i.e. use of “bird busters”)</li> <li>Coordination with NAS Kingsville and other wildlife technical advisors to review or establish appropriate deterrence methods for existing bird attractors, such as the landfill.</li> <li>A formal notification process between the City of Kingsville and NAS Kingsville in regards to the construction or expansion of bird attractor land uses, such as the expansion of the existing landfill.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>City of Kingsville</li> <li>Kleberg County</li> <li>King Ranch</li> <li>Private property owners</li> <li>Texas A&amp;M Kingsville</li> <li>Texas Commission on Environmental Quality</li> <li>U.S. Department of Agriculture</li> <li>US Fish and Wildlife</li> </ul>

## Background

Please refer to the Background information provided as part of JLUS Strategy 8.

## Steps to Implement JLUS Strategy #9

Meeting							F	Step	Actions	Responsible
1	2	3	4	5	6	O				
■								1	Review current conditions: <ul style="list-style-type: none"> <li>Committee felt that all the items contained in the strategy were currently covered. Members to review and report back at next meeting.</li> </ul>	Committee
	■							2	Committee directed that this strategy be removed from the 0-2 year timeframe since the actions specified are already being done adequately.	Committee
		■						3	Modify strategy and delete from 0-2 year timeframe and keep as an on-going activity.	Consultant

## Supporting Materials

No additional information necessary for this item.

### Results

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- Committee reviewed the bullets listed in the strategy and confirmed all are currently being implemented. Therefore, this strategy can be marked as “completed” and made an on-going activity (removed from the 0-2 year timeframe).
- City of Kingsville, NAS Kingsville, and JAZB will be actively engaged in monitoring future projects for BASH issues.

### Next Steps

---

- Review strategy on an on-going basis to ensure actions described in this strategy are being undertaken and still adequately address the issue.

JLUS Strategy	Responsibility / Partner
<p><b>10. Require Sound Attenuation for Occupied Buildings</b></p> <p>Require sound attenuation for all new occupied buildings within MIA 2 and determine the feasibility for the retrofitting of existing structures. The level of sound protection should be based on level of noise exposure and the type of land use.</p> <ul style="list-style-type: none"> <li>▪ Modify the City of Kingsville Zoning Ordinance to require an acoustical study for developments within MIA I and II. Acoustic study will provide recommendations for sound attenuation.</li> <li>▪ Require the cost of sound attenuation for new structures to be covered by the developer.</li> <li>▪ The City of Kingsville and Kleberg County shall explore the feasibility and costs associated with the development of a retrofitting program for occupied buildings within MIA 2.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>
<p><b>11. Require Appropriate Sound Attenuation for Schools</b></p> <p>For schools within MIA 2, require appropriate sound protection based on noise exposure</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>

## Background

JLUS Strategy 10 has two parts: sound attenuation for new construction and sound attenuation for existing buildings. In looking at the needs for sound attenuation, land use controls and building codes were the primary tools evaluated for modification as part of the JLUS Implementation Program.

### Land Use Controls

For new construction, many of the noise issues can be avoided by compliance with the land use guidance provided in the NAS Kingsville Air Installations Compatible Use Zones (AICUZ) study. In the area surrounding NAS Kingsville, the AICUZ is implemented uses two regulations.

- **City of Kingsville, Air Installation Zoning Regulations**
  - Applies to development within the incorporated boundaries of the City of Kingsville.
  - Sections 15-6-35 through 15-6-41 of the Air Installation Zoning Regulations of Article 6: Zoning of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas
  - This regulation, which was amended as part of the Kingsville JLUS Implementation Program (see JLUS Strategy 7, which included Ordinance 2010-09 that modified the Air Installation Zoning Regulations).
- **Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations**
  - Applies to development within the unincorporated portions of Kleberg County that are within the Controlled Compatible Land Use Area that is regulated by the Joint Airport Zoning Board (JAZB).
  - See JLUS Strategy 33 for regulation adopted as part of this Implementation Program.

**10****Require Sound Attenuation for Occupied Buildings****11****Require Appropriate Sound Attenuation for Schools*****Building Code***

For both new construction and modifications to existing structures, sound attenuation as part of a structure’s design would be handled by compliance with the appropriate Building Code.

- **City of Kingsville**

- The City uses the International Building Code (IBC) for evaluation of proposed construction. In July 2010, the City adopted Ordinance 2010-27, which modified Sections 15-1-2, 15-1-3, 15-1-6 & 15-1-12 of Article 1: Building Regulations. This ordinance was used to update the City’s Building Code by adopting the 2009 version of the IBC.
- As part of the adoption of the 2009 IBC, the City also adopted Section 15-1-3, Additions and Amendments to International Building Code. This section provides modifications and changes to the 2009 version. Changes recommended under JLUS Strategies 10 and 11 will be implemented by making further additions to this section of the City’s Code of Ordinances.

- **JAZB**

- Under the Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations (JAZB Regulations) adopted by the JAZB, the Administrative Agency responsible for the administration and enforcement of the JAZB Regulations is the City of Kingsville, Director of Development Services (see Section 4 of regulation contained under the tab for JLUS Strategy 33).
- Under Section 8, Permits, the JAZB Regulations states “All construction requiring a permit will be subject to the requirements contained in the Building Code for the City of Kingsville (Chapter 15, City of Kingsville Code of Ordinances, incorporated herein and made a part of these regulations by reference) that have been adopted as of the date of the building permit’s issuance.”

Therefore, the City of Kingsville’s Building Code is the guiding document for development in both the incorporated City as well as the unincorporated portions of Kleberg County within the Controlled Compatible Land Use Area regulated by the JAZB (see JLUS Strategy 33 for a map for this area).

In the City of Kingsville’s existing Building Code, direction on noise attenuation is limited to interior noise from adjacent users. For example, sound attenuation between adjacent apartment units. The Building Code did not include sound attenuation measures for construction occurring within the 65 decibel noise contours associated with flight operations at NAS Kingsville.

***Existing Development***

For existing development, this issue is more complex. Retrofitting an existing structure for sound attenuation can be costly when only a small renovation or expansion is planned. To address this, the proposed Building Code revision will need to define that retrofitting is only required as part of major improvements, renovations or replacements.

***Schools***

Schools were a special land use called out separately in the Kingsville JLUS for further protections. Relative to siting, the City of Kingsville does not have a site review and approval role. The final decision on selecting a school site lies with the school district. The City of Kingsville does have a role in the review and issuance of building

## Require Sound Attenuation for Occupied Buildings

10

## Require Appropriate Sound Attenuation for Schools

11

permits for new construction. In this role, enforcement of the Building Code modifications prepared under JLUS Strategy 10 will apply to this strategy as well.

### Steps to Implement JLUS Strategies #10 & 11

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■	■						1	<p>Review current building code and samples from other jurisdictions that address sound attenuation.</p> <ul style="list-style-type: none"> <li>▪ The current building code for the City of Kingsville was found to not include language for sound attenuation from exterior noise like aircraft operations.</li> <li>▪ An example of a revised building code from Virginia was presented to the committee at Meeting #2. The Committee directed that a draft revision to the building code be developed using the Virginia standards as a guide.</li> </ul>	Committee
		■					2	<p>Develop proposed revisions to City of Kingsville Building Code and submit to Committee for review. To address the two issues related to sound attenuation (new construction and changes to existing structures), two separate groups of changes were added.</p> <ul style="list-style-type: none"> <li>▪ New construction must meet the new standards set out in the revised Building Code.</li> <li>▪ Existing structures must build to the new Building Code if one of several conditions is met (see the attached revision to the building code). The conditions are included to require sound attenuation only on major changes to an existing structure in order to avoid adding significant costs to projects only proposing smaller changes.</li> </ul>	Consultant
		■					3	Review changes with Committee.	Committee
			■				4	Revise ordinance based on Committee comments .	Consultant
				■			5	Review revisions with Committee.	Committee
				■			6	Prepare building code revision for adoption (based on Committee input and input from the City of Kingsville).	Consultant
						■	7	Revise building code per final comments and submit for public hearing.	Consultant
						□	8	Public hearing / approval on building code change.	City of Kingsville

**10****Require Sound Attenuation for Occupied Buildings****11****Require Appropriate Sound Attenuation for Schools**

## Supporting Materials

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### Virginia Statewide Building Code

Attached is an example from the Virginia Universal Statewide Building Code (**Attachment 10/11-1**). Virginia amended the 2006 IBC, adding definitions, sections and tables to attenuate sound from aircraft in residential buildings. One highlight is the added table which describes the standards for airport noise attenuation, reproduced here:

Ldn (Average Sound Level)	Wall Assembly Rating	Doors and Windows Assembly Rating
65-69	39	25
70-74	44	33
75 or greater	49	38

### U.S. Navy

Further information on sound attenuation can be found in the “Guidelines for Sound Insulation of Residences Exposed to Aircraft Operations” published by the US Navy. Due to the size of the document, it is not attached to this package. This document can be downloaded online at:

[http://chppm-www.apgea.army.mil/dehe/morenoise/GuidelinesforSoundInsulationofResidencesExposedtoAircraftOperations\\_Final\\_April\\_2005.pdf](http://chppm-www.apgea.army.mil/dehe/morenoise/GuidelinesforSoundInsulationofResidencesExposedtoAircraftOperations_Final_April_2005.pdf)

## Results

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**ATTACHMENT 10/11-1**

Sample building code, Commonwealth of Virginia

**ATTACHMENT 10/11-2**

Redline / strikeout version showing proposed changes

City of Kingsville

Article 1. Building Regulations, Building Code

(F) Chapter 12, §1207.4 entitled “Interior Environment”

(G) Sound Mitigation

**ATTACHMENT 10/11-3**

Adopted ordinance

City of Kingsville

Article 1. Building Regulations, Building Code

(F) Chapter 12, §1207.4 entitled “Interior Environment”

(G) Sound Mitigation



TABLE 1017.1  
CORRIDOR FIRE-RESISTANCE RATING

OCCUPANTY	OCCUPANT LOAD SERVED BY CORRIDOR	REQUIRED FIRE-RESISTANCE RATING (hours)	
		Without sprinkler system	With sprinkler system <sup>b</sup>
H-1, H-2, H-3	All	1	1
H-4, H-5	Greater than 30	1	1
A, B, E, F, M, S, U	Greater than 30	1	0
R	Greater than 10	1	0.5
I-2 <sup>a</sup> , I-4	All	Not Permitted	0
I-1, I-3	All	Not Permitted	0

- a. For requirements for occupancies in Group I-2, see Section 407.3.  
b. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

## CHAPTER 11 ACCESSIBILITY

Add an exception to Section 1101.2 of the IBC to read:

**Exception:** Wall-mounted visible alarm notification appliances in Group I-3 occupancies shall be permitted to be a maximum of 120 inches (3048 mm) above the floor or ground, measured from the bottom of the appliance. Such appliances shall otherwise comply with all applicable requirements.

Add Section 1106.8 to the IBC to read:

**1106.8 Identification of accessible parking spaces.** In addition to complying with applicable provisions of this chapter, all accessible parking spaces shall be identified by above grade signs. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. All above grade parking space signs shall have the bottom edge of the sign no lower than 4 feet (1219 mm) nor higher than 7 feet (2133 mm) above the parking surface. All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.

Change Item 1 of Section 1110.1 of the IBC to read:

1. Accessible parking spaces required by Section 1106.1.

## CHAPTER 12 INTERIOR ENVIRONMENT

Add the following definitions to Section 1202.1 of the IBC:

**DAY-NIGHT AVERAGE SOUND LEVEL (LDN).** A 24-hour energy average sound level expressed in dBA, with a 10 decibel penalty applied to noise occurring between 10 p.m. and 7 a.m.

**SOUND TRANSMISSION CLASS (STC) RATING.** A single number characterizing the sound reduction performance of a material tested in accordance with ASTM E90-90, "Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions."

Add Section 1203.4.4 to the IBC to read:

**1203.4.4 Insect screens in occupancies other than Group R.** Every door, window and other outside opening for natural ventilation serving structures classified as other than a residential group containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human

consumption are processed, manufactured, packaged, or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device.

**Exception:** Screen doors shall not be required for out swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are provided.

Add Section 1203.4.5 to the IBC to read:

**1203.4.5 Insect screens in Group R occupancies.** Every door, window and other outside opening required for natural ventilation purposes which serves a structure classified as a residential group shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device.

Change Section 1207.1 of the IBC to read:

**1207.1 Scope.** Sections 1207.2 and 1207.3 shall apply to common interior walls, partitions and floor/ceiling assemblies between adjacent dwelling units or between dwelling units and adjacent public areas such as halls, corridors, stairs or service areas. Section 1207.4 applies to the construction of the exterior envelope of Group R occupancies within airport noise zones and to the exterior envelope of Group A, B, E, I and M occupancies in any locality in whose jurisdiction a United States Master Jet Base is located or any adjacent locality when such requirements are enforced by a locality pursuant to Section 15.2-2295 of the Code of Virginia.

Add Section 1207.4 to the IBC to read:

**1207.4 Airport noise attenuation standards.** Where the Ldn is determined to be 65 dBA or greater, the minimum STC rating of structure components shall be provided in compliance with Table 1207.4. As an alternative to compliance with Table 1207.4, structures shall be permitted to be designed and constructed so as to limit the interior noise level to no greater than 45 Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design. The alternative design shall be certified by an RDP.

Add Table 1207.4 to the IBC to read:

TABLE 1207.4  
AIRPORT NOISE ATTENUATION STANDARDS

LDN	STC OF EXTERIOR WALLS AND ROOF/CEILING ASSEMBLIES	STC OF DOORS AND WINDOWS
65-69	39	25
70-74	44	33
75 or greater	49	38

## CHAPTER 14 EXTERIOR WALLS

Change Section 1405.12.2 of the IBC to read:

**1405.12.2 Window sills.** In Occupancy Groups R-2 and R-3, one- and two-family and multiple-family dwellings, where the opening of the sill portion of an operable window is located more than 72 inches (1829 mm) above the finished grade or other surface below, the lowest part of the clear opening of the window shall be a minimum of 18 inches (457 mm) above the finished floor surface of the room in which the window is located. Glazing between the floor and a height of 18 inches (457 mm) shall be fixed or have openings such that a 4-inch (102 mm) diameter sphere cannot pass through.

**Exception:** Openings that are provided with window guards that comply with ASTM F 2006 or F 2090.

ORDINANCE NO. \_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTION 3 OF BUILDING CODE; ADDING NOISE CONTROL AND SOUND MITIGATION BASED ON AICUZ; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Sections 15-1-3 of the Building Code of Article 1: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

ARTICLE 1. BUILDING REGULATIONS

BUILDING CODE

**Sec. 15-1-3. ADDITIONS AND AMENDMENTS TO INTERNATIONAL BUILDING CODE.**

The *International Building Code*, 2009 Edition, is hereby modified and changed in the following particulars:

(A) The *International Building Code*, 2009 Edition, is hereby amended to add a section entitled "Contractors License Required" which reads:

It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or modification of buildings and structures and every builder or contractor subletting the same or any part thereof, to pay a license fee of ninety dollars (\$90.00) annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, and in case of removal from one place to another to have made corresponding change in the file accordingly. Any person convicted in Municipal Court of a violation of this code may have his license revoked for a period not to exceed two years. Such person shall be notified by certified mail addressed to his place of business, as filed, of the proposed revocation and be given an opportunity at a hearing before the governing body to present such facts and circumstances that are relevant to the case.

(B) Chapter 11, § 1103.2.2 (Existing Buildings) shall be amended by adding the following:

Section 3411 — Accessibility for the physically disabled and/or handicapped shall not be required or applied to existing buildings with the exception of major repairs or alterations or changes in occupancy class. In no case may any repair or alteration reduce the degree of compliance with Section, 3411 Appendix E, or other regulations governing handicapped access. Reduction or lessening the number of handicapped facilities or degree of access shall not be permitted unless compliance with Section 3411 and Appendix E is maintained.

(C) Chapter 1, §113, entitled “Board of Appeals” is hereby amended to read “Board of Adjustment” and shall read the same in all other references to such Board in the *International Building Code, 2009 Edition*.

(D) Chapter 1, § 113.1, entitled “Appointment,” shall hereby be amended to read:

There shall hereby be a Board of Adjustment as defined in Title XI, Chapter 6, Section 7, entitled “Board of Adjustment,” of the City Code of Kingsville, Texas, which shall be appointed as set forth therein for the terms specified.

(E) Sanitation shall be created by adding the following:

Central, common or shared sanitary facilities in multiple use buildings may be utilized to satisfy the minimum fixture requirement of the Plumbing Code for the subdivision of a building provided that the facilities are within two hundred feet, require no outside travel, and meet all code requirements. The two hundred feet shall be measured by line of travel between the entrances of the restroom and subdivision of the building. Food service businesses with a floor area larger than five hundred square feet in area must possess full public restroom for both sexes.

(F) Chapter 12, Section 1207 entitled “SOUND TRANSMISSION,” shall hereby be amended to read:

1207.1 Scope. ~~This s~~Sections 1207.1 through 1207.3 shall apply to common interior walls, partitions and floor/ceiling assemblies between adjacent dwelling units or between dwelling units and adjacent public areas such as haHs, corridors, stairs or service areas. Section 1207.4 shall apply to construction determined to be 1) partially or entirely within the 65 dBA Ldn noise contour as defined by the current NAS Kingsville Air Installations Compatible Use Zones (AICUZ) study and 2) partially or entirely classified as being in occupancy groups A, B, E, or R. If any portion of a parcel is located in a zone, the structure on the parcel shall be sound mitigated. If a structure is located in more than one noise contour, the structure shall be sound mitigated to the requirements of the higher noise contour.

1207.4 Airport noise attenuation standards.

1. New Construction. New construction meeting the requirements stated in Section 1207.1 shall be designed with the minimum STC rating of the structure's components provided in compliance with Table 1207.4 and shall be designed to achieve an interior noise level no greater than 45 dBA Ldn.
2. Modification of an Existing Structure. Any modification of an existing structure that requires a building permit and meets the requirements stated in Section 1207.1 shall be designed to meet the requirements stated in Table 1207.4 (or Alternative Design Techniques as defined above) for the entire building (or buildings) if the following conditions are determined to exist:
  - Any remodeling or renovation activities that involve more than 50% of a structure's occupied space.
  - Any remodeling or renovation activities that have a construction value of greater than 50% of the structure's current market value;
3. Standard Noise Attenuation Standards. Structures subject to the requirements of this section shall meet the requirements of Table 1207.4 and achieve an interior noise level not to exceed 45 dBA Ldn.

**TABLE 1207.4**

**AIRPORT NOISE ATTENUATION STANDARDS**

<u>dBA LDN</u>	<u>STC OF EXTERIOR WALLS AND ROOF/CEILING ASSEMBLIES</u>	<u>STC OF DOORS AND WINDOWS</u>
<u>65-69</u>	<u>39</u>	<u>25</u>
<u>70-74</u>	<u>44</u>	<u>33</u>
<u>75 or greater</u>	<u>49</u>	<u>38</u>

4. Alternative Design Techniques. As an alternative to compliance with Table 1207.4, structures shall be permitted to be designed and constructed using alternative techniques and materials designed to result in an interior noise level no greater than 45 dBA Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design for purposes of noise attenuation. The alternative design shall be certified by an acoustic engineer or other expert determined to have acceptable expertise by the City Engineer to result in an interior noise level to no greater than 45 dBA Ldn.
5. Plans Required. Plans shall be signed and sealed by an engineer licensed in Texas with a proficiency in residential sound mitigation or

noise control. The engineer shall note on the building plans: "The building design is capable of achieving the required noise level reduction." A notice recorded with the Kleberg County Recorder shall be submitted with the plans at time of permit application. The notice shall state that the property is within an airport noise impact area. The recorded document shall be on a form approved by the City Attorney's Office.

6. Airport Sound Mitigation Observation: The engineer of record is responsible for verifying that the construction meets the sound mitigation requirements for the noise contour in which the structure has been constructed. An Airport Sound Mitigation Certificate that has been signed and sealed by the engineer of record shall be present at the time of final inspection. The engineer shall note: "The structure as constructed complies with the noise level reduction requirements for the noise contour in which the structure has been constructed." The certificate shall be retained by the City of Kingsville Engineering Department's records section for the life of the building.

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the \_\_\_\_ day of \_\_\_\_\_, 2010.

PASSED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Edna S. Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

DRAFT

Please see the next page.

DRAFT



ORDINANCE NO. \_\_\_\_\_

**AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, ARTICLE 1, BUILDING REGULATIONS, SECTION 3 OF BUILDING CODE; ADDING NOISE CONTROL AND SOUND MITIGATION BASED ON AICUZ; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Sections 15-1-3 of the Building Code of Article 1: Building Regulations of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

ARTICLE 1. BUILDING REGULATIONS

BUILDING CODE

**Sec. 15-1-3. ADDITIONS AND AMENDMENTS TO INTERNATIONAL BUILDING CODE.**

The *International Building Code*, 2009 Edition, is hereby modified and changed in the following particulars:

(A) The *International Building Code*, 2009 Edition, is hereby amended to add a section entitled "Contractors License Required" which reads:

It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or modification of buildings and structures and every builder or contractor subletting the same or any part thereof, to pay a license fee of ninety dollars (\$90.00) annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, and in case of removal from one place to another to have made corresponding change in the file accordingly. Any person convicted in Municipal Court of a violation of this code may have his license revoked for a period not to exceed two years. Such person shall be notified by certified mail addressed to his place of business, as filed, of the proposed revocation and be given an opportunity at a hearing before the governing body to present such facts and circumstances that are relevant to the case.

(B) Chapter 11, § 1103.2.2 (Existing Buildings) shall be amended by adding the following:

Section 3411 — Accessibility for the physically disabled and/or handicapped shall not be required or applied to existing buildings with the exception of major repairs or alterations or changes in occupancy class. In no case may any repair or alteration reduce the degree of compliance with Section, 3411 Appendix E, or other regulations governing handicapped access. Reduction or lessening the number of handicapped facilities or degree of access shall not be permitted unless compliance with Section 3411 and Appendix E is maintained.

(C) Chapter 1, §113, entitled “Board of Appeals” is hereby amended to read “Board of Adjustment” and shall read the same in all other references to such Board in the *International Building Code, 2009 Edition*.

(D) Chapter 1, § 113.1, entitled “Appointment,” shall hereby be amended to read:

There shall hereby be a Board of Adjustment as defined in Title XI, Chapter 6, Section 7, entitled “Board of Adjustment,” of the City Code of Kingsville, Texas, which shall be appointed as set forth therein for the terms specified.

(E) Sanitation shall be created by adding the following:

Central, common or shared sanitary facilities in multiple use buildings may be utilized to satisfy the minimum fixture requirement of the Plumbing Code for the subdivision of a building provided that the facilities are within two hundred feet, require no outside travel, and meet all code requirements. The two hundred feet shall be measured by line of travel between the entrances of the restroom and subdivision of the building. Food service businesses with a floor area larger than five hundred square feet in area must possess full public restroom for both sexes.

(F) Chapter 12, Section 1207 entitled “SOUND TRANSMISSION,” shall hereby be amended to read:

1207.1 Scope. Sections 1207.1 through 1207.3 shall apply to common interior walls, partitions and floor/ceiling assemblies between adjacent dwelling units or between dwelling units and adjacent public areas such as haHs, corridors, stairs or service areas. Section 1207.4 shall apply to construction determined to be 1) partially or entirely within the 65 dBA Ldn noise contour as defined by the current NAS Kingsville Air Installations Compatible Use Zones (AICUZ) study and 2) partially or entirely classified as being in occupancy groups A, B, E, or R. If any portion of a parcel is located in a zone, the structure on the parcel shall be sound mitigated. If a structure is located in more than one noise contour, the structure shall be sound mitigated to the requirements of the higher noise contour.

1207.4 Airport noise attenuation standards.

1. **New Construction.** New construction meeting the requirements stated in Section 1207.1 shall be designed with the minimum STC rating of the structure's components provided in compliance with Table 1207.4 and shall be designed to achieve an interior noise level no greater than 45 dBA Ldn.
2. **Modification of an Existing Structure.** Any modification of an existing structure that requires a building permit and meets the requirements stated in Section 1207.1 shall be designed to meet the requirements stated in Table 1207.4 (or Alternative Design Techniques as defined above) for the entire building (or buildings) if the following conditions are determined to exist:
  - Any remodeling or renovation activities that involve more than 50% of a structure's occupied space.
  - Any remodeling or renovation activities that have a construction value of greater than 50% of the structure's current market value;
3. **Standard Noise Attenuation Standards.** Structures subject to the requirements of this section shall meet the requirements of Table 1207.4 and achieve an interior noise level not to exceed 45 dBA Ldn.

**TABLE 1207.4**

**AIRPORT NOISE ATTENUATION STANDARDS**

<b>dBA LDN</b>	<b>STC OF EXTERIOR WALLS AND ROOF/CEILING ASSEMBLIES</b>	<b>STC OF DOORS AND WINDOWS</b>
65-69	39	25
70-74	44	33
75 or greater	49	38

4. **Alternative Design Techniques.** As an alternative to compliance with Table 1207.4, structures shall be permitted to be designed and constructed using alternative techniques and materials designed to result in an interior noise level no greater than 45 dBA Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design for purposes of noise attenuation. The alternative design shall be certified by an acoustic engineer or other expert determined to have acceptable expertise by the City Engineer to result in an interior noise level to no greater than 45 dBA Ldn.
5. **Plans Required.** Plans shall be signed and sealed by an engineer licensed in Texas with a proficiency in residential sound mitigation or

noise control. The engineer shall note on the building plans: "The building design is capable of achieving the required noise level reduction." A notice recorded with the Kleberg County Recorder shall be submitted with the plans at time of permit application. The notice shall state that the property is within an airport noise impact area. The recorded document shall be on a form approved by the City Attorney's Office.

6. Airport Sound Mitigation Observation: The engineer of record is responsible for verifying that the construction meets the sound mitigation requirements for the noise contour in which the structure has been constructed. An Airport Sound Mitigation Certificate that has been signed and sealed by the engineer of record shall be present at the time of final inspection. The engineer shall note: "The structure as constructed complies with the noise level reduction requirements for the noise contour in which the structure has been constructed." The certificate shall be retained by the City of Kingsville Engineering Department's records section for the life of the building.

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the \_\_\_\_ day of \_\_\_\_\_, 2010.

PASSED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Sam R. Fugate, Mayor

ATTEST:

\_\_\_\_\_  
Edna S. Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

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Please see the next page.

DRAFT

**JLUS Strategy 11, Require Appropriate Sound Attenuation for Schools**, was grouped and presented with JLUS Strategy 10 since it dealt with related issues.

Please refer to the information provided under Tab 10.

# 11

## Require Appropriate Sound Attenuation for Schools

*Please see the next page.*



JLUS Strategy	Responsibility / Partner
<p><b>12. Code Enforcement Relative to Compatibility Concerns</b></p> <p>Pursue correction of code violations that impact operations at NAS Kingsville, including vertical height obstructions, light and glare issues, dust and debris, and bird and wildlife attractions.</p> <p>It shall be the responsibility of NAS Kingsville to identify issue areas outside the installation boundaries where conditions exist that endanger operations, and to provide notification to the appropriate local jurisdiction or agency.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>

## Background

There are two parts that need to occur to help relieve compatibility concerns.

- City of Kingsville to create a code violation form and make it available via the City website.
- NAS Kingsville to submit completed forms to City Code Enforcement Department, as needed, detailing the specifics of how the violation is out of compliance and the impacts that the non-compliance can have on military operations. This will be an on-going activity.

As established in JAZB Regulations (JLUS Strategy 33), the Administrative Agency responsible for the administration and enforcement of the JAZB Regulations is the City of Kingsville, Director of Development Services (see Section 4 of regulation contained under the tab for JLUS Strategy 33). Therefore, code compliance issues in the unincorporated portions of the Controlled Compatible Land Use Area will be handled by staff from the Administrative Agency (City of Kingsville).

A specific area of concern that was discussed with the Committee is the practice of prescribed agricultural burns. During the Committee meetings, NAS Kingsville personnel stated that these burns had not been a significant concern. Coordination with land owners prior to major burns is desirable, and will be handled as part of normal community outreach.

Currently, the Texas Administrative Code, Title 30, Section 111.219.3, states that:

Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).

See also JLUS Strategy 35, Mitigate Dust / Visibility Issues from Agricultural Burning.

### Steps to Implement JLUS Strategy #12

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
				■			1	Ensure installation CPLO or other identified point of contact is aware of how to submit a code compliance issue. Information at: <a href="http://www.cityofkingsville.com/codeenforcement.aspx">http://www.cityofkingsville.com/codeenforcement.aspx</a> .	City of Kingsville NAS Kingsville
						□	2	NAS Kingsville to submit code compliance issues on an as needed basis. These will be addressed by: <ul style="list-style-type: none"> <li>■ City of Kingsville (inside City limits)</li> <li>■ Administrative Agency (unincorporated Kleberg County inside of Controlled Compatible Land Use Area)</li> <li>■ Other unincorporated portions of Kleberg County will be addressed with Kleberg County</li> <li>■ Texas Commission on Environmental Quality can also be used as a contact for issues relative to outdoor burning or other air emissions creating visible particulate matter</li> </ul>	NAS Kingsville

### Supporting Materials

- Texas Administrative Code, Title 30, Chapter 111, Subchapter B: Outdoor Burning Sections 111.201, 111.203, 111.205, 111.207, 111.209, 111.211, 111.213, 111.215, 111.219, 111.221 <http://www.tceq.state.tx.us/assets/public/legal/rules/rules/pdflib/111b.pdf>
- *Outdoor Burning in Texas, Field Operations*, Texas Commission on Environmental Quality [http://www.tceq.state.tx.us/comm\\_exec/forms\\_pubs/pubs/rg/rg-049.html/at\\_download/file](http://www.tceq.state.tx.us/comm_exec/forms_pubs/pubs/rg/rg-049.html/at_download/file)

### Results

- Established code compliance capabilities inside of the Controlled Compatible Land Use Area (under JLUS Strategy 33).

JLUS Strategy	Responsibility / Partner
<p><b>13. Develop Kingsville CIP</b></p> <p>Adequate infrastructure is critical for continued operation of NAS Kingsville and continued growth for the region. Develop a CIP for the City that covers a minimum of five (5) years of projected infrastructure projects (identify projects out for a 20-year timeframe).</p> <p>Components of the CIP should include the following:</p> <ul style="list-style-type: none"> <li>▪ Incorporate land use compatibility planning concepts into CIPs for infrastructure extensions and improvements.</li> <li>▪ Insert language into the CIP to notify the installation of any proposed new or expanding infrastructure plans that may impact the base.</li> <li>▪ Identify sources of funding for local road maintenance as development and population grows.</li> <li>▪ Ensure transportation enhancement projects and land use developments contributing traffic to primary roadways serving NAS Kingsville are appropriate to maintain City and County Level of Service standards.</li> <li>▪ NAS Kingsville, OEA, and the Department of Defense should work with local agencies to assist in funding for infrastructure enhancements and maintenance needed to address mission changes.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> <li>▪ Kingsville Independent School District</li> <li>▪ South Texas Water Authority</li> <li>▪ Texas Department of Transportation (TXDOT)</li> <li>▪ Texas Water Development Board</li> </ul>

## Background

Following discussions with the City and NAS Kingsville, the purpose of this strategy was refined to address the infrastructure needs of the installation. In working with the Committee on this strategy, the focus was on providing needed infrastructure capabilities to the installation relative to water and wastewater treatment, and a coordinated effort on storm drainage impacting the northern edge of the installation.

In discussions with the City of Kingsville, it was felt that infrastructure systems in place now (or currently planned) would be adequate to address development needs foreseen for the next five years. Water conveyance and pressure are considered appropriate as is waste water capacity. Roadway systems are considered adequate, and additional capacity can be provided as development east of Highway 77 is proposed (and can be added as a condition of approval for future projects).

Storm drainage issues for the City of Kingsville, Kleberg County and NAS Kingsville are all related to a disruption of natural drainage that was caused by Texas Department of Transportation at a crossing with Highway 77. Water flows have been diverted from normal paths for a few years, but are planned for correction in the short-term. When this happens, flows to the creek running east-west from Highway 77 to the northern boundary of NAS Kingsville will be reestablished. Debris and other blockage that has built up in the creek bed over time may cause blockage and localized flooding of adjacent areas once drainage is returned to its normal course.

In developing the CIP, caution must be taken to ensure that infrastructure improvements do not create additional capacity that will encourage incompatible development.

# 13

## Develop Kingsville CIP

### Steps to Implement JLUS Strategy #13

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
		■	■	■			1	Conduct meetings with the City of Kingsville and NAS Kingsville to define infrastructure needs relevant to the installation.	City of Kingsville NAS Kingsville Consultant
			■	■			2	Provide a report on these meetings and the content of the CIP to the Committee.	Consultant
						■	3	Prepare draft CIP for review with the City and NAS Kingsville.	Consultant
						□	4	Present CIP to JAZB.	Staff
						□	5	Present CIP to City Planning & Zoning Commission.	Staff
						□	6	Present CIP to Kleberg County Commissioner's Court.	Staff
						□	7	The City of Kingsville, Kleberg County and NAS Kingsville shall work together to implement the CIP.	City of Kingsville Kleberg County NAS Kingsville

### Supporting Materials

No additional information necessary for this item.

### Results



#### ATTACHMENT 13-1

Conceptual CIP – Project Descriptions and Costs



#### ATTACHMENT 13-2

Conceptual CIP – Project Locations

### Next Steps

As identified on the Steps to Implement JLUS Strategy #13, above, the next steps include presentation of these projects to the JAZB, City of Kingsville and Kleberg County. As details on each project are being developed by NAS Kingsville and the impacted jurisdictions at the time of this Implementation Program, decisions on the routes and connections needed have not been made. The information presented here provides a starting point for planning, but additional site specific work will be needed to refine the projects to fit actual needs.

JLUS Strategy	Responsibility / Partner
<p><b>14. Develop Regional Infrastructure Plan</b></p> <p>Develop a regional infrastructure plan for new and expanding infrastructure as well as on-going maintenance needs for those infrastructure systems. Pertinent topics include the I-69 Route, local infrastructure needs, new and expanded infrastructure to meet mission changes at NAS Kingsville.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> <li>▪ Kingsville Independent School District</li> <li>▪ South Texas Water Authority</li> <li>▪ Texas Commission on Environmental Quality (TCEQ)</li> <li>▪ Texas Department of Transportation (TXDOT)</li> <li>▪ Texas Water Development Board</li> </ul>

This strategy was not designated as a short-term program in the Kingsville JLUS, and was therefore not covered in the scope of this initial implementation effort. This strategy will be pursued in the future as needed.

14

Develop Regional  
Infrastructure Plan

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>15. Establish JLUS Implementation Board</b></p> <p>Establish a JLUS Implementation Board comprised of local decision makers, installation personnel, resource managers, and stakeholders to uphold and enforce the strategies and tools developed through the JLUS Program. Coordination between all entities shall focus on the implementation of the JLUS recommendations.</p> <ul style="list-style-type: none"> <li>▪ The JLUS Implementation Board shall be formed immediately after adoption of the JLUS, with a formal board in place no later than one year after such adoption.</li> <li>▪ An initial action of this board shall be to develop a formal communication process between the City of Kingsville, Kleberg County and NAS Kingsville to ensure all entities have the necessary information needed to make informed planning and/or operational decisions. To the extent possible, information collaboratively shared shall include updates to local plans and development policies; housing needs and availability; and other changes that may affect the sustainability for local communities or the installation.</li> <li>▪ The JLUS Implementation Board shall utilize all available encroachment and compatibility resources, where possible, in order to keep informed on current best practices and compatibility issues.</li> <li>▪ The JLUS Implementation Board shall meet on a regular basis as agreed to by the Board.</li> <li>▪ The JLUS Implementation Board should actively pursue funding from OEA or other DOD sources to implement the recommendations of this study.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ Economic Development Council (EDC) / Chamber of Commerce</li> <li>▪ Kingsville Independent School District</li> <li>▪ Texas A&amp;M University-Kingsville</li> </ul>

## Background

Prior to the first meeting, the City of Kingsville and Kleberg County worked together to establish a list of potential members for the JLUS Implementation Board (Committee). The membership was comprised of representatives of the jurisdictions and organizations involved in the Kingsville JLUS and additional members as appropriate.

## Steps to Implement JLUS Strategy #15

Meeting							F O	Step	Actions	Responsible
1	2	3	4	5	6					
								1	Establish initial Committee list (action occurred before the first meeting).	City of Kingsville Kleberg County
■								1	Review Committee composition and ask Committee members for recommendations for additional members. <ul style="list-style-type: none"> <li>▪ The Committee requested that a representative from Texas A&amp;M University-Kingsville be invited to join.</li> </ul>	Committee
	■							2	Consulted with Texas A&M University-Kingsville on nominating a member to the Committee.	Texas A&M University-Kingsville
	■							3	New member from Texas A&M University-Kingsville approved by Committee (Marilynn Fowlet).	Committee

Supporting Materials

No additional information necessary for this item.

Results

- As the group established was advisory in nature, the use of the word “Board” was seen as overstating the scope of the group. The official term used was the JLUS Implementation Committee, or just Committee. Accordingly, the group was renamed and the strategy was modified to reflect this change.

<p><b>15. Establish JLUS Implementation <del>Board</del>Committee</b></p> <p>Establish a JLUS Implementation <del>Board</del>Committee comprised of local decision makers, installation personnel, resource managers, and stakeholders to uphold and enforce the strategies and tools developed through the JLUS Program. Coordination between all entities shall focus on the implementation of the JLUS recommendations.</p> <ul style="list-style-type: none"> <li>The JLUS Implementation <del>Board</del>Committee shall be formed immediately after adoption of the JLUS, with a formal board in place no later than one year after such adoption.</li> <li>An initial action of this board shall be to develop a formal communication process between the City of Kingsville, Kleberg County and NAS Kingsville to ensure all entities have the necessary information needed to make informed planning and/or operational decisions. To the extent possible, information collaboratively shared shall include updates to local plans and development policies; housing needs and availability; and other changes that may affect the sustainability for local communities or the installation.</li> <li>The JLUS Implementation <del>Board</del>Committee shall utilize all available encroachment and compatibility resources, where possible, in order to keep informed on current best practices and compatibility issues.</li> <li>The JLUS Implementation <del>Board</del>Committee shall meet on a regular basis as agreed to by the Board.</li> <li>The JLUS Implementation <del>Board</del>Committee should actively pursue funding from OEA or other DOD sources to implement the recommendations of this study.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>City of Kingsville</li> <li>Kleberg County</li> <li>NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>Economic Development Council (EDC) / Chamber of Commerce</li> <li>Kingsville Independent School District</li> <li>Texas A&amp;M University-Kingsville</li> </ul>
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The initial Committee was established in mid-2009 prior to the first Committee meeting and was reviewed and modified by the Committee members. The following is the membership of the Committee (listed alphabetically):

- **Emilio Castro**  
KISD Superintendent
- **Ken Clark**  
*Director of Development Services, City of Kingsville*
- **Judge Pete De La Garza**  
Kleberg County Judge
- **Dave Delaney**  
King Ranch
- **Marilynn Fowlet**  
Texas A & M Kingsville
- **Sam Fugate**  
Mayor, City of Kingsville
- **Al Garcia**  
Mayor Protem, City of Kingsville
- **Glenn Jones**  
Community Plans & Liaison Officer (CPL), NAS Kingsville
- **Lt. Jody Kite**  
NAS Kingsville
- **Commissioner David Rosse**  
Kleberg County Commissioner, Precinct 1
- **Captain Philip L. Waddingham**  
Commanding Officer, NAS Kingsville
- **Carlos Yerena**  
City Manager, City of Kingsville

***Thank You***

The City of Kingsville City Commissioners, Kleberg County Commissioners Court members and the leadership of NAS Kingsville would like to thank the Committee members for all their efforts in addressing compatibility issues in the region.

15

## Establish JLUS Implementation Board (Committee)

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>16. Develop and Distribute Public Education Materials</b></p> <p>NAS Kingsville shall develop and distribute public education materials providing information on the installation’s AICUZ program, land use, noise, safety, and operational overviews, and the ability to take public comments.</p> <ul style="list-style-type: none"> <li>▪ Printed summaries on these issues should be provided to local jurisdictions within the study area for staff education and as a handout to the public</li> <li>▪ Information on these topics should be provided on the publicly available part of the installation’s internet site</li> <li>▪ NAS Kingsville shall provide timely updates as key information changes to ensure local jurisdictions, agencies, and the public are informed on current mission requirements and operations</li> <li>▪ Potential to use Kingsville Independent School District cable television – Channel 18</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ Kingsville Independent School District</li> </ul>

## Background

Like the BASH program, public education is a key to developing long-term support and success for implementing the JLUS program recommendations. At the start of the Implementation Program, the entities involved had access to a summary brochure for the Kingsville JLUS. As the Implementation Program developed, the Committee felt it was necessary to have information available to the public that described the key actions; especially the Joint Airport Zoning Board (JAZB) and its regulations (see JLUS Strategy 33 for more information).

## Steps to Implement JLUS Strategy #16

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■	■	■					1	Discuss existing educational materials and efforts. <ul style="list-style-type: none"> <li>▪ NAS Kingsville stated that they may have some materials that could be updated. Installation staff said they would work with the Public Affairs Office to find materials and provide updates.</li> </ul>	Committee
					■		2	NAS Kingsville provided draft text for an updated BASH brochure. Committee approved revised text for use with program.	Committee
					■		3	Discuss with Committee how brochures will be distributed.	Committee
						■	4	Work with City of Kingsville and NAS Kingsville on the final content of the Compatible Regional Growth brochure.	City of Kingsville NAS Kingsville Consultant
						■	5	Finalize and print Compatible Regional Growth brochure.	Consultant
						□	6	Distribute the brochure.	City of Kingsville, Kleberg County, NAS Kingsville

## Supporting Materials

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- Draft text for updated BASH brochure
- Compatibility brochure from NAS Forth Worth

## Results

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### **ATTACHMENT 16-1**

#### *Compatibility Planning at a Regional Level*

This brochure provided an overview of NAS Kingsville, the importance of the installation to the region, the need for compatibility planning efforts, the Kingsville JLUS and key compatibility issues identified in this document, and an overview of the Joint Airport Zoning Board (JAZB).



### **ATTACHMENT 16-2**

#### *Kingsville-Kleberg JAZB, Land Use Compatibility Guide*

The Kingsville-Kleberg JAZB provides zoning regulations within the unincorporated portions of Kleberg County that are located within the Controlled Compatible Land Use Area (see map as part of Attachment 16-3), and establishes regulations for three types of compatibility issues associated with flight operations at NAS Kingsville: safety zones, aircraft noise, and vertical obstructions. This brochure provides an overview of the JAZB adopted Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations (see JLUS Strategy 33).



### **ATTACHMENT 16-3**

#### *Figure 1 – NAS Kingsville Compatible Land Use Zoning Map*

The JAZB adopted (as part of JLUS Strategy 33) this figure as part of their Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations. This map provides the location of land use and hazard zones that are used to guide the JAZB's land use decisions. This map was provided as a separate sheet to allow updates over time.



### **ATTACHMENT 16-4**

#### *NAS Kingsville Bird / Animal Aircraft Strike Hazard (BASH) Program*

This item was designed to be a tri-fold mailer that could be distributed to land owners near NAS Kingsville. The brochure provides an overview of the BASH program, the reasons this is a concern for operations at the base, and information on who to contact for more information or for help in controlling this issue on their property.



# *Compatibility Planning at a Regional Level*

*NAS Kingsville*



# NAS Kingsville

Commissioned on July 4, 1942, the primary mission of NAS Kingsville is to train tactical jet pilots for the Navy and Marine Corps. The installation is one of the principal locations for primary, elementary and advanced flight training, and conducts over 225,000 air operations annually, with a 10 percent increase in pilot production projected through 2010. The installation's training mission is supported by Training Air Wing Two and its two Advanced Jet Training Squadrons (VT-21 "Redhawks" and VT-22 "Golden Eagles"). VT-21 and VT-22 conduct strike jet training for student naval aviators, and VT-21 was the first squadron in the Navy to receive the new "Goshawk" T-45 Training System. Both of these squadrons are noted for their extensive and distinguished service in the US Navy. Maintenance personnel to service these units are also located at the installation. In addition to these two squadrons, NAS Kingsville hosts other organizations, such as the US Border Patrol and various installation support services.

Economically, the impact of the installation to the City of Kingsville, Kleberg County and the surrounding region is significant. In 2010, the installation will generate 1,821 direct jobs, which includes 597 military personnel along with 1,224 civilians and contractors. Construction at the installation in 2010 will add an additional 293 temporary jobs to the area economy. When factoring in military and civilian payroll, local procurement, and contract services, the installation will add \$235 million to the area economy during 2010. These expenditures will in turn generate another \$223 million in sales with businesses and other organizations in the Kingsville area. Combined, NAS Kingsville is projected to generate an estimated annual impact to the local economy of \$458 million in 2010. (*Source: A Report of the Annual Economic Impact During Fiscal Year 2010 of Naval Air Station Kingsville, December 2009*).

# Compatibility Planning

There are many positive interactions among local jurisdictions, agencies, and the military; however, the activities and actions of one entity can also pose unintended negative impacts on another, resulting in conflicts. As jurisdictions develop and expand in response to growth and market demands, land use approvals have the ability to locate urban development within proximity of military installations and operational / training areas. This can initiate new or amplify existing land use and other compatibility issues, often referred to as encroachment. Encroachment can have negative impacts on community safety and economic development, as well as the sustainment of military activities and readiness.

*The Kingsville JLUS was completed in April 2008. Following completion, stakeholders in the region engaged in efforts to implement the actions described in the JLUS, which included the creation of a Joint Airport Zoning Board (JAZB).*

Recognizing the close relationship that exists between an installation and its surrounding region, the Department of Defense, through the Office of Economic Adjustment (OEA), developed the Joint Land Use Study (JLUS) program. Its objective is to address existing and future conflicts and to enhance communication and coordination among all affected stakeholders. Although a JLUS is primarily funded by a grant from OEA, it is produced by, and for, local stakeholders.

The JLUS planning process is accomplished through the collaborative efforts of a comprehensive group of stakeholders in a defined study area. These stakeholders include local, state, and federal officials; residents and landowners; business representatives; Native American tribal governments; and the military. By working together, these stakeholders can identify current and future compatibility issues, discuss existing plans and programs, and identify compatible land use and management strategies and actions. These strategies and actions can be applied by the various stakeholders in the areas adjacent to military installations and use areas to help prevent or reduce encroachment issues associated with current and future military missions and local growth.

# Compatibility Issues

A number of factors influence whether community, agency and military plans, programs, and activities are compatible or in conflict. As part of the JLUS, current and potential compatibility factors were identified. These compatibility factors are divided into three broad categories: man-made, natural resources, and competition for scarce resources.

## Man-Made

- Land Use
- Safety Zones
- Vertical Obstruction
- Local Housing Availability
- Infrastructure Extensions
- Anti-Terrorism / Force Protection
- Noise
- Dust, Smoke and Steam
- Light and Glare
- Alternative Energy Development
- Frequency Spectrum Impedance and Interference
- Legislative Initiatives
- Interagency Coordination

## Natural Resources

- Water Quality / Quantity

## Competition for Scarce Resources

- Land, Air, and Sea Spaces
- Ground Transportation Capacity

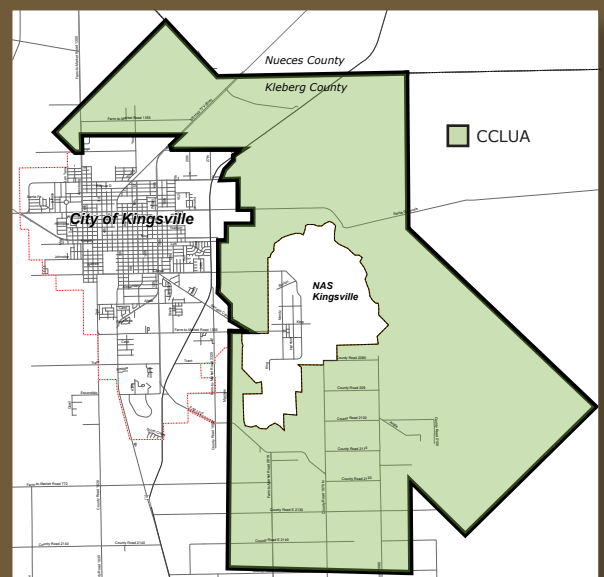
# Addressing Compatibility

To proactively address current and potential compatibility issues, the JLUS proposed a range of strategies (actions) that would be accomplished by the City of Kingsville, Kleberg County, NAS Kingsville, and other agencies and organizations. These actions range from enhanced communications and coordination to development of a Joint Airport Zoning Board (JAZB) associated with land use and hazard planning (see sidebar to right).

# Joint Airport Zoning Board

In order to provide for appropriate future growth around NAS Kingsville, while maintaining compatibility with current and potential future flight operations and other mission requirements, a system to guide future land use in the unincorporated portions of Kleberg County near the airfield was needed. The creation of a Joint Airport Zoning Board (JAZB), as authorized by Chapter 241 (Municipal and County Zoning Authority around Airports) of the Texas Local Government Code provides the set of tools needed to enhance compatibility planning and guide future development near NAS Kingsville.

The Kingsville-Kleberg JAZB was established by resolutions adopted by the City of Kingsville and Kleberg County. As originally approved, the JAZB is composed of five appointed members; two appointed by the City of Kingsville, two appointed by Kleberg County and one at-large member appointed by the other JAZB members. The JAZB has the authority to adopt, administer and enforce regulations designed to address airport hazard areas and establish land use zoning regulations within an area referred to as the Controlled Compatible Land Use Area (CCLUA). Based on guidance provided in State law, the CCLUA is defined as those portions of unincorporated Kleberg County that are located outside of the NAS Kingsville boundaries and within a shape bounded by lines that are 1.5 miles from the centerline of the outer runway and lines located 5 miles from the end of each runway. Based on the four runways at NAS Kingsville, the adopted CCLUA is illustrated below. Within this area, the JAZB also has the authority to review building permits.





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# Kingsville-Kleberg JAZB Land Use Compatibility Guide

Chapter 241 of the Texas State Local Government Code gives a municipality or county authority to regulate land use within a designated airport hazard area. This is done through the creation of a Joint Airport Zoning Board (JAZB) that is appointed by a primary jurisdiction in partnership with another agency or jurisdiction to work jointly. The code details the board as having the authority to adopt, administer, and, when necessary, enforce land use to ensure public safety and compatibility. The purpose of the JAZB is to promote compatibility between a military installation and its surrounding communities to preserve both current and future operational sustainability of the military mission, while also ensuring the public health, safety, and welfare of nearby residents.

The Kingsville-Kleberg JAZB regulates and restricts the height of structures and objects of natural growth, as well as regulates the use of property in the vicinity of NAS Kingsville by creating the appropriate land use zones, airport and hazard overlay zones and establishing the boundaries for each specific zone. The JAZB also provides restrictions for each zone and the enforcement of such restrictions. The JAZB is composed of five appointed members; two appointed by the City of Kingsville, two appointed by Kleberg County and one at-large member.

The Kingsville-Kleberg JAZB provides zoning regulations within the unincorporated portions of Kleberg County that are located within the controlled compatible land use area, and establishes regulations for three types of compatibility issues associated with flight operations at NAS Kingsville: Safety zones, aircraft noise, and vertical obstructions.

## JAZB Zoning Designations

The land within the Controlled Compatible Land Use Area is divided into nine zoning districts. Establishment of these zoning regulations within the Controlled Compatible Land Use Area will allow the JAZB to regulate land uses in areas where incompatible development could occur that would interfere with military operations at NAS Kingsville. More information on the zoning designations can be found in the NAS Kingsville Compatible Land Use and Hazard Zoning Regulations Ordinance.

The zoning districts established by the JAZB are:

AG – Agricultural District	C2 – Retail District
R1 – Single Family District 1	I1 – Light Industrial District
R2 – Two Family District 2	I2 – Heavy Industrial District
R3 – Multi-Family District 3	NAS – NAS Kingsville District
C1 – Neighborhood Service District	

## Safety Zones

The aircraft safety zones are areas of land that extend past the runways where aircraft accidents are most likely to occur. There are three levels of aircraft safety zones depending on proximity to the runway. The further away from the runway, the less likely an accident is to occur, and fewer amounts of land restrictions are needed to protect public ground uses in the event of an accident. The three levels of aircraft safety zones are as follows:

**Clear Zone (CZ)** – High crash potential area that extends directly beyond the end of the runway and outward along the extended runway center line for a distance of 3,000 feet. The Clear Zone is 1,500 feet in width at the threshold of the runway and 2,284 feet in width at the outer edge.

**Accident Potential Zone I (APZ I)** - The land area 3,000 feet wide and 5,000 feet long centered on each runway, immediately beyond the clear zone, which possesses significant potential for accidents. The APZ I for NAS Kingsville is curved, conforming to the predominate flight tracks associated with the runways.

**Accident Potential Zone II (APZ II)** - The land area 3,000 feet wide and 7,000 feet long centered beyond the APZ I, which is less critical than APZ I but still possess potential for accidents. APZ II also curves to conform to the primarily used flight track at NAS Kingsville.

## Aircraft Noise Contour Zones

Noise contours are areas in which a certain amount of noise is generated. These contours are usually measured in increments of 5 dB, starting from 80-85 dB and going to 65-69 dB. 65 dB is considered the threshold of noise that will generally receive complaints from ground users, or could negatively affect quality of life or public health, safety and welfare. An aircraft noise zone is any area of land or water between designated noise contours on a noise exposure map where an incompatible use might be established if not prevented. Generally, noise-sensitive uses that can be negatively impacted by noise levels greater than 65 dB include residential, churches, schools, and certain commercial or recreational uses.

## Vertical Controls

A vertical obstruction is defined as any structure, growth or object, including a mobile object, which exceeds a specific height in relation to its distance from the runway, or other aircraft operational areas, and can pose safety concerns for pilots.

# Kingsville-Kleberg JAZB - Land Use Compatibility Guide

	JAZB Zoning Designations									Safety Zones			Aircraft Noise Contour Zones				Vertical Controls
	AG	R1	R2	R3	C1	C2	I1	I2	NAS	CZ	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB	80-85 dB	Height Restrictions
<b>Residential (Note 1)</b>																	
1 Single units; detached; <= 2 du/ac																	Under 50' allowed. > 50' requires Part 77 assessment.
2 Single units; detached; > 2 du/ac																	
3 Single units; semidetached; > 2 du/ac																	
4 Single units; attached row; > 2 du/ac																	
5 Two units; side-by-side																	
6 Two units; one above the other																	
7 Apartments; walk up																	
8 Apartments; elevator																	
9 Group quarters (farm worker housing)																	
10 Residential hotels																	
11 Mobile home parks or courts																	
12 Transient lodgings																	
13 Other residential																	
<b>Manufacturing</b>																	
14 Food & kindred products; manufacturing																	Under 50' allowed. > 50' requires Part 77 assessment.
15 Textile mill products; manufacturing																	
16 Apparel and other finished products made from fabrics, leather, and similar materials; manufacturing																	
17 Lumber and wood products (except furniture); manufacturing																	
18 Furniture and fixtures; manufacturing																	
19 Paper & allied products; manufacturing																	
20 Printing, publishing, and allied industries																	
21 Chemicals and allied products; manufacturing																	
22 Petroleum refining and related industries																	
23 Rubber and misc. plastic products, manufacturing																	
24 Stone, clay and glass products manufacturing																	
25 Primary metal industries																	
26 Fabricated metal products; manufacturing																	
27 Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks manufacturing																	
28 Miscellaneous manufacturing																	
<b>Transportation, communications and utilities</b>																	
29 Railroad, rapid rail transit and street railroad transportation																	Under 50' allowed. > 50' requires Part 77 assessment.
30 Motor vehicle transportation																	
31 Aircraft transportation																	
32 Marine craft transportation																	
33 Highway & street right-of-way																	
34 Automobile parking																	
35 Communications																	
36 Utilities																	
37 Solid waste disposal (landfills, incineration, etc.)																	
38 Other transportation, communications and utilities																	

	JAZB Zoning Designations									Safety Zones			Aircraft Noise Contour Zones				Vertical Controls
	AG	R1	R2	R3	C1	C2	I1	I2	NAS	CZ	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB	80-85 dB	Height Restrictions
<b>Trade</b>																	
39 Wholesale trade																	Under 50' allowed. > 50' requires Part 77 assessment.
40 Retail trade-building materials, hardware and farm equipment																	
41 Retail trade-shopping centers, general merchandise																	
42 Retail trade-food																	
43 Retail trade-automotive, marine craft, aircraft and accessories																	
44 Retail trade-apparel and accessories																	
45 Retail trade-furniture, home furnishings and equipment																	
46 Retail trade-eating and drinking establishments																	
47 Other retail trade																	
<b>Services</b>																	
48 Finance, insurance and real estate services																	Under 50' allowed. > 50' requires Part 77 assessment.
49 Personal services																	
50 Cemeteries																	
51 Business services																	
52 Warehousing and storage																	
53 Repair services																	
54 Professional services																	
55 Hospitals, other medical facilities																	
56 Nursing home																	
57 Contract construction services																	
58 Governmental services																	
59 Correctional Facility																	
60 Educational services																	
61 Miscellaneous services																	
<b>Cultural, entertainment and recreational</b>																	
62 Cultural activities (including churches)																	Under 50' allowed. > 50' requires Part 77 assessment.
63 Nature exhibits																	
64 Public assembly																	
65 Auditoriums, concert halls																	
66 Outdoor music shell, amphitheaters																	
67 Outdoor sports arenas, spectator sports																	
68 Amusements (fairgrounds, miniature golf, driving ranges, amusement parks, etc.)																	
69 Recreational activities (including golf courses, riding stables, water recreation)																	
70 Resorts and group camps																	
71 Parks																	
72 Other cultural, entertainment and recreation																	
<b>Resources production and extraction</b>																	
73 Agriculture (except livestock)																	Under 50' allowed. > 50' requires Part 77 assessment.
74 Agriculture (except livestock) w/residential																	
75 Livestock farming and animal breeding																	
76 Livestock farming and animal breeding w/residential																	
77 Agricultural related activities																	





## NAS Kingsville Bird / Animal Aircraft Strike Hazard (BASH) Program

**NAS Kingsville** would like to introduce you to a program of record in the Navy. The program is called Bird / Animal Aircraft Strike Hazard or BASH for short. While collisions between birds and aircraft are not uncommon, the Navy, after the recent loss of aircraft, has invested a substantial amount of time and money to officially implement this program. The BASH program will allow us to mitigate the risk of catastrophic losses and repair costs while improving flight safety. The program does not focus solely on birds though, as mammals such as deer, hogs, and coyotes on runways are also a threat to aircraft.



Wildlife, however, is also one of our most valuable natural resources. Many families depend on revenue generated by these renewable natural resources. People from all walks of life often come together to enjoy nature and the wildlife therein. Protecting aircraft and the pilots who fly them, as well as wildlife and their habitat, is key to all of our efforts. It is with this mindset that the Navy approaches its BASH program.

The goal of Naval Air Station (NAS) Kingsville's BASH program is to identify and mitigate wildlife threats to aviation safety. We accomplish this while insuring that wildlife species are not adversely affected.

NAS Kingsville utilizes a multifaceted approach to minimize the risk to aircraft. As the environment and weather changes, methods that work one season may not be effective the next. Therefore, we must take an integrated approach to solving our BASH issues. This means that we must look at every element of the problem, and come up with answers that will not adversely effect overall populations of wildlife, but will



effectively reduce the risks to aviation safety and the public safety and welfare.

NAS Kingsville, using the T-45 single-engine jet, provides training for over half of all Navy and Marine Corps jet pilots. In 2005, a T-45 training jet crashed when it collided with a common Turkey Vulture 1.5 miles east of the airfield. Both the instructor and the student ejected safely, but the jet was a total loss. In September 2007, a second T-45 training jet crashed after colliding with a group of Broad-Winged Hawks 2 miles north of the airfield. Again, the student (flying a solo training mission) ejected safely but the aircraft was destroyed. These two incidents, over the past five years, cost the American taxpayer almost \$50M in aircraft losses.

The Commanding Officer of NAS Kingsville is responsible for insuring the safety of both military assets and personnel. He takes this responsibility very seriously, and under his leadership, NAS Kingsville has developed one of the Navy's best and most proactive BASH programs.

In an effort to continue to be proactive about wildlife risks to aviation, NAS Kingsville would like to invite you to be a volunteer member of the BASH team. You can help us by reporting wildlife activity that may come into conflict with aviation activities. The USFWS (US Fish and Wildlife Service) estimates that almost 8 million birds travel through this area during a single migration period. Local ornithological groups have documented over 100,000 raptors moving through the area around Hazel Bazemore Park in a single day. Information about large groups of birds migrating through areas that are commonly used by aircraft is very useful.

# NAS Kingsville Bird / Animal Aircraft Strike Hazard (BASH) Program

Timely reporting will allow us to avoid these areas until the threat has passed. Many of our neighbors utilize land for agriculture, livestock production or hunting activities. Proper animal carcass disposal will reduce or eliminate vulture activity. We recommend applying lime to carcass remains that cannot be buried or otherwise disposed. Lime at any hardware store costs around \$10.00 a bag and a single bag will reduce the attractant for two large cows or an entire season of deer remains. However, just being aware that there is an attractant and a general location would be useful information to NAS Kingsville.

NAS Kingsville will remain one of the Navy's greatest assets long into the 21st century. This is in no small way due to the cooperation we receive from our neighbors in Kingsville and Orange Grove. We look forward to working with each of you on a regular basis.



## NAS Kingsville

Community Planning and Liaison Officer  
Air Ops Department  
311 N. Mitscher Ave. Ste. 212  
NAS Kingsville, TX 78363-5002

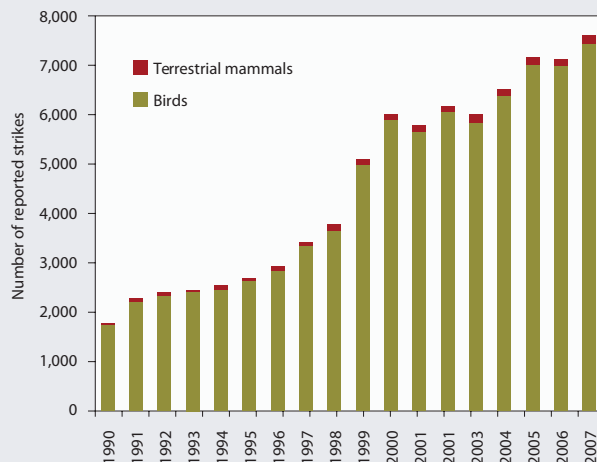
Place  
Stamp  
Here

To report bird activity that may pose threats to aviation, please call the NAS Kingsville USDA Biologist at:

**(361) 516-4370**

We are here to answer any questions you may have about our BASH Program.

FAA Reported Wildlife Strikes by Year



Number of Reported bird (79,972) and terrestrial mammal (1,737) strikes to civil aircraft, USA, 1990-2007. Additionally, 253 and 95 strikes involving bats and reptiles, respectively, were reported for this 18-year period for a total of 82,057 strikes by all species of wildlife.

JLUS Strategy	Responsibility / Partner
<p><b>17. Include NAS Kingsville Representative on City Planning and Zoning Commission</b></p> <p>Add an ad hoc member or ex officio member to the City of Kingsville Planning and Zoning Commission to represent the installation during the formal land use process. This member shall be designated by the Commanding Officer of the installation.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>

## Background

Issues identified in the Kingsville JLUS include:

- Urban growth – New development proposals, rezoning, speculation east of US Highway 77.
- Limited ability for County authority to regulate land use.
- Primary bird attractors (agricultural operations, water bodies, landfills, etc.).

During preparation of the Kingsville JLUS, the City of Kingsville was expected to experience significant growth due to factors such as its easy access to Corpus Christi and its location along the proposed Interstate 69 / Trans Texas Corridor (TCC) project. But, the economy has changed over the last few years, and so has development.

At this time, it appears that the I-69 / TCC project has encountered opposition and budget constraints. Also, the current national economic conditions are limiting new development. However, once conditions improve, it is anticipated that additional construction will take place within the City in proximity to areas of compatibility concern for NAS Kingsville.

Much of the land within Kingsville to the west of US Highway 77 is already developed. This highway is the major transportation corridor connecting Kingsville to other cities; therefore, it will most likely draw interest for development in the future. The undeveloped land east of US Highway 77 lies within the JLUS Military Influence Areas (MIA) for noise, safety, and future military operations. Most of the undeveloped land is in unincorporated Kleberg County, but it lies within the Kingsville’s extraterritorial jurisdiction (ETJ). This means that the land has the potential to be annexed in the future and the City has some involvement in future land use actions.

When the Kingsville JLUS was being developed, having a representative from NAS Kingsville as an ex officio member of the Kingsville Planning and Zoning Commission was thought to be a good method for keeping an eye on future compatibility.

Steps to Implement JLUS Strategy #17

Meeting							F	Step	Actions	Responsible
1	2	3	4	5	6	O				
■								1	Discuss how NAS Kingsville should provide technical support. <ul style="list-style-type: none"> <li>City of Kingsville noted that they did not feel an ad hoc or ex-officio member from base was needed / appropriate. They would like a Point of Contact (POC) assigned and to attend appropriate meetings to provide technical support on compatibility issues.</li> <li>Committee concurred and requested strategy to be revised.</li> </ul>	Committee
	■							2	Revise strategy to require NAS Kingsville to appoint a POC to be available to local jurisdictions and Joint Airport Zoning Board (JAZB) to respond to technical questions on an as needed basis.	Committee
		■						3	Interim POC: <ul style="list-style-type: none"> <li>NAS Kingsville identifies an interim POC, pending hire of a full-time Community Planning Liaison Officer (CPLO)</li> </ul>	NAS Kingsville
					■			4	NAS Kingsville introduces new CPLO to Committee.	NAS Kingsville
						□		5	Provide local jurisdictions with the current POC as changes are made.	NAS Kingsville
						□		6	NAS Kingsville CPLO to provide technical support on an on-going basis to City of Kingsville, Kleberg County and Joint Airport Zoning Board (JAZB) on an as needed basis.	NAS Kingsville
						□		7	If desired in the future, a Memorandum of Understanding (MOU) can be executed with NAS Kingsville to formalize the support process (to be done in conjunction with Strategies 19, 41 and 42).	City of Kingsville Kleberg County JAZB NAS Kingsville

Supporting Materials

No additional information necessary for this item.



## Results

- Committee revised JLUS Strategy 17 as shown below:

JLUS Strategy	Responsibility / Partner
<p><b>17. <del>Include NAS Kingsville</del> <u>Point of Contact (POC) for Compatibility Issues</u> <del>Representative on City Planning and Zoning Commission</del></b></p> <p><u>NAS Kingsville shall designate and maintain a Point of Contact that will facilitate review and comment on development proposals and coordinate the installation's response. This Point of Contact should be made available to provide technical information to the City or the <del>Add an ad hoc member or ex officio member to the</del> City of Kingsville Planning and Zoning Commission to represent the installation during the formal land use process. This member shall be designated by the Commanding Officer of the installation.</u></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>City of Kingsville</li> <li>NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>None Identified</li> </ul>

- Interim POC**

Prior to the CPLO position being filled at NAS Kingsville, the Point of Contact was the Public Works Officer. Should a vacancy in the CPLO position occur in the future, this Interim POC would again represent the installation until the CPLO position is again filled.

Public Works Officer, NAS Kingsville  
BLD 4711  
201 Nimitz Avenue  
Kingsville, TX 78363-5002  
(361) 516-6464

- Current POC** (as of August 2010)

Glenn Jones  
CPLO, NAS Kingsville  
311 N. Mitscher Ave, Suite 212  
NAS Kingsville, TX 78363-5002  
(361) 515-4770

## Next Steps

- NAS Kingsville will provide the City of Kingsville, Kleberg County and the Kingsville-Kleberg JAZB with any changes / updates concerning the POC for NAS Kingsville.
- NAS Kingsville POC will attend public hearings with the City of Kingsville, Kleberg County and the Kingsville-Kleberg JAZB for projects that have potential impacts on the future of NAS Kingsville relative to compatibility planning. The NAS Kingsville POC can make direct testimony as part of the public hearing or can be available to the hearing body to provide technical input to questions concerning NAS Kingsville and its operations.

## NAS Kingsville Point of Contact for Compatibility Issues

- If desired in the future, a Memorandum of Understanding (MOU) can be executed between NAS Kingsville and the following entities:
  - City of Kingsville
  - Kleberg County
  - JAZB

JLUS Strategy	Responsibility / Partner
<p><b>18. Include AICUZ Information on City Website</b></p> <p>Update the City website regularly to educate the public on the AICUZ program and inform the public on installation changes that will affect the residents.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>None Identified</li> </ul>

## Background

The City’s website can be a good source of information concerning not only the AICUZ, but compatibility planning in general. At Committee Meeting #1, the City stated that the current AICUZ information was already available on their website.

In a review of the City’s website by Consultant staff, it was noted that additional resources, beyond the AICUZ, would be helpful. With approval from the Committee, the strategy was expanded to include a broader perspective on information availability.

## Steps to Implement JLUS Strategy #18

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■	■						1	Review current web resources with the Committee.	City of Kingsville Consultant
		■					2	Committee requested JLUS Strategy be expanded to reflect the need to post other resources.	City of Kingsville
						□	3	Develop a military planning resource page on website. Include entire AICUZ document as well as other compatibility planning resources.	City of Kingsville

## Supporting Materials

- Current City website page for AICUZ:  
<http://www.cityofkingsville.com/dept/planning/Docs/AICUZ%20Web%20Map.pdf>

## Results

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- Committee revised JLUS Strategy 18 as shown below:

JLUS Strategy	Responsibility / Partner
<p><b>18. Include AICUZ Information on City Website</b></p> <p>Update the City website regularly to educate the public on the AICUZ program and inform the public on installation changes that will affect the residents.</p> <p><u><a href="#">The City should also work to establish a Compatibility Planning / JAZB resource page on the City of Kingsville website to make information on compatibility planning easy to access.</a></u></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>• City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>• None Identified</li> </ul>

## Next Steps

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The City of Kingsville should strive to update its website by providing the following additional resources on its Planning Department webpage (<http://www.cityofkingsville.com/planning.aspx>). It is recommended that the main links on that page be amended to include a “Compatibility Planning / JAZB” resource page. The following items would be recommended as a minimum addition to the website:

- For the AICUZ, include a copy of the NAS Kingsville AICUZ Executive Summary to provide information on the land use guidance provided.
- Include downloadable copies of the Compatibility Brochures developed as part of JLUS Strategy 16.
- Include a link to all regulations adopted by the JAZB.
- Include agendas and minutes for JAZB meetings.

Establish Procedures for Plan Review and Comment  
 Include NAS Kingsville in Development Review Process  
 Develop Development Review Checklist

**19**  
**41**  
**42**

JLUS Strategy	Responsibility / Partner
<p><b>19. Establish Procedures for Plan Review and Comment</b></p> <p>NAS Kingsville shall work with local jurisdictions and relevant agencies to establish procedures for consultation between the installation and local jurisdictions relative to planning review and comment. This should include:</p> <ul style="list-style-type: none"> <li>▪ Definition of project types that require review</li> <li>▪ Identification of Points of Contact for all coordination</li> <li>▪ Provision of opportunities for NAS Kingsville personnel to be involved in pre-application meetings for significant projects</li> <li>▪ Establishing a formal procedure for requesting and receiving comments</li> <li>▪ Establishing a standard timeline for responses</li> <li>▪ Providing notice to NAS Kingsville on all public hearings regarding projects identified for coordination</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>
<p><b>41. Include NAS Kingsville in Development Review Process</b></p> <p>Integrate NAS Kingsville within the existing development review process (including the pre-application process). Develop procedures for this review, including project types that should be forwarded to the installation, areas of potential impact based on encroachment threat, and expectations on review timeframes.</p> <p>Suggested components of this process should include the following:</p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville shall review plans and provide necessary information to the proper jurisdiction on compatibility issues including, but not limited to, incompatible land use or development density, lighting and dark sky issues, frequency concerns, cluster development and other development design issues, water availability, and infrastructure impacts.</li> <li>▪ Require all development plans, area plans, and specific plans within MIAs 1 and 2 be sent to the installation for review</li> <li>▪ Require all development applications exceeding 150’ in height within MIA 3 be sent to the installation for review</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>
<p><b>42. Develop Development Review Checklist</b></p> <p>Develop a consolidated checklist for the review of development applications.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>

NOTE: Please refer to JLUS Strategy 17 for identifying a Point of Contact (POC) for NAS Kingsville.

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Establish Procedures for Plan Review and Comment  
Include NAS Kingsville in Development Review Process  
Develop Development Review Checklist

**Background**

While NAS Kingsville receives significant public support and efforts have been made in the past to engage the staff from NAS Kingsville in projects located near the installation, there has not been a formal approach to this process. Under this strategy, a process for engagement was defined and agreed to by the representatives of NAS Kingsville, City of Kingsville and Kleberg County. The hope of work was to establish a process whereby notification and integration of NAS Kingsville in the planning process are seamless in execution.

**Steps to Implement JLUS Strategies #19, 41 & 42**

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■	■	■			■		1	NAS Kingsville to determine a Point of Contact (POC) (see JLUS Strategy 17).	NAS Kingsville
		■					2	Discuss which projects / development proposals need to be routed through NAS Kingsville.	NAS Kingsville
			■				3	Establish procedures for NAS Kingsville to be involved in pre-application process for significant projects.	Consultant
				■			4	Determine procedure to notify NAS Kingsville of meeting dates and times for significant developments.	Committee
				■			5	Determine procedure for requesting and receiving comments.	Committee
				■			6	Agree on timeline for formal response depending on type of application. Agree on overall process to be followed.	Committee
						■	7	Provide process flowchart(s) and description for plan review and comment and incorporation of NAS Kingsville in development review process.	Consultant

**Supporting Materials**

- See establishment of Point of Contact (POC) for NAS Kingsville under JLUS Strategy 17.

**Results**



The **Compatibility Review Process Chart** (presented at the end of this strategy) illustrates the process for notifying and engaging NAS Kingsville in the review of proposed projects that may have compatibility issues.

- On the process chart, the term “Projects of Special Concern” is defined to include:
  - Any proposed development within NAS Kingsville’s established air operations safety zones that is identified as incompatible in the Air Installations Compatible Use Zones (AICUZ) study
  - Any proposed development within NAS Kingsville’s established 65+ dB noise contours that the AICUZ study identifies as incompatible.

Establish Procedures for Plan Review and Comment  
Include NAS Kingsville in Development Review Process  
Develop Development Review Checklist

19  
41  
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- Any proposed development within five miles of NAS Kingsville’s runway that could include a building or structure that exceeds the height allowed per Federal Regulation Title 14, Part 77. This includes multi-story buildings and wind power generation devices such as windmills.
- Any project within 30 miles of NAS Kingsville that would include two or more towers and mounted equipment for the generation of power from wind.
- Any building or structure that could be located in a line-of-sight path and of sufficient height to interfere with the transmission of radio or other types of signals used to transmit between NAS Kingsville and other sources.
- Any proposed land use that could draw significant wildlife or bird species to an area used for military flight paths, such as a landfill.
- Any proposed use that is likely to cause dust, smoke, or steam, such as industrial uses, within established flight paths for aircraft operating at NAS Kingsville.
- Any proposed use that could cause light or glare in vicinity of established NAS Kingsville flight paths that could interfere with aircraft pilot vision. This includes large reflective surfaces such as lakes, ponds, and buildings / structures with large glass surfaces.

The NAS Kingsville Community Planning and Liaison Officer (CPLO) or designee will represent NAS Kingsville at pre-application or initial meeting regarding Projects of Special Concern. This will allow NAS Kingsville concerns to be stated early in the process and allow for timely adjustments in projects as appropriate.

19

Establish Procedures for Plan Review and Comment

41

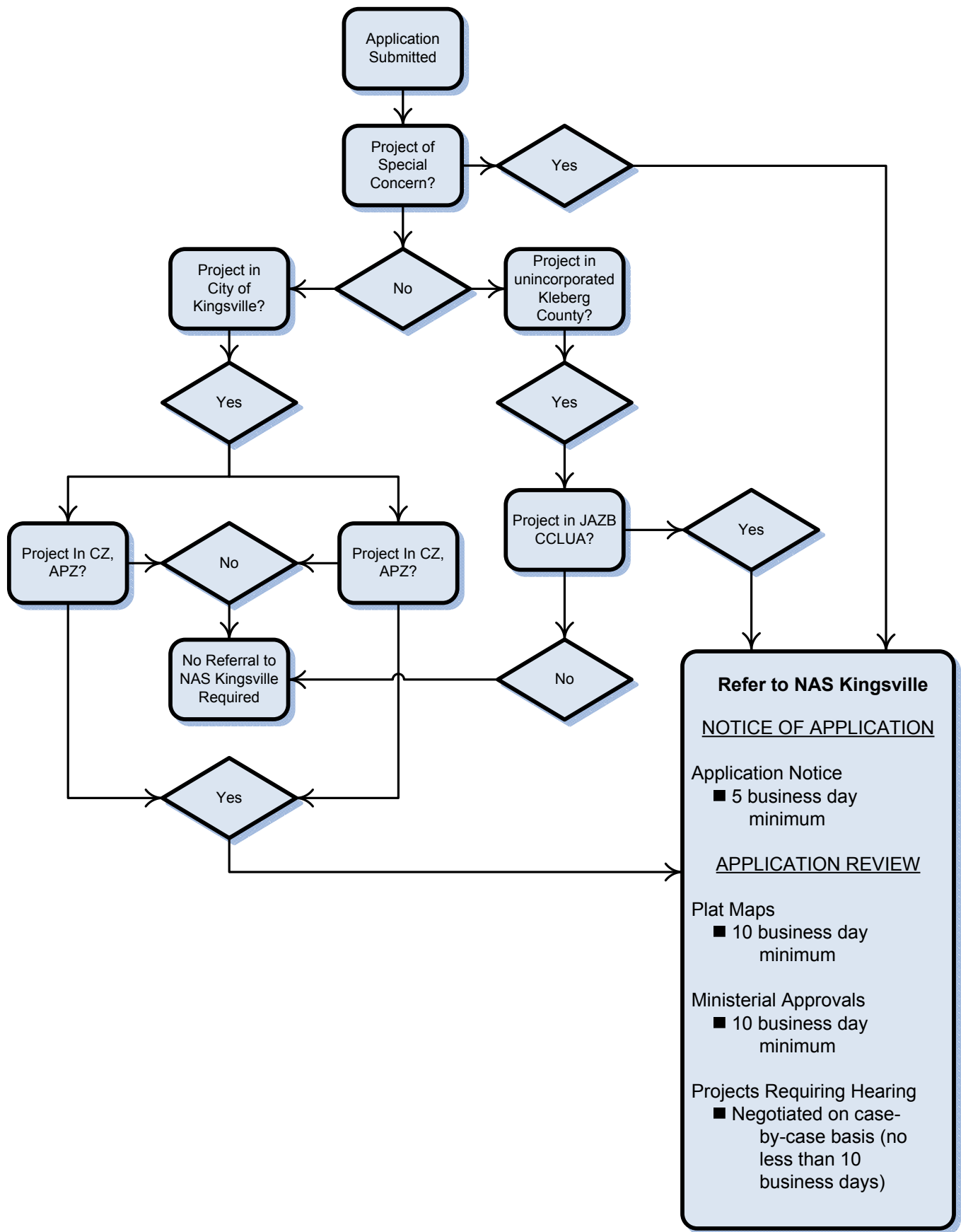
Include NAS Kingsville in Development Review Process

42

Develop Development Review Checklist

*Please see the next page.*





Compatibility Review Process Chart

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>20. Identify Areas for Use of Deed Restrictions</b></p> <p>City planners should work collaboratively with installation planners and resource managers to identify areas where deed restrictions can be used to mitigate land use conflicts.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>
<p><b>21. Require Deed Restrictions in Critical Operations Areas</b></p> <p>Develop a process for the incorporation of deed restrictions for properties in critical operation areas to restrict any future structural, design, and / or activity that could impede operations of the installation.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>

## Background

In relation to compatibility planning, a property’s deed can be modified in two basic forms.

- **Deed Restriction.** In general terms, a deed is the conveyance of rights in a piece of property. Deed restrictions, or covenants, are written agreements that restrict or limit some of the rights associated with property ownership. These restrictions are recorded with the deed for the property and stay with the property when it is sold to a new owner (i.e., remain in effect). Deed restrictions are private agreements or contracts between an interested buyer and a seller. Deed restrictions are often established by the initial subdivider, either voluntarily or as a condition of approval on the subdivision.
- **Deed Notification.** These are statements, added to a deed as part of recordation, that provide notification of a condition or circumstance. For compatibility planning, these are often used to provide another form of notification (disclosure) about the military operations that occur near or over the property.

Deed notifications (as a tool in ensuring full disclosure) is covered under JLUS Strategies 31 / 32.

## Steps to Implement JLUS Strategies #20 & 21

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
				■			1	Determine the need for deed restrictions. <ul style="list-style-type: none"> <li>▪ Based on work conducted to prepare the Joint Airport Zoning Board (JAZB) regulations, the Committee was asked to determine if deed restrictions should be used, and if used, where they should be applied.</li> <li>▪ The Committee determined that there were no areas that required deed restrictions at this time. They directed that JLUS Strategy #21 be modified to become an on-going activity.</li> </ul>	Committee

**20**

Identify Areas for Use of Deed Restrictions

**21**

Require Deed Restrictions in Critical Operations Areas

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
				■			2	Discuss the use of deed notifications. <ul style="list-style-type: none"> <li>■ The Committee felt that deed notifications were critical to ensuring full disclosure. This is covered under JLUS Strategy 31/32.</li> </ul>	Committee

### Supporting Materials

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No additional information necessary for this item.

### Results

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The Committee reviewed potential areas of concern and determined that there were no current locations needing protection through deed restrictions at this time.

Timeframe of strategy changed to on-going.

### Next Steps

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Review JLUS Strategies 20 and 21 on an on-going basis and implement as needed to protect future compatibility.

**JLUS Strategy 21, Require Deed Restrictions in Critical Operations Areas**, was grouped and presented with JLUS Strategy 20 since it dealt with related issues.

Please refer to the information provided under Tab 20.

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>22. Include NAS Kingsville in Wildlife Management Legislation</b></p> <p>With any proposed Federal or State legislation pertaining to wildlife management, ensure the inclusion of adequate language to protect the mission of NAS Kingsville.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ DOD</li> <li>▪ Local State Representatives</li> </ul>

### Background

This strategy relates to future legislation and the ability to review and respond should such legislation threaten operations at NAS Kingsville.

### Steps to Implement JLUS Strategy #22

Meeting							F O	Step	Actions	Responsible
1	2	3	4	5	6					
■								1	Committee reviewed need for strategy as a short term priority. <ul style="list-style-type: none"> <li>▪ No issues are currently known to exist.</li> <li>▪ Committee felt it could become an issue in future.</li> <li>▪ Change strategy to have an on-going timeline.</li> <li>▪ Exclude from further discussion at this time.</li> </ul>	Committee
	■							2	Change strategy to have an on-going timeline.	Consultant

### Supporting Materials

No additional information necessary for this item.

### Results

The Committee reviewed current legislation and determined that there were no current issues.

Timeframe of strategy changed to on-going.

### Next Steps

Review future legislation on an on-going basis and respond as appropriate in the future.

*Please see next page.*



JLUS Strategy	Responsibility / Partner
<p><b>23. Regulate Outdoor Lighting in Vicinity of NAS Kingsville</b></p> <p>As per recently adopted legislation (80(R) HB 1852), the County shall regulate the use of outdoor lighting within a 5-mile radius of NAS Kingsville.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>
<p><b>36. Develop or Update Light and Glare Controls</b></p> <p>Review existing Zoning Ordinance and incorporate distinctive light and glare regulations to protect the operational environment near NAS Kingsville. These controls should be designed to reduce the amount of light that spills into surrounding areas and impacts regional ambient illumination.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>

### Background

Light sources from commercial, industrial and residential uses can cause glare (day or night) and excess illumination (at night), which can negatively impact training and flight operations due to vision impairment, distraction, and minimize the ability to use of night vision devices during ground and air operations.

If areas of concern are identified, provide proposed changes to zoning or building codes to address. Depending on area identified, this may also just become a component of the Joint Airport Zoning Board (JAZB) regulations (see also JLUS Strategy 33).

### Steps to Implement JLUS Strategies #23 & 36

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
			■	■	■		1	Incorporate general light and glare controls in JAZB Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations (JAZB Regulations). Refer to JLUS Strategy #33 and Section 6.E. in the JAZB Regulations.	JAZB
					■		2	Revise JLUS Strategy 23 to apply to the City of Kingsville, Kleberg County and the JAZB.	Consultant
					■		3	Revise JLUS Strategy 36 to apply to the JAZB as well.	Consultant
					■		4	Review proposed light and glare control ordinance model from City of San Antonio for use by City of Kingsville and JAZB	Committee
					■		5	Public hearing / consideration on JAZB Regulations.	JAZB
						■	6	Draft Outdoor Lighting Ordinance for City of Kingsville.	City of Kingsville Consultant
						■	7	Draft JAZB Outdoor Lighting Regulation.	Consultant
						□	8	Public hearing / consideration for approval.	City of Kingsville
						□	9	Public hearing / consideration for approval.	JAZB

23

Regulate Outdoor Lighting in Vicinity of NAS Kingsville

36

Develop or Update Light and Glare Controls

## Supporting Materials

- Following review by the Committee, the City of San Antonio Military Lighting Overlay District (Chapter 35, Article III, Division 4 of the City Code of San Antonio) Section 35-339.04 was used as the model ordinance upon which the proposed regulations for the City of San Antonio and JAZB were based.

## Results

- Modify JLUS Strategies 23 and 36 as follows:

JLUS Strategy	Responsibility / Partner
<p><b>23. Regulate Outdoor Lighting in Vicinity of NAS Kingsville</b></p> <p>As per recently adopted legislation (80(R) HB 1852), the <a href="#">City of Kingsville</a>, <a href="#">Kleberg</a> County shall regulate the use of outdoor lighting within a 5-mile radius of NAS Kingsville.</p> <p><a href="#">The JAZB will regulate light and glare pursuant to the regulation of hazards pursuant to the authority conferred by the Airport Zoning Act, Texas Local Government Code, §§ 241.001</a></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li><a href="#">City of Kingsville</a></li> <li><a href="#">Kleberg County</a></li> <li><a href="#">JAZB</a></li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>NAS Kingsville</li> </ul>
<p><b>36. Develop or Update Light and Glare Controls</b></p> <p><a href="#">For the City of Kingsville</a>, review <a href="#">the City's</a> existing Zoning Ordinance and incorporate distinctive light and glare regulations to protect the operational environment near NAS Kingsville. These controls should be designed to reduce the amount of light that spills into surrounding areas and impacts regional ambient illumination.</p> <p><a href="#">For the JAZB, prepare specific JAZB Outdoor Lighting Regulations to augment the general protections provided under the NAS Kingsville Compatible Land Use Zoning Regulations (see JLUS Strategy 33).</a></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li><a href="#">City of Kingsville</a></li> <li><a href="#">JAZB</a></li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>NAS Kingsville</li> </ul>



### ATTACHMENT 23/36-1

Draft Outdoor Lighting Ordinance for City of Kingsville



### ATTACHMENT 23/36-2

Draft JAZB Outdoor Lighting Regulation

## Next Steps

- Schedule a public hearing with the City of Kingsville Commission to take public testimony and consider adoption of the drafted Outdoor Lighting Ordinance.
- Schedule a public hearing with the JAZB to take public testimony and consider adoption of the drafted JAZB Outdoor Lighting Regulation.

## **Outdoor Lighting Ordinance**

An ordinance of the City of Kingsville regulating and restricting the installation, types and use of outdoor lighting in the vicinity of NAS Kingsville, Texas by creating the appropriate regulations and design guidelines; providing for appropriate restrictions and the enforcement of such restrictions; defining certain terms used herein; providing for an Administrative Agency, a Board of Adjustment, enforcement and imposing penalties.

WHEREAS, these regulations are adopted pursuant to the authority conferred by Texas Local Government Code § 51.001 et seq. and § 241.001 et seq, the legislature of the state of Texas has delegated the responsibility to local government to adopt regulations to minimize airport hazards and incompatible development.

WHEREAS, the Kingsville City Commission has found that uncontrolled artificial lighting has the potential for endangering the lives and property of users of NAS Kingsville, and property or occupants of land in its vicinity; may affect existing and future visual approach minimums of NAS Kingsville; may reduce the effectiveness and safety of training operations at NAS Kingsville; may reduce the size of areas available for the landing, take-off and maneuvering of aircraft; and may damage or impair the utility of NAS Kingsville, and the public investment therein; and

WHEREAS, the Kingsville City Commission has declared that:

- 1) NAS Kingsville fulfills an essential flight training role for the U.S. Navy and Department of Defense;
- 2) the creation or establishment of light and glare has the potential of being a nuisance and may injure the owners, occupiers or users of land in the region surrounding NAS Kingsville;
- 3) the continued viability of NAS Kingsville for training purposes is critical to the readiness of the United States military, and the vitality of the City of Kingsville's economy
- 4) it is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of obstructions or potential incompatible land uses that are a hazard to air navigation or the public health and safety be prevented; and
- 5) the prevention of excessive light and glare should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

WHEREAS, the need to regulate the installation and use of outdoor lighting is necessary in the City of Kingsville within five (5) miles of the boundaries of NAS Kingsville;

Therefore, be it ordered by the Kingsville City Commission:

**Section 1. Short Title**

These regulations shall be known and may be cited as the "Outdoor Lighting Ordinance."

**Section 2. Exclusions**

The purpose and intent of this regulation is to provide a reasonable basis for the review of future zoning and development requests. This regulation will NOT be used to control or restrict the following.

- A.** Agricultural Use. This regulation shall not be used to regulate any operational aspect of an agricultural use, including the cultivation and harvesting of crops, land management activities (controlled burning, clearing, spraying, trimming), livestock management, hunting, or use and application of water. This ordinance shall be applied to the installation of new permanent lighting fixtures on agricultural support facilities.
- B.** Exempted Nonconforming Luminaires. Any existing luminaires which were lawfully in place according to all applicable City Ordinances at the time, but which do not now comply with all applicable regulations as of the effective date of this regulation.
- C.** Outdoor lighting for which light is produced directly by the combustion of fossil fuels.
- D.** Outdoor lighting used during law enforcement, fire, and medical activities and for meteorological data gathering purposes.
- E.** Outdoor lighting employed during emergency or night-time repairs of roads and utilities.
- F.** Lighting required by law to be installed on motor vehicles.
- G.** Lighting required for the safe operation of aircraft.
- H.** Outdoor lighting installed on Federal and State facilities; however, voluntary compliance is encouraged.
- I.** Decorative holiday lighting from November 15 through the next January 15.

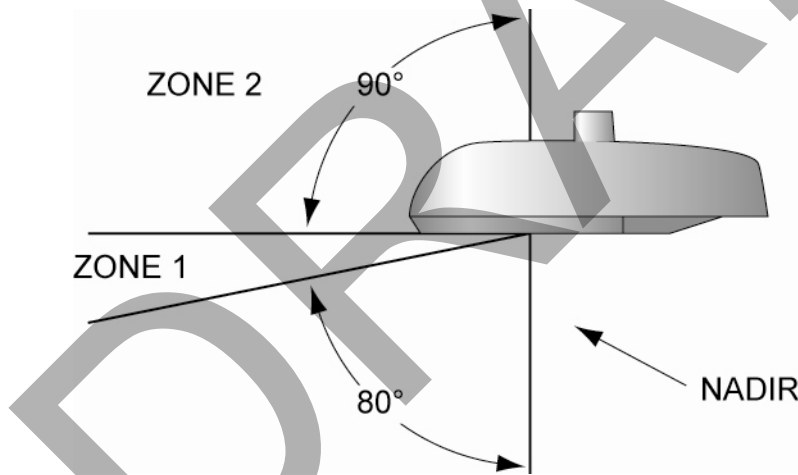
- J.** Temporary exemptions: Any individual may submit a written request to the Director of the Administrative Agency for temporary lighting and obtain a temporary electrical permit. The permit may grant temporary lighting for a period not to exceed thirty (30) days, with at least thirty (30) days passing before another temporary electrical permit may be issued. The request for temporary lighting must contain the following information in addition to information required to obtain a temporary electrical permit:
- (1) Proposed use and location of the outdoor light requested.
  - (2) Type of lamp(s) to be used, including manufacturer's part number and initial lumens.
  - (3) Type of light fixture used, including manufacturer's model number and specification (cut) sheets indicating photometric distribution data stated in iso foot-candle diagrams.
  - (4) Starting and ending dates for temporary lighting use.
  - (5) Contact information including name of requester, affiliation (if applicable), address and telephone number.
  - (6) Such other information the Director may require.

### **Section 3. Definitions**

As used in these regulations, the following terms shall be defined as follows:

- A. Administrative Agency** – The appropriate person or office of a political subdivision which is responsible for the administration and enforcement of the regulations prescribed herein. The Administrative Agency is set forth in Section 4 of these regulations.
- B. Airport** – Refers to NAS Kingsville, Texas, including the ultimate development of that facility.
- C. Board of Adjustment** – A board so designated by these regulations as provided in Texas Local Government Code, §§241.032. Provisions for the Board of Adjustment are set forth in Section 18 of these regulations.
- D. Business** – A person, partnership, corporation, or organization engaged in commerce, manufacturing, or a service; profit and non-profit seeking enterprise or concern. The definition is intended to be broadly construed and shall include, but not be limited to, charitable organizations.
- E. Candela** – The unit of measure indicating the luminous intensity (candlepower) of a light source in a specific direction.

- F. **Digital Sign** – Cathode ray tube (CRT), flat panel liquid-crystal display (LCD), plasma, aerial imaging, projector or other electronic devices that are at the end-point of a digital signage system, presenting the content to include: Dynamic Signs, Electronic Signs, Digital Media Advertising, as well as signs within a Digital Signage Network, In-store TV Network, Captive Audience Network, Narrowcasting Network, Out-of-home Media Network, Digital Media Network, and Advertising Network.
- G. **Direct Light** – Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens of a luminaire.
- H. **Foot-candle (fc)** – A unit of light measurement equal to one lumen per square foot.
- I. **Full Cutoff** – Describes a luminaire light distribution where 100 candela per 1,000 lamp lumens (ten percent) may emit at all vertical angles beginning at 80 degrees up from nadir to less than 90 degrees, and 0 (zero) candela per 1,000 lamp lumens (zero percent) is allowed at 90 degrees (horizontal plane) and all angles above. This applies to all horizontal angles around the luminaire. A full cutoff luminaire is also fully shielded (see Exhibit 1).



**Exhibit 1**

- J. **Fully Shielded** – A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane as determined by Military base, camp or installation Ordinance photometric test or certified by the manufacturer. A fully shielded fixture is not necessarily full cutoff.
- K. **Glare** – A luminance produced by bright sources in the field-of-view superimposed on the image in the eye reducing contrast and hence visibility.

- L. Hazard to Air Navigation** – An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- M. Height** – For the purpose of determining the height limits in all zones set forth in these regulations and shown on the NAS Kingsville Compatible Land Use Zoning Map, the datum shall be mean sea level elevation.
- N. "IESNA" (or "IES")** – An acronym for the Illuminating Engineering Society of North America. The IESNA makes recommendations for outdoor lighting but does not set outdoor lighting community standards which are set through local regulations.
- O. Illuminance** – The quantity of light arriving at a surface measured in footcandles.
- P. Intermittent Lighting** – Luminaires that do not remain on for more than five minutes.
- Q. Lumen** – A unit of luminous flux. For purposes of this Ordinance, the lumen-output values shall be the initial lumen output ratings of a lamp. The lumen rating associated with a given lamp is generally indicated on its packaging or may be obtained from the manufacturer.
- R. Luminaire** – A complete lighting fixture consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.
- S. Luminous Flux** – A quantitative expression of the brilliance of a source of visible light which is electromagnetic energy within the wavelength range of approximately 390 nanometers (nm) to 770 nm. This quantity is measured in terms of the power emitted per unit solid angle from an isotropic radiator, a theoretical point source that radiates equally in all directions in three-dimensional space.
- T. Nadir** – The direction pointing vertically down from the lowest light emitting part of the luminaire (see Exhibit 1 for an example).
- U. Nit** – A unit of illuminative brightness equal to one candle per square meter, measured perpendicular to the rays of the source.
- V. Nonconforming Use** – Any use of land which is inconsistent with the provisions of these regulations and which is existing as of the effective date of these regulations.

- W. Non-precision Instrument Runway** – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or approach procedure that has been approved or planned.
- X. Outdoor Lighting** – Illumination of an outside area or object by any manmade device that is located outdoors and produces light.
- Y. Person** – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- Z. Structure** – An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, antennas, communication or other towers, cranes, smokestacks, earth formations, wind generation structures, and overhead transmission lines (see also Section 2, Exclusions).
- AA. Temporary Outdoor Lighting** – Lighting allowed as specified in an approved temporary permit pursuant to the requirements of Subsection 2.J., below.
- BB. Trespass Lighting** – Light emitted by a luminaire that falls outside the boundaries of the property on which the luminaire is sited.
- CC. Zoning Board of Adjustment** – A board consisting of at least five (5) members appointed by the City Commission of the City of Kingsville, Texas as provided by Texas Local Government Code Annotated, §§ 211.008.

#### **Section 4. Administrative Agency**

It shall be the duty of the Director of Development Services, City of Kingsville, to administer and enforce the regulations prescribed herein and is hereby designated as the Administrative Agency.

#### **Section 5. General Provisions**

- A.** All public and private outdoor lighting installed after the effective date of this regulation shall conform to the requirements established by this regulation.
- B.** Any new luminaire that is aimed, directed, or focused so as to cause direct light from the luminaire to be directed toward NAS Kingsville is prohibited. Such luminaire must be redirected or its light output controlled to eliminate such conditions.
- C.** All new lighting shall be fully screened from the affected military installation. Methods of screening can include, but are not limited to, fencing and landscaping.



## **Section 6. Residential Lighting**

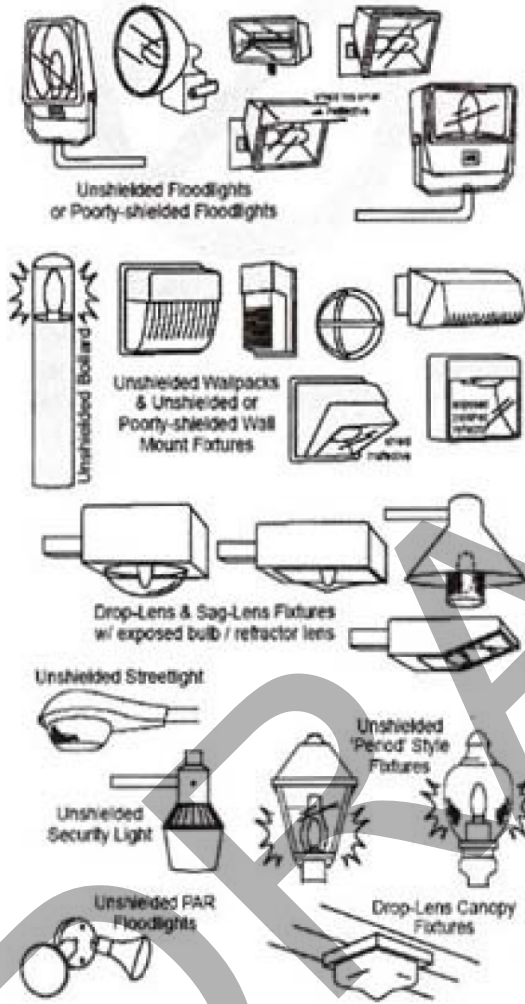
- A.** No trespass lighting within residential areas may exceed one and one half (1½) foot-candles at the property line, with the exception of intermittent lighting which can be up to two (2) foot-candles.
- B.** All lighting within residential areas must comply with Subsection 7, Commercial Lighting.

## **Section 7. Commercial Lighting**

- A.** All lighting fixtures installed on any commercial property and which include or exceed two (2) foot-candles shall be fitted to render them full cutoff (no light output emitted above 90 degrees at any lateral angle around the fixture.) See "Acceptable Fixture" designation as shown in Exhibit 2. The manufacturer or firm handling the installation of outdoor lighting must provide documentation to prove full cutoff status of outdoor lighting to the Planning and Development Services Department during the plan review stage.
- B.** For lighting horizontal tasks such as roadways, sidewalks, entrances and parking areas, fixtures must meet "full cutoff" criteria (no light output emitted above 90 degrees at any lateral angle around the fixture).
- C.** Intermittent lighting must be of the "motion sensor" type that stays on for a period of time not to exceed five (5) minutes and has a sensitivity setting that allows the luminaire to be activated only when motion is detected on the site.
- D.** All trespass lighting shall not exceed two and one-half (2½) foot-candles measured at the property line, except that residential trespass lighting is regulated in Subsection 6.a., above.
- E.** Floodlight fixtures must be aimed so as to prevent direct radiation of light into the open sky at any angle above the horizontal plane as shown in Exhibit 3 and verified using a tool such as shown in Exhibit 4.
- F.** With the exception of lighting which is required for security and safety such as parking lot illumination, businesses must turn off outdoor lights emitting illumination levels exceeding 2 foot-candles (fc) after 11:00 p.m.
- G.** Lighting installed to illuminate construction sites in order to secure or protect equipment at night shall meet the requirements of Subsection 7.A., above.

### Unacceptable Fixtures

Fixtures that produce glare and light trespass



### Acceptable Fixtures

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night

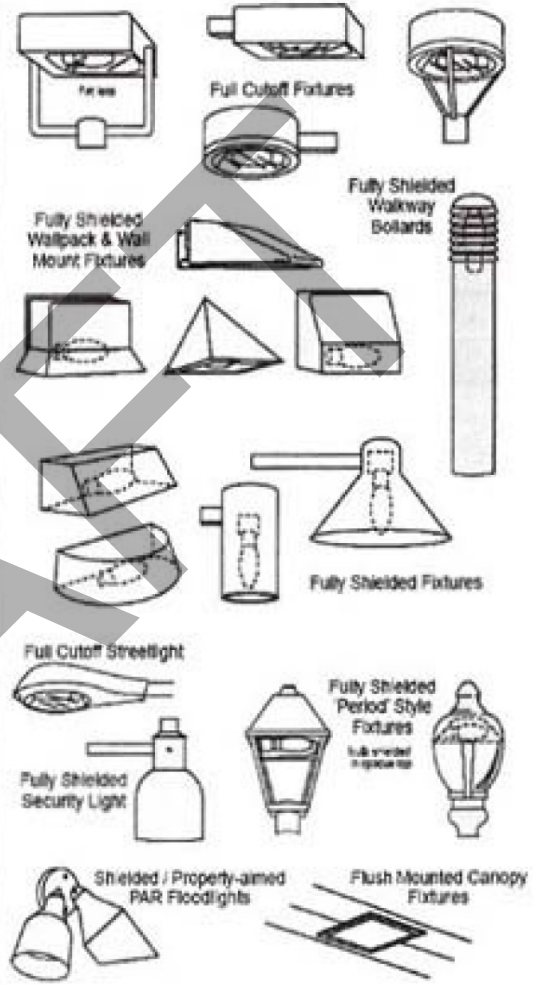
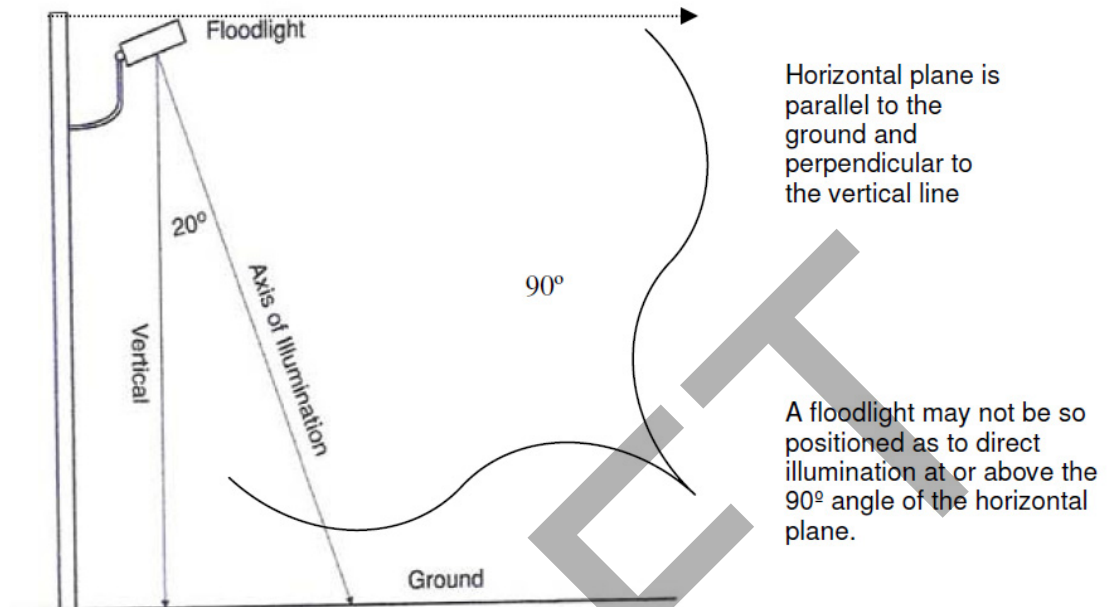
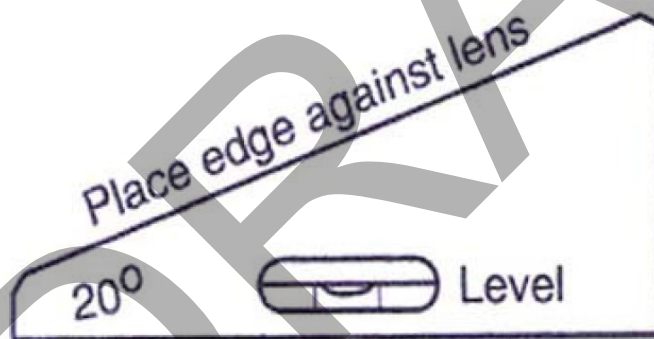


Exhibit 2



**Exhibit 3**



**Exhibit 4.** This is a tool for aiming lights such as the floodlight represented in Exhibit 4. This tool would verify the angle of 20° by placing the upper edge of the tool against the floodlight lens and adjusting the floodlight so that a level parallel to the bottom edge shows level.

**Section 8. Gasoline Filling Stations / Outdoor Sales**

- A.** Outdoor sales areas must utilize luminaires that are fully shielded. No wall mounted lighting will be allowed.
- B.** Service station canopies must utilize canopy lights that are fully recessed into the canopy or are fully shielded by the canopy.

- C. The following average maintained illumination levels for service stations must not be exceeded:

<b>Service Station Component</b>	<b>Lighting Level</b>
Approach	2.0 fc
Driveway	2.0 fc
Pump Island	10.0 fc
Building Façade	3.0 fc
Service Areas	3.0 fc
Landscape Highlights	2.0 fc

Note: fc = foot-candle

**Section 9. Parking Lot / Parking Structure**

- A. All lighting luminaires in surface parking lots and on the top decks of parking structures shall be fitted to render them full cutoff.
- B. Reflectivity. In order to allow for a variety of surface material options:
  - (1) Surface parking lots shall be designed, coated or constructed so that illumination levels are no more than what is reflected from asphalt at an average of twenty (20) foot-candles.
  - (2) Top decks of parking structures shall be designed, coated or constructed so that illumination levels are no more than what is reflected from asphalt at an average of fifteen (15) foot-candles.
- C. One hour after closing, businesses must turn off at least fifty percent (50%) of lighting luminaires in surface parking lots and on top decks of parking structures; however, those luminaires turned off may be set to function utilizing a motion detector system or dimmer.

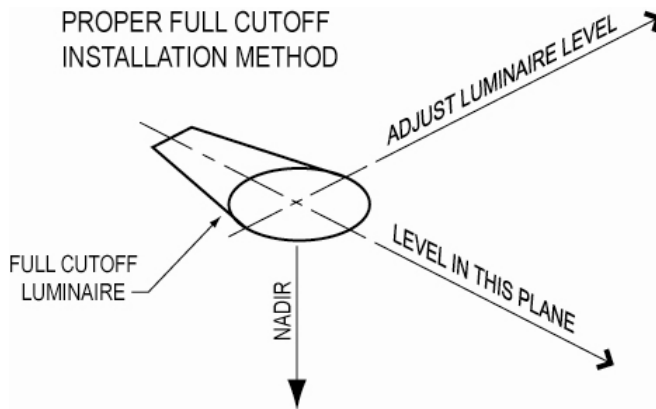
**Section 10. Outdoor Sign Lighting**

- A. All signs located within one (1) of a mile of NAS Kingsville shall be positioned in such a manner and contain "dark sky" approved shielding devices as to significantly reduce spillover light affecting the military installation and operations. In no instance shall signs be positioned facing parallel to the adjacent boundaries of NAS Kingsville or its runways.
- B. On-premise signs may remain illuminated during regular business hours, but may not be illuminated later than one-half (1/2) hour after the business is no longer open to the public, nor prior to the daily opening of the business to the public.

- C.** Single-tenant on-premise signs shall be illuminated at a level no greater than seven (7) footcandles measured at five (5) feet from the light source. Multi-tenant on-premise signs shall be illuminated at a level no greater than twelve (12) footcandles measured at five (5) feet from the light sources.
- D.** Exterior means of illumination utilized for on-premise signs shall be positioned in a “top down” manner as depicted in Exhibit 3. Bottom-mounted fixtures shall not be used for on-premise signs.
- E.** Conventional non-digital off-premise signs shall employ an illumination system utilizing no more than two (2) luminaires to illuminate each sign message area (face). Each luminaire shall employ a refractor and hood that focuses the light on to the sign face and each luminaire may not exceed 400 watts.
- F.** All on-premise and off-premise digital signs shall be illuminated at a level no greater than 0.3 footcandles over ambient light levels for the location and time and shall employ light cutoff devices, such as louvers, to minimize light escaping above the horizontal plane. This Subsection 10.G. is not exempt from the requirements of Subsection 9.B., above.
- G.** Nothing in this section shall be interpreted to authorize signs in areas of the City prohibiting signs.

### **Section 11. Street Lighting**

- A.** This subsection regulates the illumination levels for street lights that are installed on any street and must follow the American National Standard Practice for Roadway Lighting under the IESNA.
- B.** Street light illumination must follow the guidelines in Subsection 11.D unless a licensed professional engineer, trained and experienced in the science of illumination engineering, deems other illumination levels based on IESNA standards more appropriate for existing conditions and staff concurs with this assessment.
- C.** All standard streetlights must utilize full cutoff type luminaires that are installed level to the ground in two intersecting perpendicular planes (see Exhibit 5), and should be horizontally level in all directions.



**Exhibit 5**

- D.** New ornamental street lights must be classified as either IES "Full Cutoff" or IES "Cutoff" as determined by a valid photometric report. This report must be generated for the specified model by a qualified testing lab (testing to IES standards) and must include a full vertical evaluation through 180 degrees, otherwise that fixture will be unacceptable.

**Section 12. LEED Standards**

It is encouraged that, where possible, LEED (The Leadership in Energy and Environmental Design) certified lighting standards be substituted for the requirements of sections 6 through 11, above, so long as the minimum standards of this section are met. If a project utilizes LEED certified lighting standards, the remainder of a project's design does not have to meet LEED standards.

**Section 13. Tower and Structure Lighting**

See appropriate Federal Communications (FCC) or Federal Aviation Administration regulations.

**Section 14. Unmanned Automated Teller Machine Lighting**

Unmanned automated teller machines (ATMs) shall comply with the requirements as listed in section 59.307, Texas Finance Code and this regulation by utilizing fully shielded or full cutoff luminaires as appropriate.

**Section 15. Other Prohibited Lighting**

Unless authorized by the City Commission by specific Ordinance for a special event, the following are prohibited:

- A.** The use of laser source light or any similar high intensity light, such as used for outdoor advertising or entertainment, when projected above the horizontal plane is prohibited; and

- B. The operation of searchlights for any purposes is prohibited.

**Section 16. Maintenance of Nonconforming Luminaires**

- A. All luminaires lawfully in place prior to the effective date(s) of regulation shall have legal nonconforming status.
- B. Minor repair and maintenance of legal nonconforming luminaires up to 50% of the replacement value is allowed, however any alteration in excess of 50% of the replacement value shall terminate the nonconforming status of that fixture / use and at that time, all standards of this regulation must be met.

**Section 17. Variances**

- A. The Board of Adjustment may grant a variance to the requirements of this section where a literal enforcement of the provisions will result in unnecessary hardship. A variance request must be submitted to the City in writing that sets out the basis for the request. No variance can be granted unless it meets the approval criteria outlined in Section 15-3-90.
- B. A special exception to the requirements of this section may be granted by the Board of Adjustment where a plan's lighting design does not meet strict design standards but alternative methods may be used which meet the intent of the Code.

**Section 18. Board of Adjustment**

- A. The Board of Adjustment of the City of Kingsville, Texas is hereby designated as the Board of Adjustment for the purposes of these regulations and shall have and exercise the following powers:
  - (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Agency in the administration or enforcement of these regulations;
  - (2) to hear and decide special exceptions to the terms of these regulations when the board is required to do so; and
  - (3) to hear and decide specific variances.
- B. The Board of Adjustment shall be comprised of at least five (5) members and shall adopt rules for its governance and procedure in harmony with the provisions of these regulations.

Meetings of the Board of Adjustment shall be held at the call of the chairman and at such times as the Board of Adjustment may determine, but the start of the hearing process shall be held within 30 days of the receipt of the appeal request by the Administrative Agency. The chairman, or in his/her absence the

acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or if any member is absent or fails to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board of Adjustment. All such records shall be public records.

- C.** The Board of Adjustment shall make written findings of fact and conclusions of law stating the facts upon which it relied when making its legal conclusions in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of these regulations.
- D.** The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Agency, to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variance to these regulations.

### **Section 19. Appeals**

- A.** Any person aggrieved or any taxpayer affected by a decision of the Administrative Agency made in the administration of these regulations may appeal to the Board of Adjustment if that person or taxpayer is of the opinion that a decision of the Administrative Agency is an improper application of these regulations. This same right of appeal is extended to the governing bodies of the City of Kingsville, Texas, and Kleberg County, Texas, and to the City of Kingsville – Kleberg County Joint Airport Zoning Board.
- B.** All appeals hereunder must be taken within a reasonable time, but no later than 10 calendar days after receiving notice of the reason for the appeal, as provided by the rules of the Board of Adjustment by filing a notice of appeal with the Board of Adjustment and the Administrative Agency specifying the grounds for the appeal. The Administrative Agency shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed was taken.
- C.** An appeal shall stay all proceedings in furtherance of the action appealed unless the Administrative Agency certifies in writing to the Board of Adjustment that by reason of the facts stated in the certificate, a stay would, in the opinion of the Administrative Agency, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Administrative Agency and on due cause shown.
- D.** The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same



within a reasonable time. Upon the hearing, any party may appear in person, by agent, and/or by attorney.

- E.** The Board of Adjustment may reverse or affirm, in whole or in part, or modify the Administrative Agency's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for this purpose the Board of Adjustment has the same authority as the Administrative Agency.

### **Section 20. Judicial Review**

Any person aggrieved or any taxpayer affected by any decision of the Board of Adjustment that believes the decision of the Board of Adjustment is illegal, may present to a court of record within 10 calendar days of receiving notice of the Board's decision, a petition stating that the decision of the Board of Adjustment is illegal, in whole or in part, and specifying the grounds for the illegality, as provided by the Airport Zoning Act, Texas Local Government Code Annotated, §§ 241.041.

### **Section 21. Enforcement and Remedies**

The City of Kingsville Commission may institute in a court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of these regulations or of any order or ruling made in connection with their administration or enforcement including, but not limited to, an action for injunctive relief.

- A.** Violations Defined. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve or convert any illumination device of any type, or cause the same to be done, contrary to or in violation of any provision of this chapter. Any person, firm or corporation shall be deemed guilty of a separate offense for each and every day operation thereof during which any violation of any provision of this chapter is committed, continued, or permitted.
- B.** Enforcement. The Director shall give written notice of noncompliance to the owner/tenant or their agent or other person in control of the property on which an outdoor lighting violation exists. Service shall be made on the owner/tenant or their agent or other person in control of the property:
  - (1) In person or by registered or certified mail, return receipt requested; or
  - (2) If personal service cannot be obtained or the address of the owner/tenant or their agent or other person in control of the property is unknown, by posting a copy of the notice on the premises on which the violation exists or by publishing.

**Section 22. Penalties**

Each violation of these regulations or of any regulation order, or ruling promulgated hereunder shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not more than \$200.00 and each day a violation continues to exist shall constitute a separate offense.

**Section 23. Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed herein and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

**Section 24. Severability**

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

**Section 25. Effective Date**

WHEREAS, the immediate operation of the provisions of these regulations is necessary for the preservation of the public health, safety, and general welfare, an emergency is hereby declared to exist, and these regulations shall be in full force and effect from and after their adoption by the City of Kingsville – Kleberg County Joint Airport Zoning Board and publication and posting as required by law.

Adopted by the City of Kingsville Commission this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Chairperson, City of Kingsville Commission

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Attest: \_\_\_\_\_  
City Secretary

## **JAZB Outdoor Lighting Regulation**

A regulation of the Kingsville-Kleberg Joint Airport Zoning Board (JAZB) regulating and restricting the installation, types and use of outdoor lighting in the vicinity of NAS Kingsville, Texas by creating the appropriate regulations and design guidelines; providing for appropriate restrictions and the enforcement of such restrictions; defining certain terms used herein; providing for an Administrative Agency, a Board of Adjustment, enforcement and imposing penalties.

WHEREAS, these regulations are adopted pursuant to the authority conferred by Texas Local Government Code § 51.001 et seq. and § 241.001 et seq, the legislature of the state of Texas has delegated the responsibility to local government to adopt regulations to minimize airport hazards and incompatible development.

WHEREAS, the Kingsville-Kleberg JAZB has found that uncontrolled artificial lighting has the potential for endangering the lives and property of users of NAS Kingsville, and property or occupants of land in its vicinity; may affect existing and future visual approach minimums of NAS Kingsville; may reduce the effectiveness and safety of training operations at NAS Kingsville; may reduce the size of areas available for the landing, take-off and maneuvering of aircraft; and may damage or impair the utility of NAS Kingsville, and the public investment therein; and

WHEREAS, the Kingsville-Kleberg JAZB has declared that:

- 1) NAS Kingsville fulfills an essential flight training role for the U.S. Navy and Department of Defense;
- 2) the creation or establishment of light and glare has the potential of being a nuisance and may injure the owners, occupiers or users of land in the region surrounding NAS Kingsville;
- 3) the continued viability of NAS Kingsville for training purposes is critical to the readiness of the United States military, and the vitality of the economies of the City of Kingsville and Kleberg County
- 4) it is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of obstructions or potential incompatible land uses that are a hazard to air navigation or the public health and safety be prevented; and
- 5) the prevention of excessive light and glare should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

WHEREAS, the need to regulate the installation and use of outdoor lighting is necessary within the Controlled Compatible Land Use Area as defined on Figure 1 of the Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations;

Therefore, be it ordered by the Kingsville-Kleberg JAZB:

**Section 1. Short Title**

These regulations shall be known and may be cited as the "JAZB Outdoor Lighting Regulation."

**Section 2. Exclusions**

The purpose and intent of this regulation is to provide a reasonable basis for the review of future zoning and development requests. This regulation will NOT be used to control or restrict the following.

- A.** Agricultural Use. This regulation shall not be used to regulate any operational aspect of an agricultural use, including the cultivation and harvesting of crops, land management activities (controlled burning, clearing, spraying, trimming), livestock management, hunting, or use and application of water. This ordinance shall be applied to the installation of new permanent lighting fixtures on agricultural support facilities.
- B.** Exempted Nonconforming Luminaires. Any existing luminaires which were lawfully in place according to all applicable County Ordinances at the time, but which do not now comply with all applicable regulations as of the effective date of this regulation.
- C.** Outdoor lighting for which light is produced directly by the combustion of fossil fuels.
- D.** Outdoor lighting used during law enforcement, fire, and medical activities and for meteorological data gathering purposes.
- E.** Outdoor lighting employed during emergency or night-time repairs of roads and utilities.
- F.** Lighting required by law to be installed on motor vehicles.
- G.** Lighting required for the safe operation of aircraft.
- H.** Outdoor lighting installed on Federal and State facilities; however, voluntary compliance is encouraged.
- I.** Decorative holiday lighting from November 15 through the next January 15.

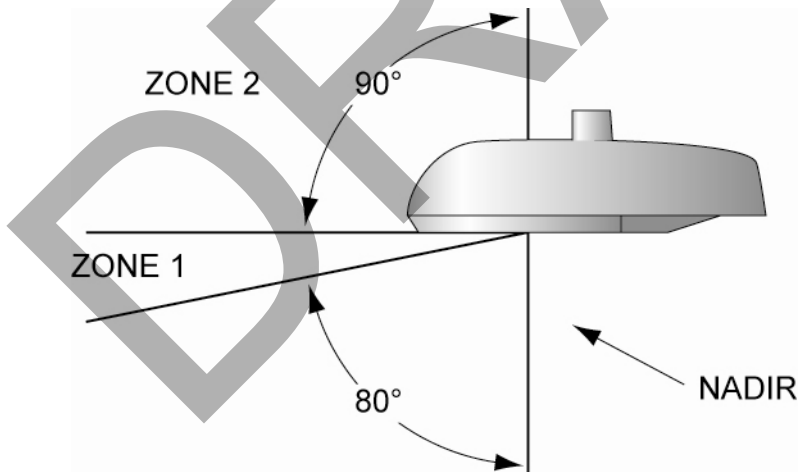
- J.** Temporary exemptions: Any individual may submit a written request to the Administrative Agency for temporary lighting and obtain a temporary electrical permit. The permit may grant temporary lighting for a period not to exceed thirty (30) days, with at least thirty (30) days passing before another temporary electrical permit may be issued. The request for temporary lighting must contain the following information in addition to information required to obtain a temporary electrical permit:
- (1) Proposed use and location of the outdoor light requested.
  - (2) Type of lamp(s) to be used, including manufacturer's part number and initial lumens.
  - (3) Type of light fixture used, including manufacturer's model number and specification (cut) sheets indicating photometric distribution data stated in iso foot-candle diagrams.
  - (4) Starting and ending dates for temporary lighting use.
  - (5) Contact information including name of requester, affiliation (if applicable), address and telephone number.
  - (6) Such other information the Administrative Agency may require.

### **Section 3. Definitions**

As used in these regulations, the following terms shall be defined as follows:

- A. Administrative Agency** – The appropriate person or office of a political subdivision which is responsible for the administration and enforcement of the regulations prescribed herein. The Administrative Agency is set forth in Section 4 of these regulations.
- B. Airport** – Refers to NAS Kingsville, Texas, including the ultimate development of that facility.
- C. Board of Adjustment** – A board so designated by these regulations as provided in Texas Local Government Code, §§241.032. Provisions for the Board of Adjustment are set forth in Section 18 of these regulations.
- D. Business** – A person, partnership, corporation, or organization engaged in commerce, manufacturing, or a service; profit and non-profit seeking enterprise or concern. The definition is intended to be broadly construed and shall include, but not be limited to, charitable organizations.
- E. Candela** – The unit of measure indicating the luminous intensity (candlepower) of a light source in a specific direction.

- F. Controlled Compatible Land Use Area** – An area established by the Kingsville-Kleberg JAZB, in compliance with Texas Local Government Code. Annotated, §§ 241.003 and defining the area of jurisdiction for the Kingsville-Kleberg JAZB.
- G. Digital Sign** – Cathode ray tube (CRT), flat panel liquid-crystal display (LCD), plasma, aerial imaging, projector or other electronic devices that are at the end-point of a digital signage system, presenting the content to include: Dynamic Signs, Electronic Signs, Digital Media Advertising, as well as signs within a Digital Signage Network, In-store TV Network, Captive Audience Network, Narrowcasting Network, Out-of-home Media Network, Digital Media Network, and Advertising Network.
- H. Direct Light** – Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens of a luminaire.
- I. Foot-candle (fc)** – A unit of light measurement equal to one lumen per square foot.
- J. Full Cutoff** – Describes a luminaire light distribution where 100 candela per 1,000 lamp lumens (ten percent) may emit at all vertical angles beginning at 80 degrees up from nadir to less than 90 degrees, and 0 (zero) candela per 1,000 lamp lumens (zero percent) is allowed at 90 degrees (horizontal plane) and all angles above. This applies to all horizontal angles around the luminaire. A full cutoff luminaire is also fully shielded (see Exhibit 1).



**Exhibit 1**

- K. Fully Shielded** – A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane as determined by Military base, camp or installation Ordinance photometric test or certified by the manufacturer. A fully shielded fixture is not necessarily full cutoff.
- L. Glare** – A luminance produced by bright sources in the field-of-view superimposed on the image in the eye reducing contrast and hence visibility.
- M. Hazard to Air Navigation** – An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- N. Height** – For the purpose of determining the height limits in all zones set forth in these regulations and shown on the NAS Kingsville Compatible Land Use Zoning Map, the datum shall be mean sea level elevation.
- O. "IESNA" (or "IES")** – An acronym for the Illuminating Engineering Society of North America. The IESNA makes recommendations for outdoor lighting but does not set outdoor lighting community standards which are set through local regulations.
- P. Illuminance** – The quantity of light arriving at a surface measured in footcandles.
- Q. Intermittent Lighting** – Luminaires that do not remain on for more than five minutes.
- R. Lumen** – A unit of luminous flux. For purposes of this Ordinance, the lumen-output values shall be the initial lumen output ratings of a lamp. The lumen rating associated with a given lamp is generally indicated on its packaging or may be obtained from the manufacturer.
- S. Luminaire** – A complete lighting fixture consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.
- T. Luminous Flux** – A quantitative expression of the brilliance of a source of visible light which is electromagnetic energy within the wavelength range of approximately 390 nanometers (nm) to 770 nm. This quantity is measured in terms of the power emitted per unit solid angle from an isotropic radiator, a theoretical point source that radiates equally in all directions in three-dimensional space.
- U. Nadir** – The direction pointing vertically down from the lowest light emitting part of the luminaire (see Exhibit 1 for an example).

- V. Nit** – A unit of illuminative brightness equal to one candle per square meter, measured perpendicular to the rays of the source.
- W. Nonconforming Use** – Any use of land which is inconsistent with the provisions of these regulations and which is existing as of the effective date of these regulations.
- X. Non-precision Instrument Runway** – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or approach procedure that has been approved or planned.
- Y. Outdoor Lighting** – Illumination of an outside area or object by any manmade device that is located outdoors and produces light.
- Z. Person** – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- AA. Structure** – An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, antennas, communication or other towers, cranes, smokestacks, earth formations, wind generation structures, and overhead transmission lines (see also Section 2, Exclusions).
- BB. Temporary Outdoor Lighting** – Lighting allowed as specified in an approved temporary permit pursuant to the requirements of Subsection 2.J., below.
- CC. Trespass Lighting** – Light emitted by a luminaire that falls outside the boundaries of the property on which the luminaire is sited.
- DD. Zoning Board of Adjustment** – A board consisting of at least five (5) members appointed by the City Commission of the City of Kingsville, Texas as provided by Texas Local Government Code Annotated, §§ 211.008.

#### **Section 4. Administrative Agency**

The Administrative Agency shall be as defined in Section 4 of the NAS Kingsville Compatible Land Use Zoning Regulations.

#### **Section 5. General Provisions**

- A.** This regulation shall apply to all areas within the Controlled Compatible Land Use Area as defined on Figure 1, NAS Kingsville Compatible Land Use Zoning Map as part of the NAS Kingsville Compatible Land Use Zoning Regulations, incorporated herein by reference.
- B.** All public and private outdoor lighting installed after the effective date of this regulation shall conform to the requirements established by this regulation.



- C. Any new luminaire that is aimed, directed, or focused so as to cause direct light from the luminaire to be directed toward NAS Kingsville is prohibited. Such luminaire must be redirected or its light output controlled to eliminate such conditions.
- D. All new lighting shall be fully screened from the affected military installation. Methods of screening can include, but are not limited to, fencing and landscaping.

### **Section 6. Residential Lighting**

- A. No trespass lighting within residential areas may exceed one and one half (1½) foot-candles at the property line, with the exception of intermittent lighting which can be up to two (2) foot-candles.
- B. All lighting within residential areas must comply with Subsection 7, Commercial Lighting.

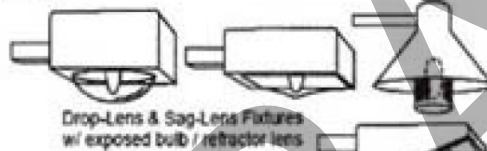
### **Section 7. Commercial Lighting**

- A. All lighting fixtures installed on any commercial property and which include or exceed two (2) foot-candles shall be fitted to render them full cutoff (no light output emitted above 90 degrees at any lateral angle around the fixture.) See "Acceptable Fixture" designation as shown in Exhibit 2. The manufacturer or firm handling the installation of outdoor lighting must provide documentation to prove full cutoff status of outdoor lighting to the Planning and Development Services Department during the plan review stage.
- B. For lighting horizontal tasks such as roadways, sidewalks, entrances and parking areas, fixtures must meet "full cutoff" criteria (no light output emitted above 90 degrees at any lateral angle around the fixture).
- C. Intermittent lighting must be of the "motion sensor" type that stays on for a period of time not to exceed five (5) minutes and has a sensitivity setting that allows the luminaire to be activated only when motion is detected on the site.
- D. All trespass lighting shall not exceed two and one-half (2½) foot-candles measured at the property line, except that residential trespass lighting is regulated in Subsection 6.a., above.
- E. Floodlight fixtures must be aimed so as to prevent direct radiation of light into the open sky at any angle above the horizontal plane as shown in Exhibit 3 and verified using a tool such as shown in Exhibit 4.
- F. With the exception of lighting which is required for security and safety such as parking lot illumination, businesses must turn off outdoor lights emitting illumination levels exceeding 2 foot-candles (fc) after 11:00 p.m.

G. Lighting installed to illuminate construction sites in order to secure or protect equipment at night shall meet the requirements of Subsection 7.A., above.

### Unacceptable Fixtures

Fixtures that produce glare and light trespass



### Acceptable Fixtures

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night

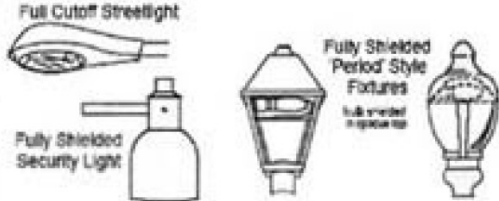
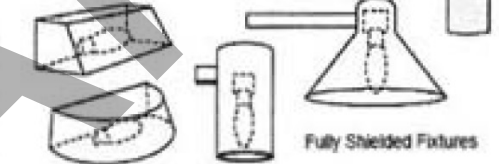
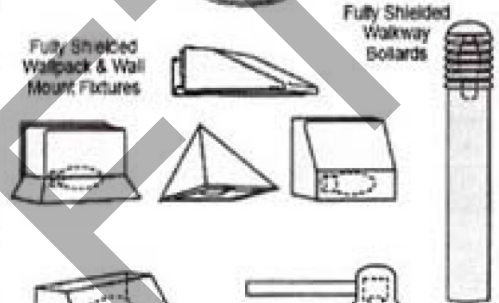
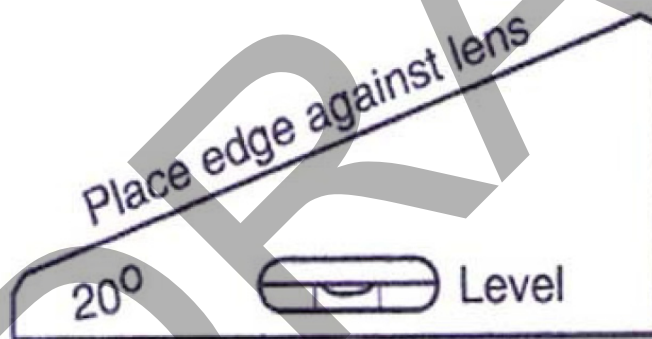
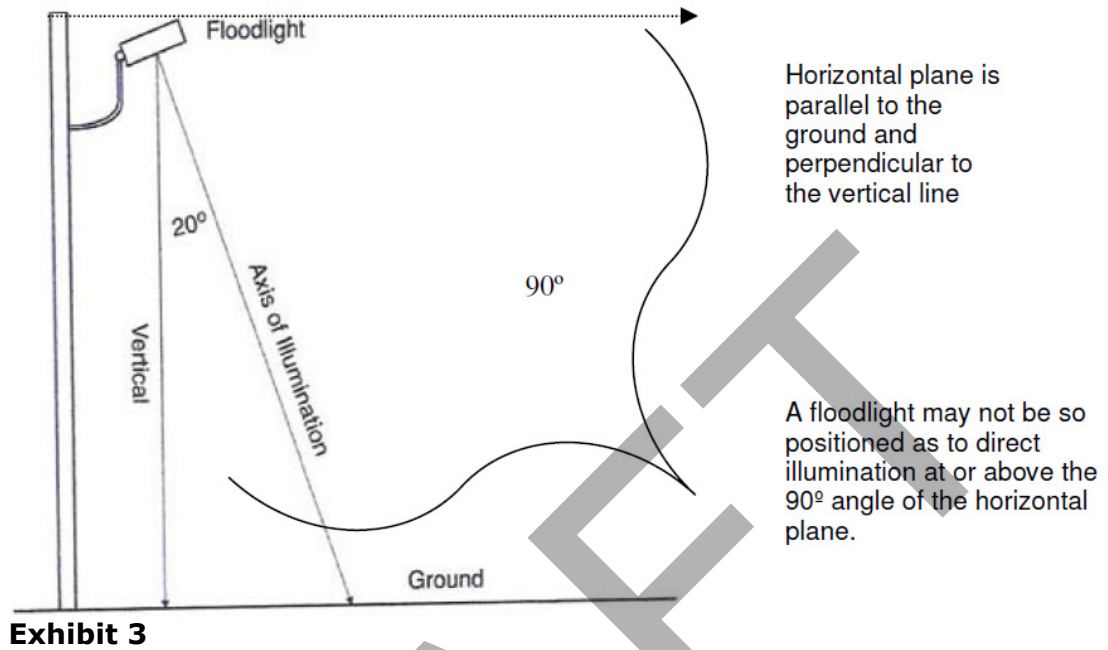


Exhibit 2



**Section 8. Gasoline Filling Stations / Outdoor Sales**

- A.** Outdoor sales areas must utilize luminaires that are fully shielded. No wall mounted lighting will be allowed.
- B.** Service station canopies must utilize canopy lights that are fully recessed into the canopy or are fully shielded by the canopy.

- C. The following average maintained illumination levels for service stations must not be exceeded:

<b>Service Station Component</b>	<b>Lighting Level</b>
Approach	2.0 fc
Driveway	2.0 fc
Pump Island	10.0 fc
Building Façade	3.0 fc
Service Areas	3.0 fc
Landscape Highlights	2.0 fc

Note: fc = foot-candle

**Section 9. Parking Lot / Parking Structure**

- A. All lighting luminaires in surface parking lots and on the top decks of parking structures shall be fitted to render them full cutoff.
- B. Reflectivity. In order to allow for a variety of surface material options:
  - (1) Surface parking lots shall be designed, coated or constructed so that illumination levels are no more than what is reflected from asphalt at an average of twenty (20) foot-candles.
  - (2) Top decks of parking structures shall be designed, coated or constructed so that illumination levels are no more than what is reflected from asphalt at an average of fifteen (15) foot-candles.
- C. One hour after closing, businesses must turn off at least fifty percent (50%) of lighting luminaires in surface parking lots and on top decks of parking structures; however, those luminaires turned off may be set to function utilizing a motion detector system or dimmer.

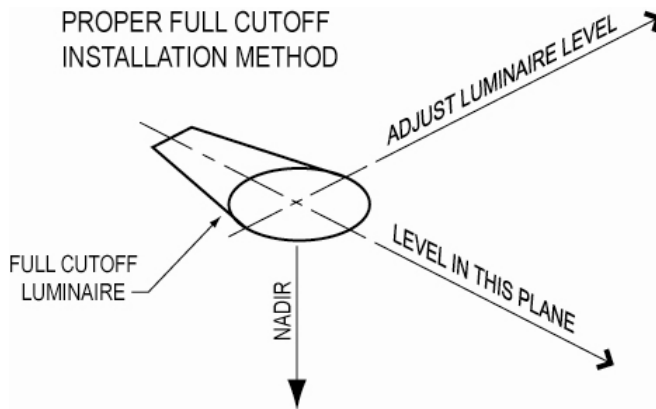
**Section 10. Outdoor Sign Lighting**

- A. All signs located within one (1) of a mile of NAS Kingsville shall be positioned in such a manner and contain "dark sky" approved shielding devices as to significantly reduce spillover light affecting the military installation and operations. In no instance shall signs be positioned facing parallel to the adjacent boundaries of NAS Kingsville or its runways.
- B. On-premise signs may remain illuminated during regular business hours, but may not be illuminated later than one-half (1/2) hour after the business is no longer open to the public, nor prior to the daily opening of the business to the public.

- C.** Single-tenant on-premise signs shall be illuminated at a level no greater than seven (7) footcandles measured at five (5) feet from the light source. Multi-tenant on-premise signs shall be illuminated at a level no greater than twelve (12) footcandles measured at five (5) feet from the light sources.
- D.** Exterior means of illumination utilized for on-premise signs shall be positioned in a “top down” manner as depicted in Exhibit 3. Bottom-mounted fixtures shall not be used for on-premise signs.
- E.** Conventional non-digital off-premise signs shall employ an illumination system utilizing no more than two (2) luminaires to illuminate each sign message area (face). Each luminaire shall employ a refractor and hood that focuses the light on to the sign face and each luminaire may not exceed 400 watts.
- F.** All on-premise and off-premise digital signs shall be illuminated at a level no greater than 0.3 footcandles over ambient light levels for the location and time and shall employ light cutoff devices, such as louvers, to minimize light escaping above the horizontal plane. This Subsection 10.G. is not exempt from the requirements of Subsection 9.B., above.
- G.** Nothing in this section shall be interpreted to authorize signs in areas of the Controlled Compatible Land Use Area prohibiting signs.

### **Section 11. Street Lighting**

- A.** This subsection regulates the illumination levels for street lights that are installed on any street and must follow the American National Standard Practice for Roadway Lighting under the IESNA.
- B.** Street light illumination must follow the guidelines in Subsection 11.D unless a licensed professional engineer, trained and experienced in the science of illumination engineering, deems other illumination levels based on IESNA standards more appropriate for existing conditions and staff concurs with this assessment.
- C.** All standard streetlights must utilize full cutoff type luminaires that are installed level to the ground in two intersecting perpendicular planes (see Exhibit 5), and should be horizontally level in all directions.



**Exhibit 5**

- D.** New ornamental street lights must be classified as either IES "Full Cutoff" or IES "Cutoff" as determined by a valid photometric report. This report must be generated for the specified model by a qualified testing lab (testing to IES standards) and must include a full vertical evaluation through 180 degrees, otherwise that fixture will be unacceptable.

**Section 12. LEED Standards**

It is encouraged that, where possible, LEED (The Leadership in Energy and Environmental Design) certified lighting standards be substituted for the requirements of sections 6 through 11, above, so long as the minimum standards of this section are met. If a project utilizes LEED certified lighting standards, the remainder of a project's design does not have to meet LEED standards.

**Section 13. Tower and Structure Lighting**

See appropriate Federal Communications (FCC) or Federal Aviation Administration regulations.

**Section 14. Unmanned Automated Teller Machine Lighting**

Unmanned automated teller machines (ATMs) shall comply with the requirements as listed in section 59.307, Texas Finance Code and this regulation by utilizing fully shielded or full cutoff luminaires as appropriate.

**Section 15. Other Prohibited Lighting**

Unless authorized by the Kingsville-Kleberg JAZB by specific Ordinance for a special event, the following are prohibited:

- A.** The use of laser source light or any similar high intensity light, such as used for outdoor advertising or entertainment, when projected above the horizontal plane is prohibited; and

- B. The operation of searchlights for any purposes is prohibited.

**Section 16. Maintenance of Nonconforming Luminaires**

- A. All luminaires lawfully in place prior to the effective date(s) of regulation shall have legal nonconforming status.
- B. Minor repair and maintenance of legal nonconforming luminaires up to 50% of the replacement value is allowed, however any alteration in excess of 50% of the replacement value shall terminate the nonconforming status of that fixture / use and at that time, all standards of this regulation must be met.

**Section 17. Variances**

- A. The Board of Adjustment may grant a variance to the requirements of this section where a literal enforcement of the provisions will result in unnecessary hardship. A variance request must be submitted to the Administrative Agency in writing that sets out the basis for the request. No variance can be granted unless it meets the approval criteria outlined in Section 15-3-90.
- B. A special exception to the requirements of this section may be granted by the Board of Adjustment where a plan's lighting design does not meet strict design standards but alternative methods may be used which meet the intent of the Code.

**Section 18. Board of Adjustment**

The Board of Adjustment shall be as defined by Section 11 of the NAS Kingsville Compatible Land Use Zoning Regulations, herein incorporated by reference.

**Section 19. Appeals**

Appeals shall be processed as defined by Section 12 of the NAS Kingsville Compatible Land Use Zoning Regulations, herein incorporated by reference.

**Section 20. Judicial Review**

Any person aggrieved or any taxpayer affected by any decision of the Board of Adjustment that believes the decision of the Board of Adjustment is illegal, may present to a court of record within 10 calendar days of receiving notice of the Board's decision, a petition stating that the decision of the Board of Adjustment is illegal, in whole or in part, and specifying the grounds for the illegality, as provided by the Airport Zoning Act, Texas Local Government Code Annotated, §§ 241.041.

**Section 21. Enforcement and Remedies**

The governing bodies of the City of Kingsville, Texas, or Kleberg County, Texas, or the Kingsville-Kleberg Joint Airport Zoning Board may institute in a court of competent

jurisdiction an action to prevent, restrain, correct, or abate any violation of these regulations or of any order or ruling made in connection with their administration or enforcement including, but not limited to, an action for injunctive relief.

**Section 22. Penalties**

Each violation of these regulations or of any regulation order, or ruling promulgated hereunder shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not more than \$200.00 and each day a violation continues to exist shall constitute a separate offense.

**Section 23. Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed herein and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

**Section 24. Severability**

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

**Section 25. Effective Date**

WHEREAS, the immediate operation of the provisions of these regulations is necessary for the preservation of the public health, safety, and general welfare, an emergency is hereby declared to exist, and these regulations shall be in full force and effect from and after their adoption by the Kingsville-Kleberg JAZB and publication and posting as required by law.



Adopted by the Kingsville-Kleberg JAZB this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Chairperson, Kingsville-Kleberg JAZB

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Attest: \_\_\_\_\_  
JAZB Administrative Agency, Planning Director

DRAFT

Please see the next page.

DRAFT

JLUS Strategy	Responsibility / Partner
<p><b>24. Encourage Statewide Study Regarding Military Base Encroachment</b></p> <p>Work with state legislators to request a study regarding military base encroachment for the state, with the outcome of legislation. Bexar County developed a letter to illustrate this strategy.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ DOD</li> <li>▪ Navy, Region SE</li> </ul>
<p><b>25. Enact Wind Energy Restriction Legislation</b></p> <p>Work to enact state legislation to restrict wind energy development within Navy Flight Corridors.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ DOD</li> <li>▪ Navy, Region SE</li> <li>▪ Texas Military Preparedness Commission (TMPC)</li> </ul>

## Background

In the unincorporated areas near military installations, compatibility planning is constrained by the lack of regulatory authority provided to counties to control and regulate land use. The Airport Zoning Act, Texas Local Government Code, §§ 241.001, et seq, provides for the ability to establish a Joint Airport Zoning Board (JAZB), which provides the ability to regulate/control land use and hazards in a defined area adjacent to a military airfield. While a JAZB and associated land use/hazard regulations were established as part of this Implementation Program (see JLUS Strategy 33), there are other unincorporated areas outside of the jurisdictional reach of the JAZB that remain a concern for compatibility planning. Key among these concerns is the regional issue of alternative energy facilities.

As part of the Committee meetings on the Implementation Program, concerns were voiced often on potential encroachment issues associated with new wind farms. This concern comes from the potential interference or impedance of radar signals from NAS Kingsville which could lead to the inability to accurately track and control aircraft. During the Committee meetings, NAS Kingsville representatives stated that they would like to see some compatibility



24

Encourage Statewide Study Regarding Military Base Encroachment

25

Enact Wind Energy Restriction Legislation

planning tools that allow for coordination or controls on new wind farms within a 30-mile radius of NAS Kingsville.

At the current time, there is no Texas enabling legislation that would provide for any ability to control the placement, height, or operation of these facilities outside of the area controlled by an established JAZB. The ability to address this in State legislation is a desired follow on topic for this strategy to track long-term.

### Steps to Implement JLUS Strategy #24

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■	■	■					1	Committee reviewed strategy and its focus / timeframe. <ul style="list-style-type: none"> <li>■ Change strategy to focus on alternative energy as one key issue of immediate consideration.</li> <li>■ Change strategy to have an on-going timeline.</li> </ul>	Committee
						□	3	On-going coordination: <ul style="list-style-type: none"> <li>■ Work with other jurisdictions in Texas to promote legislation that would provide the tools to promote compatibility planning.</li> <li>■ Continue work with Texas Military Working Group in support of these efforts.</li> <li>■ Of key importance currently is the ability to address wind farms within 30 miles of installation.</li> </ul>	City of Kingsville Kleberg County NAS Kingsville

### Supporting Materials

A number of articles were reviewed during the Implementation Program. The following are some of the resources discussed:

- *Military Officials Say Wind Turbines Can Stir Up Problems for Bases.* Star-Telegram, April 27, 2010.
- *Pentagon Drops Opposition to Big Oregon Wind Farm.* The Oregonian, April 30, 2010.
- *Shepherds Flat Wind Farm Will Move Forward, DoD Says It Will No Longer Oppose Construction of One of the World's Largest Green Energy Projects.* Office of Greg Walden, U.S. Congressman, Oregon. Press release, April 20, 2010.
- *Defense Dept. Threatens Progress on Oregon Wind Farm Project.* The Washington Post, April 15, 2010.
- *Wind Farm Plans Stir Up Storm Over Military Radar.* The Associated Press, March 18, 2010.

**Results**

- Update strategy to provide focus on alternative energy as a key aspect of future actions.

JLUS Strategy	Responsibility / Partner
<p><b>24. Encourage Statewide Study Regarding Military Base Encroachment</b></p> <p>Work with state legislators to request a study regarding military base encroachment for the state, with the outcome of legislation. Bexar County developed a letter to illustrate this strategy.</p> <p><a href="#">In the next two years, work with the Texas Military Working Group and other concerned agencies and organizations to address airport (public and military) hazard planning being extended to cover an area needed to protect aviation safety relative to potential interference with radar operations.</a></p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>■ City of Kingsville</li> <li>■ Kleberg County</li> <li>■ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>■ <a href="#">Texas Military Working Group</a></li> <li>■ <a href="#">Federal Aviation Administration (FAA)</a></li> <li>■ DOD</li> <li>■ Navy, Region SE</li> </ul>
<p><b>25. Enact Wind Energy Restriction Legislation</b></p> <p>Work to enact state legislation to restrict wind energy development within Navy Flight Corridors.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>■ City of Kingsville</li> <li>■ Kleberg County</li> <li>■ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>■ DOD</li> <li>■ Navy, Region SE</li> <li>■ Texas Military Preparedness Commission (TMPC)</li> </ul>

- Change the timeframe of JLUS Strategy 24 from 0 - 2 years to On-going.
- Change the timeframe of JLUS Strategy 25 from 3 - 5 years to On-going.

24

Encourage Statewide Study Regarding Military Base Encroachment

25

Enact Wind Energy Restriction Legislation

## Next Steps

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- Review strategy on an on-going basis to ensure actions described in this strategy are being undertaken and still adequately address the issue.
- Continue to work with the Texas Military Working Group, the FAA and other concerned agencies and organizations to:
  - Develop a prioritized list of issues to be addressed (include wind turbine / alternative energy),
  - Develop fact papers supporting positions desired,
  - Develop draft legislation for consideration, and
  - Facilitate this issue being addressed by the Texas Legislature.
- The City of Kingsville should work with other Texas jurisdictions and State Legislators to modify State law to specifically state that proximity to a military installation should be a required disclosure statement under Section 5.008 of the Texas Property Code. See JLUS Strategy 31/32 (Tab 31) and **Attachment 31/32-1** for proposed additions.

JLUS Strategy	Responsibility / Partner
<p><b>26. Update Kingsville Master Plan</b></p> <p>Update the City’s Master Plan to include implementation of the NAS Kingsville Air Installations Compatible Use Zones (AICUZ) study, current and future missions, and land use compatibility recommendations from the Kingsville JLUS.</p> <ul style="list-style-type: none"> <li>▪ Monitor the Master Plan to ensure all subsequent amendments to the Master Plan are in concert with the AICUZ and the Kingsville JLUS.</li> <li>▪ City should consult with NAS Kingsville when Master Plan updates are proposed to ensure the City has the most current information on operations and other compatibility issues.</li> <li>▪ NAS Kingsville shall provide the City with necessary housing information to ensure the adequate provision of services to installation personnel.</li> <li>▪ Future Master Plan amendments should consider the need for density limitations outside the 65 <del>DNL</del>-dB Ldn noise contour to buffer existing noise contours and prevent excessive noise encroachment into the community.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>
<p><b>27. Address Compatibility in Kingsville Master Plan</b></p> <p>Policies within the Master Plan should address compatibility issues such as land use and acquisition, environmental protection, open space / agricultural preservation, groundwater protection, dust mitigation, light and glare, frequency spectrum issues, and air quality in relation to population growth and the installation.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>

## Background

The Kingsville Master Plan includes several goals and recommendations related to the JLUS and compatibility planning. Chapters 2 and 3 discuss NAS Kingsville and the AICUZ, specifically to address protection of sensitive areas, compatible development and coordination. Some of the recommendations from these two chapters were:

- To adopt specific land use controls within the limits of the AICUZ (see JLUS Strategy 7)
- Create a Joint Airport Zoning Board (see JLUS Strategy 33)
- Coordination between the City of Kingsville, Kleberg County and NAS Kingsville

Chapter 7 deals with the implementation of the Master Plan. This chapter combines similar goals from different sections to tie the document together. Two goals relating to compatibility are intergovernmental coordination and controlling land use within the AICUZ. The Master Plan recommends creating an intergovernmental planning advisory council and a Joint Airport Zoning Board to achieve the goal of intergovernmental coordination. To achieve the goal of controlling land development within the AICUZ, the Plan recommends adopting the three Military Influence Areas (MIAs) identified in the JLUS and amending the Master Plan to ensure its recommendations and policies are consistent with the recommendations identified in the JLUS.

### Steps to Implement JLUS Strategies #26 & 27

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■							1	Review City of Kingsville Master Plan and determine areas needing enhancement.	Consultant
	■		■	■			2	Review revisions to enhance compatibility planning and implementation of the Kingsville JLUS.	Committee
				■			3	Decide on direction: <ul style="list-style-type: none"> <li>■ Recommend to keep current Master Plan;</li> <li>■ Recommend City adopt revisions; or</li> <li>■ Committee determines that sample goals and policies should be recommended, and that City should consider these for addition to Master Plan during the City's next plan update.</li> </ul> The Committee directed that third choice – for the City to consider the recommendations contained under these strategies as part of the next Master Plan update.	Committee
						□	4	Prepare Master Plan revision for adoption.	City of Kingsville
						□	5	Public hearing / approval on Master Plan revisions.	City of Kingsville

### Supporting Materials

- City of Kingsville Master Plan, 2008

### Results

The following changes / recommendations are proposed as part of the JLUS implementation program concerning the text in the City of Kingsville Master Plan (2008).

#### Chapter 2 – Page 4

**Goal** – To provide opportunities for the City, County, NAS Kingsville, residents, industry and agencies to collaboratively participate in all phases of the planning process.

#### Recommendations

- Provide property owners in proximity to NAS Kingsville education on the installation's mission, potential impacts associated with military aviation operations, land use constraints and potential mitigations for appropriate development.
- The City shall provide notifications to NAS Kingsville for review and comment on City discretionary land use actions as defined below: ~~to include, but not limited to, Comprehensive/Specific Plan amendments or updates, zone changes, tract maps, parcel maps, master plans, and conditional use permits.~~

\*o [NOTE: insert process chart based on JLUS Strategies 19, 41, 42]



- The City shall maintain close contact with their counterparts in other local jurisdictions to coordinate military compatibility planning and management activities [and to support State Legislation to allow more local control over compatibility issues.](#)
- The City ~~and will work with~~ NAS Kingsville [to gain training and technical information relative to Navy operations and compatibility issues.](#) ~~shall cooperate to provide City staff with on-going training opportunities to maintain their awareness of the latest technology and regulations concerning military compatibility issues.~~
- The projected need for additional infrastructure and other municipal services by NAS Kingsville should be considered in the development of new infrastructure master plans [for the City of Kingsville.](#)
- The City shall review and address capital improvement plans (CIP) and master infrastructure plan projects that may impact the missions at NAS Kingsville. These plans should be reviewed on an annual basis or when an agency is updating their plans. Coordination with NAS Kingsville during these reviews will be conducted.
- [Infrastructure shall be sized and placed so as to not adversely encourage growth in areas not compatible with operations at NAS Kingsville.](#)

#### Chapter 2 – Page 4

**Goal** – To mitigate encroachment issues associated with land uses and development.

#### Recommendations

- The City shall require the dedication of avigation easements when development is proposed on property within ~~identified airport safety zones~~ [the Controlled Compatible Land Use Area, as defined by Texas \\*\\*.](#)
- Require that specific plans, area plans, and other regional plans (either new plans or updates/revisions) in the NAS Kingsville JLUS Study Area specifically address compatibility issues involving the military, such as dark skies, water availability and quality, density, cluster development, and other development design issues.

#### Chapter 2 – Page 9

#### Recommendation

Compatible pattern of development within the AICUZ (refer to Chapter 3 – Land Use for further details and recommendations)

- 1) Adopt specific land use controls for areas within the limits of the Air Installation Compatibility Use Zone (AICUZ), ~~consistent with the land use recommendations of the Joint Land Use Study (JLUS), as amended from time to time.~~ [Partner with NAS Kingsville and Kleberg County to identify locations requiring additional protections. Establish a voluntary acquisition program, as outlined in the JLUS. Explore a development of a transfer of development rights program.](#)

- 3) ~~As an alternative to the above recommendation, consider creating~~ Create a joint airport zoning board with Kleberg County and adopting a Compatible Land Use and Hazard Zoning Ordinance for the NAS to control uses within the AICUZ influence area. ~~This would be a more appropriate alternative as it would allow land use control within the entire AICUZ.~~

Recommendation (Chapter 3 – Page 21): Protect the long-term integrity of the Air Installation Compatibility Use Zone (AICUZ) and other areas that are sensitive to the mission and operations of the NAS.

- 1) Coordinate with Kleberg County to eliminate the gap between the current zoning regulations and the recommendations of the Joint Land Use Study, including consideration of restrictions on vulnerable uses and reduced density within the highly sensitive impact zones. [Create a military influence overlay district in conjunction with the zoning ordinance for the joint airport zoning board.](#)
- 2) Create a ~~joint City/County~~ [Joint Airport Zoning Board](#) and adopt ~~a zoning district map an~~ ordinance to regulate land within the AICUZ. The joint board would have representation from both the City and County. ~~The~~ [Create an](#) ordinance ~~should to~~ regulate development density, height, and noise reduction standards within the established ~~e~~ [Controlled e](#) [Compatible Land Use Area](#) as the City's current Zoning Ordinance does. ~~The ordinance should be consistent with the JLUS study and recommendations.~~
- ~~4) Implement the recommendations identified in the Joint Land Use Study.~~

## Chapter 7 – Page 12

### Recommendation

Land Development – AICUZ: Due to its local impact and influence on development, the long-term viability of ~~the~~ NAS [Kingsville](#) is an essential issue that is particularly prominent for the community. It is imperative that the City, in coordination with the County, take steps to manage future development around the Naval Air Station in order to protect naval operations. ~~Kingsville is fortunate in that minimal development has occurred in the AICUZ thus far; however, it is imperative that the Naval Air Station is protected from future encroachment and incompatible land uses. A Joint Land Use Study is currently being prepared for the community with the intent of coordinating land use policies with military operations. The recommendations from this study should be incorporated into this Master Plan and adopted and implemented by the City and County.~~

- ~~1) Currently, the City and the County have separate regulations pertaining to NAS area development. These regulations are not only different, but the level of enforcement is not comparable. There needs to be a unified effort to create a single policy on development adjacent to the NAS with respect to buildings, land, and utilities. It is recommended to create a joint Airport City/County Zoning Board and adopt a zoning district map and ordinance to regulate land within the AICUZ. The joint Board would have representation from both the City and County. The ordinance would regulate development density, height, and noise reduction standards within the AICUZ. The ordinance provisions should be consistent with the~~

~~recommendations of the Joint Land Use Study (JLUS), which recommends the following: (to be included upon completion of the JLUS)~~

- ~~a) Define and establish military influence areas (MIAs).~~
- ~~b) Establish a joint airport zoning board.~~
- ~~c) Create a joint airport zoning board zoning ordinance in conjunction with MIAs.~~
- ~~d) Explore acquisition of land to assist in reducing the compatibility issues for NAS Kingsville.~~
- e) 1) Include NAS Kingsville in future development decisions. The City of Kingsville will include NAS Kingsville during the development review process by routing plans to a base representative to review and comment prior to building permits being issued as outlined in the JLUS Implementation Program.
- 2) Utilize the current NAS Kingsville Air Installations Compatible Use Zones (AICUZ) study to guide acceptable land uses within any area:
  - a) within an area ¼ mile outside the 65 decibel Day-Night Average Sound Level (Ldn)
  - b) within Accident Potential Zone (APZ) I or II or a Clear Zone~~Adopt the three Military Influence Areas identified in the JLUS. These zones should be utilized by the City to identify areas where specific compatibility issues are more likely to occur. MIA 2 should be established as a designated fringe to the AICUZ to account for possible adjustments or expansion of the designated area as a result in changes to the mission or operations of the base. Zoning provisions should apply within this fringe area similar to the controlled area (AICUZ).~~
- ~~6) Amend the Master Plan as necessary to ensure its recommendations and policies are consistent with the recommendations identified in the JLUS.~~

## Next Steps

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- Review the recommendations presented above as part of a public hearing as part of the next update to the City of Kingsville Master Plan.

**26**

Update Kingsville Master Plan

**27**

Address Compatibility in the Kingsville Master Plan

*Please see the next page.*

**JLUS Strategy 27, Address Compatibility in the Kingsville Master Plan**, was grouped and presented with JLUS Strategy 26 since it dealt with related issues.

Please refer to the information provided under Tab 26.

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>28. Develop MOU to Address Installation Security Issues</b></p> <p>Develop a MOU between NAS Kingsville and the City/County to continue collaboratively exploring and resolving potential base security breaches.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>

### Background

During preparation of the Kingsville JLUS, an issue was raised relative to the potential for security issues, primarily driven by the possibility of public trespassing.

### Steps to Implement JLUS Strategy #28

Meeting							F O	Step	Actions	Responsible
1	2	3	4	5	6					
■							1	Discuss need for strategy. NAS Kingsville to bring current MOU's to later meeting.	Committee	
	■						2	NAS Kingsville staff will confer with the Captain on the need for this strategy. If not needed, will mark as complete.	NAS Kingsville	
		■					3	<p>Results:</p> <ul style="list-style-type: none"> <li>▪ Following Meeting #2, Courtney Alvarez (City Attorney) did some research and found an MOU between NAS Kingsville and the City of Kingsville Police Department, but it did not relate to security of the installation. The MOU relates to the investigation of offenses of mutual interest, the reporting of certain types of offenses and injuries, and response to civil disturbances on or adjacent to NAS Kingsville.</li> <li>▪ The City also has an agreement with NAS Kingsville for mutual aid relative to fire fighting.</li> <li>▪ The only other service that the City provides the base contractually (or under some other agreement) is water.</li> <li>▪ NAS Kingsville determines that no changes are needed in current MOU's to adequately address security issues related to compatibility. Security is adequately handled by on-base resources, but mutual aid is available from the City if needed.</li> </ul> <p>Current provisions for security are seen as appropriately covered, therefore, no further action is necessary.</p>	NAS Kingsville	

### Supporting Materials

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- Existing MOUs for mutual aid and water provision were reviewed by the City Attorney and summarized for the Committee.

### Results

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- Current provisions for security are seen as appropriately covered.
- No further action necessary. Strategy considered complete based on review conducted.



JLUS Strategy	Responsibility / Partner
<p><b>29. Develop General MOU to Implement JLUS Process</b></p> <p>Member jurisdictions and agencies of the JLUS Implementation Board should develop a general MOU to be executed at the beginning stages of implementation of the recommendations adopted by each agency. This MOU will detail the expectations for coordination and agreement to establish and maintain the JLUS Implementation Board.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ Technical Experts (as needed)</li> </ul>
<p><b>30. Develop Specific MOUs to Implement JLUS Recommendations</b></p> <p>Sign specific MOUs between individual jurisdictions and NAS Kingsville as tools / recommendations are implemented. MOUs should cover:</p> <ul style="list-style-type: none"> <li>▪ Interagency coordination</li> <li>▪ Other tools involving the interaction of two or more jurisdictions, agencies, or NAS Kingsville</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>

## Background

An MOU can be useful for documenting processes or agreements reached as part of this Implementation Program. Since the MOU(s) can be used to implement the final direction, this strategy would be one of the last actions taken.

The two strategies presented cover two distinct actions. The first is a general MOU that provides a common understanding on the way forward and provides assurances that each member jurisdiction, agency and organization will work with the others to implement the JLUS process. Given that this JLUS Implementation Program has successfully moved forward on the key actions described in the JLUS, it was appear that this MOU is not necessary.

The second type is specific to strategies that require two or more member jurisdictions, agencies or organizations to work together to accomplish the requirements of the strategy(ies) covered.

**29**

Develop General MOU to Implement JLUS Process

**30**

Develop Specific MOUs to Implement JLUS Recommendations

**Steps to Implement JLUS Strategies #29 & 30**

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
						■	1	Determine the need for the general MOU described in JLUS Strategy 29. <ul style="list-style-type: none"> <li>As the implementation of the JLUS strategies has been successfully moved forward, the need for a broad MOU is not necessary.</li> <li>The City of Kingsville has adopted the Kingsville JLUS by ordinance. This action moves the implementation forward and negates the need for a MOU by the City.</li> </ul>	
						■	2	Determine items to be included in MOU's under JLUS Strategy 30. <ul style="list-style-type: none"> <li>Given the progress made during the JLUS Implementation Program, most strategies have been addressed at this stage.</li> <li>The one strategy that could benefit long-term from an MOU would be a MOU that states the communication and review process agreed upon and presented under JLUS Strategies 19, 41 and 42.</li> </ul>	Committee
						□	3	Develop and execute MOU for process of project review and communication / coordination. While the focus of project reviews in the Controlled Compatible Land Use Area falls under the JAZB, Kleberg County would be important to include as a signatory as they are a supporting entity of the JAZB.	City of Kingsville Kleberg County JAZB NAS Kingsville

**Supporting Materials**

No additional information necessary for this item.

**Results**

- Determination that one MOU to document the review and coordination process developed under JLUS Strategies 19, 41 and 42 is warranted.

**Next Steps**

- Develop an MOU for the jurisdictions identified in coordination with Strategies 19, 41 and 42.

**JLUS Strategy 30, Develop Specific MOUs to Implement JLUS Recommendations**, was grouped and presented with JLUS Strategy 29 since it dealt with related issues.

Please refer to the information provided under Tab 29.

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>31. Require Full Disclosure</b></p> <p>Require that all purchased or subdivided property within the MIA 2 receive full disclosure on the potential affects of noise, vibration, lighting, and other operational impacts by the installation on the property at the time of advertisement to avoid any misunderstandings or conflicts.</p> <ul style="list-style-type: none"> <li>▪ Work with State Real Estate Board and local real estate representatives to develop and implement adequate language for inclusion in disclosure notices.</li> <li>▪ Local jurisdictions and NAS Kingsville should work cooperatively to make available the information required for real estate disclosure (as defined by this strategy) regarding operational issues at NAS Kingsville (overflight, light and glare, noise, etc).</li> <li>▪ Work with local entities to incorporate these requirements into local codes and ordinances.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> <li>▪ Board of Realtors</li> <li>▪ Kleberg County Tax Assessor</li> </ul>
<p><b>32. Ensure Recording of Disclosures</b></p> <p>Modify subdivision regulations to require appropriate disclosures to be recorded as part of a property’s deed upon sale of land and included as a Plat Note. Disclosure shall notify purchasing party of NAS Kingsville operations and potential compatibility issues.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ Kleberg County Tax Assessor</li> </ul>

## Background

This issue has three levels to examine: state, county, and city. Each governmental jurisdiction will add its own requirements on recording of disclosures.

### State of Texas

The current Texas Real Estate disclosure law, Section 5.008 of the Texas Property Code, requires that sellers must notify potential buyers of any conditions affecting the property that they should be aware of prior to its purchase. There are two pieces missing from this legislation.

- The disclosure law does not specifically mention military bases, airports, or auxiliary fields. This is an issue since noise does not simply stop at the 65 decibel noise contour line. While the 65 decibel contour is often used to delineate areas where land use controls / restrictions are warranted, areas inside and outside of this contour will experience increases in noise over ambient conditions. In these areas, while one homeowner may not be bothered by the noise, another may think it is much too loud. Additionally, frequency of military aircraft operations may be infrequent and not noticeable at the time of sale.
- The Texas Property Code has no requirements for disclosure on rental / lease agreements. The rental / lease population currently has less protection and notification than the sales segment.

31

## Require Full Disclosure

32

## Ensuring Recording of Disclosures

The State has three types of deeds used to convey property between two entities, the quitclaim deed, warranty deed, and deed without warranty.

- The **quitclaim deed** is not the preferred method of conveyance in Texas as this type of deed does not require the seller to verify that they actually own any interest in the land.
- The **warranty deed** is split into two types: general warranty deed and special warranty deed. A special warranty deed tends to protect the seller because it only ensures that the seller has the right to sell the land but is not responsible for previous land owners. General warranty deeds are preferred by the buyer. This guarantees that neither the seller, nor any previous land owner, has done anything to adversely affect the title.
- The **deed without warranty** is a hybrid of the quitclaim and warranty deeds. It uses the grant, sell, and convey portions of the warranty deed, while maintaining not making any warranties on the property (similar to a quitclaim deed).

### Kleberg County

No special requirements are required by Kleberg County above the requirements of the State.

### City of Kingsville

The plat note should be added to the plat prior to preliminary approval. The requirement should be added to the Kingsville Code of Ordinances.

Ownership, which can be described as a bundle of rights, can also be modified in a number of ways, including the assignment of easements. For compatibility planning, conservation easements and avigation easements are often considered as tools. During this discussion, the concept of avigation easements was discussed but not pursued for inclusion. As a reference, a description of this type of easement is provided below. During the Committee meetings, the City of Kingsville stated that they had entered into an avigation easement in 2009 as part of a development application and review. This avigation easement is included as **Attachment 20/21-1**. Its primary role in the Implementation Program was to help develop language for a draft deed notification.

- **Avigation Easement.** An easement is a non-possessory right to use land owned by another party. An avigation easement is an easement that grants the holder one or more of the following rights: the right-of-flight; the right to cause noise, dust, or other impacts related to aircraft flight; the right to restrict or prohibit certain lights, electromagnetic signals, and bird-attracting land uses; the right to unobstructed airspace over the property above a specified height; and, the right of ingress/egress upon the land to exercise those rights.

## Steps to Implement JLUS Strategies #31 & 32

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■	■						1	Review current laws on disclosure and provide examples from other jurisdictions.	Consultant

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
	■						2	Decide on direction: <ul style="list-style-type: none"> <li>■ Create local / regional ordinance for enforcement, or</li> <li>■ Revise state law to reflect disclosures specifically for military installations and to include rental agreements.</li> </ul> Committee directs to focus on modifying local regulations. No change for rental agreements at this time.	Committee
			■				3	Review proposed change to City of Kingsville Subdivision Ordinance.	Committee
			■				4	Revise package for public hearing.	Consultant
			■				5	Public hearing / approval on ordinance. Changes approved on May 17, 2010.	City of Kingsville
			■	■			6	Incorporate disclosure requirements in JAZB Compatible Land Use and Hazard Zoning Regulations (see JLUS Strategy #33, and Section 8.G. in the JAZB Compatible Land Use and Hazard Zoning Regulations).	Consultant
					■		7	Public hearing / consideration on JAZB Compatible Land Use and Hazard Zoning Regulations. Regulations were approved.	JAZB

### Supporting Materials



**ATTACHMENT 31/32-1**

Disclosure statement for State of Texas as described in Section 5.008 of the Texas Property Code. This form also shows a change recommended by the JLUS Implementing Program (see Results section).



**ATTACHMENT 31/32-2**

*Airport Environs Real Estate Sale / Lease Disclosure*

Sample disclosure form from Escambia County, Florida (near Eglin Air Force Base).



**ATTACHMENT 31/32-3**

Avigation Easement by and between Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-Day Saints and City of Kingsville.

The Kingsville JLUS report, Appendix E, includes other examples of real estate disclosure, including forms from the states of Virginia and Florida.

31

Require Full Disclosure

32

Ensuring Recording of Disclosures

Results

- Modify JLUS Strategy 31 as follows:

JLUS Strategy	Responsibility / Partner
<p><b>31. Require Full Disclosure</b></p> <p>Require that all purchased or subdivided property <del>within the MIA 2</del> receive full disclosure on the potential affects of noise, vibration, lighting, and other operational impacts by the installation on the property <u>prior to completion of the sale transaction if the property is: at the time of advertisement to avoid any misunderstandings or conflicts.</u></p> <ul style="list-style-type: none"> <li>■ <u>Within an area defined by the 65 decibel (dB) day-night average sound level (Ldn) noise contour(s) as defined in NAS Kingsville’s current Air Installations Compatible Use Zones (AICUZ) study, plus ¼ mile outside that area, and / or</u></li> <li>■ <u>Within an area defined by the accident potential zones as defined in NAS Kingsville’s current AICUZ study.</u></li> </ul> <p><u>To implement this strategy, the following will be undertaken.</u></p> <ul style="list-style-type: none"> <li>■ Work with State Real Estate Board and local real estate representatives to develop and implement adequate language for inclusion in disclosure notices.</li> <li>■ Local jurisdictions and NAS Kingsville should work cooperatively to make available the information required for real estate disclosure (as defined by this strategy) regarding operational issues at NAS Kingsville (overflight, light and glare, noise, etc).</li> <li>■ Work with local entities to incorporate these requirements into local codes and ordinances.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>■ City of Kingsville</li> <li>■ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>■ NAS Kingsville</li> <li>■ Board of Realtors</li> <li>■ Kleberg County Tax Assessor</li> </ul>



**ATTACHMENT 31/32-1**

The City of Kingsville should work with other Texas jurisdictions and State Legislators to modify State law to specifically state that proximity to a military installation should be a required disclosure statement under Section 5.008 of the Texas Property Code. **Attachment 31/32-1** for proposed additions in a strikeout/underline format.



**ATTACHMENT 31/32-4**

A new disclosure form specifically designed for areas near NAS Kingsville that may be impacted by normal operations was drafted for use in local real estate transactions.



**ATTACHMENT 31.32-5**

This attachment highlights changes proposed to the City of Kingsville's Subdivision Ordinance (Section 15-3-16 of the City of Kingsville Code of Ordinances). This modification requires that all plat maps contain the disclaimer shown in the box below.

This requirement will be required for any plat that is inside of or within one quarter mile (1/4) outside of the Naval Air Station (NAS) Kingsville 65 dB Day-Night Average Sound Level contour line as established by the current version of the NAS Kingsville Air Installations Compatible Use Zones (AICUZ) study and/or within an Accident Potential Zone identified by the current version of the NAS Kingsville AICUZ study.

**Notice:** This property is located within an area that is one quarter mile (1/4) outside of the Naval Air Station (NAS) Kingsville 65 decibel (dB) Day-Night Average Sound Level noise contours and may be impacted by noise, odors, flight safety hazards, and other potential compatibility issues relating to installation operations. This property may also be within an Accident Potential Zone as established in the current AICUZ study. This property may also be subject to additional development regulations relative to the property's proximity to the installation and air operations associated with the installation.

## Next Steps

---

- The City of Kingsville and Kleberg County should work with local title companies and Realtors to integrate this disclosure statement into property transactions in keeping with the intent of full disclosure required under Section 5.008 of the Texas Property Code.

**31**

Require Full Disclosure

**32**

Ensuring Recording of Disclosures

*Please see the next page.*

TITLE 2. CONVEYANCES

CHAPTER 5. CONVEYANCES

SUBCHAPTER A. GENERAL PROVISIONS

§ 5.008. SELLER'S DISCLOSURE OF PROPERTY CONDITION.

(a) A seller of residential real property comprising not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice as prescribed by this section or a written notice substantially similar to the notice prescribed by this section which contains, at a minimum, all of the items in the notice prescribed by this section.

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT: (Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller \_\_\_ is  
\_\_\_ is not  
occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

- Range
- Oven
- Microwave
- Dishwasher
- Trash Compactor
- Disposal
- Washer/Dryer
- Window
- Rain Gutters
  - Hookups
  - Screens
- Security
- Fire Detection
- Intercom
  - System
  - Equipment System
- TV Antenna
- Cable TV
- Satellite
  - Wiring
  - Dish
- Ceiling Fan(s)
- Attic Fan(s)
- Exhaust Fan(s)
- Central A/C
- Central Heating
- Wall/Window Air Conditioning
- Plumbing System
- Septic System
- Public Sewer System

- Patio/Decking
- Outdoor Grill
- Fences
- Pool
- Sauna
- Spa
- Hot Tub
- Pool Equipment
- Pool Heater
- Automatic Lawn Sprinkler System
- Fireplace(s) &
- Fireplace(s) & Chimney (Woodburning) or (Mock)
- Gas Lines
- Gas Fixtures Nat./LP)

Garage:

- Attached
- Not Attached
- Carport

Garage Door Opener(s):

- Electronic
- Control(s)

Water Heater:

- Gas
- Electric

Water Supply:

- City
- Well MUD
- Co-op

Roof Type: \_\_\_\_\_

Age: \_\_\_\_\_(approx)

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair?  Yes  No  Unknown.

If yes, then describe. (Attach additional sheets if necessary):

2. Are you (Seller) aware of any known defect/malfunctions in any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- Interior Walls
- Ceilings
- Floors
- Exterior Walls
- Doors
- Windows
- Roof
- Foundation/
- Basement Slab(s)
- Walls/Fences
- Driveways
- Sidewalks
- Plumbing/Sewers/
- Electrical
- Lighting
- Septics Systems Fixtures

Other Structural Components (Describe):

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

3. Are you (Seller) aware of any of the following conditions?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

Active Termites

Previous Structural (includes or Roof Repair wood-destroying insects)

Termite or Wood Rot

Hazardous or Toxic Waste

Needing Repair

Previous Termite Damage

Asbestos Components

Previous Termite

Urea formaldehyde

Treatment

Insulation

Previous Flooding

Radon Gas

Improper Drainage

Lead Based Paint

Water Penetration

Aluminum Wiring

Located in 100-Year

Previous Fires

Floodplain

Present Flood Insurance

Unplatted Easements

Coverage

Landfill, Settling, Soil

Subsurface

Movement, Fault Lines

Structure or Pits

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

4. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair?

- Yes (if you are aware)
- No (if you are not aware).

If yes, explain (attach additional sheets as necessary).

5. Are you (Seller) aware of any of the following?

Write Yes (Y) if you aware, write No (N) if you are not aware.

Room additions, structural modifications, or other alterations or repairs made without necessary permits or not in compliance with building codes in effect at that time.

Homeowners' Association or maintenance fees or assessments.

Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.

Any notices of violations of deed restrictions of governmental ordinances affecting the condition or use of the Property.

Any lawsuits directly, or indirectly, affecting the Property.

Any condition on the Property which materially affects the physical health or safety of an individual.

The property is located within:

The influence area of a military base(s), military airport(s), or military auxiliary field(s)

The 65 decibel Day-Night Average Sound Level (Ldn) noise contours as defined by the installation's current AIZUZ study

An Accident Potential Zone or Clear Zone of a military airport(s) or military auxiliary field(s) as defined by the installation's current AIZUZ study



If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

Date

Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature of Purchaser

(c) A seller or seller's agent shall have no duty to make a disclosure or release information related to whether a death by natural causes, suicide, or accident unrelated to the condition of the property occurred on the property or whether a previous occupant had, may have had, has, or may have AIDS, HIV related illnesses, or HIV infection.

(d) The notice shall be completed to the best of seller's belief and knowledge as of the date the notice is completed and signed by the seller. If the information required by the notice is unknown to the seller, the seller shall indicate that fact on the notice, and by that act is in compliance with this section.

(e) This section does not apply to a transfer:

- (1) pursuant to a court order or foreclosure sale;
- (2) by a trustee in bankruptcy;
- (3) to a mortgagee by a mortgagor or successor in interest, or to a beneficiary of a deed of trust by a trustor or successor in interest;
- (4) by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust or a sale pursuant to a court

ordered foreclosure or has acquired the real property by a deed in lieu of foreclosure;

- (5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- (6) from one co-owner to one or more other co-owners;
- (7) made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors;
- (8) between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree;
- (9) to or from any governmental entity;
- (10) of a new residence of not more than one dwelling unit which has not previously been occupied for residential purposes; or
- (11) of real property where the value of any dwelling does not exceed five percent of the value of the property.

(f) The notice shall be delivered by the seller to the purchaser on or before the effective date of an executory contract binding the purchaser to purchase the property. If a contract is entered without the seller providing the notice required by this section, the purchaser may terminate the contract for any reason within seven days after receiving the notice.

Added by Acts 1993, 73rd Leg., ch. 356, § 1, eff. Jan. 1, 1994. Amended by Acts 2005, 79th Leg., ch. 728, § 17.001, eff. Sept. 1, 2005.

**AIRPORT ENVIRONS  
REAL ESTATE SALE/LEASE DISCLOSURE**

Pursuant to Section 58-2(d) of the Escambia County Code of Ordinances, any owner of real property who sells or leases that real property within the established Airfield Influence Planning Districts (AIPDs) or noise zones surrounding local military installations or within the established Real Estate Disclosure Area surrounding Pensacola Regional Airport, as described in Article 11 of the Land Development Code, 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. For properties within the AIPDs or military noise zones, Article Eleven requires that the notice be provided in all advertising materials and/or brochures concerning the sale or lease of the property, but no later than the signing of a contract for sale or lease. For properties within the Real Estate Disclosure Area surrounding the Pensacola Regional Airport, Article 11 requires that the notice be given as soon as practicable, but no later than the signing of a contract for sale or lease.

To: \_\_\_\_\_  
(Buyer or Lessee)

The Property at: \_\_\_\_\_  
(Street Address & Zip Code)

\*\*\*\*\*

**(Following to be completed by Seller or Landlord)**

**Is located within an AIPD for the following Airfield:**

- \_\_\_\_\_ NAS Pensacola
- \_\_\_\_\_ NOLF Saufley
- \_\_\_\_\_ NOLF Site 8

**Is located adjacent to the following Airport:**

- \_\_\_\_\_ Pensacola Regional Airport

**Is located within the following Noise Zone:**

Military Noise Zone

- \_\_\_\_\_ Noise Level 1 [65 – 70dB Day-Night Average Sound Level (Ldn)]
- \_\_\_\_\_ Noise Level 2 (70 – 75dB Ldn)
- \_\_\_\_\_ Noise Level 3 (Greater than 75db Ldn)

Pensacola Regional Airport Noise Zone

- \_\_\_\_\_ Noise Level A [65-70dB Day-Night Average Sound Level (Ldn)]
- \_\_\_\_\_ Noise Level B (70 – 75db Ldn)
- \_\_\_\_\_ Noise Level C (Greater than 75dB Ldn)

**Is located within the following AIPD Zone:**

- \_\_\_\_\_ AIPD-1 (AICUZ Accident Potential Zones)
- \_\_\_\_\_ AIPD-1 – Area "A"
- \_\_\_\_\_ AIPD-1 – Area "B"
- \_\_\_\_\_ AIPD-2

\*\*\*\*\*

**CERTIFICATION:**

**AS TO SELLER/LANDLORD:**

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_

\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_

**AS TO BUYER/LESSEE:**

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_

\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_



# REAL ESTATE DISCLOSURE FORM INSTRUCTIONS AND REMITTAL ADDRESSES

- (1) Written notice that real property to be sold or leased is within an established Airfield Influence Planning District and/or noise zone shall be disclosed to the purchaser/lessee as soon as possible after the start of the transaction. Inclusion of the Airfield Influence Planning District and/or Accident Potential Zone and Noise Zone, together with the name of the applicable base, should be included in the advertisements for the property. However, disclosure of this information is required in writing no later than at the signing of the contract for sale or lease.

As proof of compliance with this disclosure requirement, the owner and the buyer or lessee shall execute the attached disclosure form. However, a "blanket disclosure," i.e., a copy of the lessor's original execution of the form, may be used in subsequent lease transactions so long as each subsequent lessee signs a disclosure form.

- (2) The determination as to whether the real property lies within an Airfield Influence Planning District, Accident Potential Zone and/or Noise Zone shall be made by the Planning and Zoning Department upon the written request of the property owner or agent and shall be provided within five business days. The request must include the street address as to the leased property and both the street address and the legal description contained in the deed for such real property in the event of a sale.

Alternatively, the information may be obtained by accessing the Escambia County Web Page ([www.myescambia.com](http://www.myescambia.com)). Open the drop-down "Quick Links" menu at the top of the page. Click the link "Access GIS Maps" and follow the instructions. (If you experience problems navigating the site, please contact the GIS Department at (850) 595-3598.)

- (3) After the closing of a sale, a copy of the fully executed disclosure form shall be filed with the deed in the official records of Escambia County, Florida. For both a sale and a lease, a copy of the executed disclosure shall be sent to either:

For Naval Air Station Pensacola Real Estate Disclosure Area:

Naval Air Station Pensacola  
Attention: AICUZ Officer  
c/o Commanding Officer  
190 Radford Blvd.  
Pensacola, Florida 32508-5217

Or, for NOLF Saufley and NOLF Site 8 Real Estate Disclosure Area:

Aviation/Community Planner  
JPATS Coordinator  
Operations Code 31  
Naval Air Station Whiting Field  
7077 USS Lexington Court  
Milton, FL 32570-6016

Or, for Pensacola Regional Airport Real Estate Disclosure Area:

Airport Director  
Pensacola Regional Airport  
2430 Airport Blvd., Suite 225  
Pensacola, FL 32504

SAMPLE

Mail Recorded Document To:  
Planning Department  
P.O. BOX 1458  
Kingsville, TX 78364

## AVIGATION EASEMENT

THIS GRANT OF AVIGATION EASEMENT (this "Avigation Easement") made this 25<sup>th</sup> day of ~~June~~<sup>AUGUST</sup>, 2009, by and between Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole whose mailing address is Real Estate Services Division, Attn: Property No. 520-1896, 50 East North Temple, 12<sup>th</sup> Floor, Salt Lake City, UT 84150 ("Grantor," which term shall include singular and plural, masculine and feminine), and City of Kingsville, TX, Kleberg County, a political subdivision of the State of Texas, acting by and through its duly authorized City Commissioners, whose mailing address is P.O. Box 1458, Kingsville, TX 78364 ("Grantee").

### WITNESSETH

WHEREAS Grantor is the owner of certain real estate property located in the City of Kingsville, Kleberg County, Texas, which property has been improved with, among other things, a religious meetinghouse that has a steeple, and a parking lot and landscaping including several palm trees (collectively, the "Improvements"); and

WHEREAS, Grantee requires, as a condition precedent to the subdivision of the property into a legally subdivide lot, conveyance from Grantor of an Avigation Easement; and

WHEREAS, Grantor has agreed to grant an Avigation Easement to Grantee in and over Grantor's property under the terms and conditions set forth in this instrument;

NOW, THEREFORE, Grantor, for good and valuable consideration the receipt and sufficiency of which is acknowledged, does grant to Grantee and Grantee's heirs, assigns, successors, and legal representatives, a perpetual Avigation Easement in and over the following described property (Property).

See legal description attached as Exhibit A.

This Avigation Easement is granted with the following express terms and conditions:

1. Grantor grants, bargains, sells, and conveys to Grantee, its successors and assigns, for the use and benefit of Grantee and any civilian or military airfields that may be located in City of Kingsville, Kleberg County, and any operators, owners, users, of civilian or military Aircraft that may operate in the airspace in and above The City of Kingsville, Texas, a perpetual Avigation Easement for the free and unobstructed flight of Aircraft ("Aircraft" being defined for the

purpose of this instrument as a contrivance now known or hereafter invented, used, or designed for flight in and through the air) in and through the airspace above, over and across the surface of the Property together with the right to create or cause in the airspace such noise, vibrations, odors, vapors, exhaust, smoke, dust, or other effects that may be inherent in the operation of Aircraft, and for the use of the airspace by Aircraft for launching from, maneuvering about, and landing at local civilian or military airfields. In granting this Avigation Easement, Grantor expressly reserves the right to: (a) continue to use Grantor's Property for its current use, (b) replace the Improvements with other future improvements so long as such future improvements are not more than thirty feet (30') taller than the current Improvements, and (3) notwithstanding any language to the contrary herein does not give permission for Grantee to remove any of the Improvements.

2. Nothing in this instrument shall operate to preclude claims by Grantor, his heirs, assigns, successors, and legal representatives, for any physical injuries or damages caused by Aircraft crashing into or otherwise coming into direct contact with the Property or persons located thereon.

3. Grantor, for himself, his heirs, assigns, successors, and legal representatives, expressly releases and forever discharges Grantee, its elected or appointed officials, representatives, agents, employees, and any operators, owners, or users of civilian or military Aircraft or airfields, from any and all liability whatsoever, including any and all suits, claims, debts, obligations, costs, expenses, actions, or demands, vested or contingent, known or unknown, whether for injuries to persons or damages to property, which Grantor may own, hold, or assert by reason of noise, vibrations, odors, vapors, exhaust, smoke, dust or other effects that may be inherent in the operation of Aircraft, caused or created by the flight or passage of Aircraft in or through the airspace subject to the easement described in this instrument. Additionally, Grantor, for himself, his heirs, assigns, successors, and legal representatives, waives any and all right to sue Grantee, its elected or appointed officials, representatives, agents or employees, and any operators, owners, or users, of civilian, or military Aircraft or airfields, and agrees to dismiss any and all such suits that may be now or subsequently asserted against Grantee, its elected or appointed officials, representatives, agents or employees, and any operators, owners, or users of civilian or military Aircraft or airfields, for injuries to persons or damage of property arising from noise, vibrations, odors, vapors, exhaust, smoke, dust, or other effects that may be inherent in the operation of Aircraft, caused or created by the flight or passage of Aircraft in or through the airspace subjected to the easement described in this instrument. Grantor acknowledges that the above stated consideration is all that Grantor will receive for this easement and no promise for any other or further consideration has been made by anyone. Grantor further acknowledges that Grantor is executing this instrument solely in reliance upon his own knowledge, belief, and judgment and not upon any representations made by any party released or others in their behalf.

4. Grantor shall not build, construct, cause or permit to be built or constructed, or permit to remain on the Property any building structure that would interfere with the rights conveyed by this instrument that would violate any local, state, or federal law or regulation, regarding the operation of Aircraft or airfields.



5. Grantor shall not use or permit the use of the Property in such a manner as to create electrical, electronic, or other interference with radio, radar, microwave, or other similar means of Aircraft communications, or to make it difficult for pilots to distinguish between airfield navigation lights, and visual aids and other lights, or to result in glare or other condition that would impair the vision of pilots, or to otherwise endanger the operation of Aircraft.

6. In the event of any violation of the rights and restrictions contained in this instrument, Grantee shall have the right, at its sole option after giving five (5) days prior to notice to Grantor, to use any and all means to remedy the violation. Additionally, Grantee shall have a perpetual easement for the ingress to and egress from the Property for the purpose of inspecting or removing any instrumentality that may be causing or contributing to a violation of the rights and restrictions conveyed by this instrument.

7. Grantor acknowledges that the Property is located in an area impacted by Aircraft noise and that present and future Aircraft noise may interfere with the unrestricted use and enjoyment of the Property. Grantor further acknowledges Aircraft noise may change over time by virtue of greater numbers of Aircraft, louder Aircraft, variations in airfield operations, and changes in airfield and air traffic control procedures.

8. This Avigation Easement and all of the terms and conditions described in this instrument shall run with the land in perpetuity and shall be binding upon Grantor and his heirs, assigns, successors, and legal representatives.

9. In the event that one or more of the provisions contained in this instrument or any part thereof or any application thereof shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired and shall remain in full force and effect.

10. In the event that any civilian or military airfield adjacent to the Property ceases to operate, or if such other circumstances subsequently arise that would obviate the purpose underlying this instrument, then Grantor, his heirs, assigns, successors, and legal representatives may petition the City Commission of the City of Kingsville, Texas, to terminate this Avigation Easement. If the City Commission approves the termination of this Avigation Easement, then it shall promptly execute and record in the public records an appropriate document reflecting the termination.

11. Grantor for himself and his heirs, assigns, successors, and legal representatives, covenants with Grantee, its successors and assigns, that Grantor is lawfully seized and possessed of the Property in fee simple, has a good right and full power to grant, bargain, sell and convey this Avigation Easement over the Property.

EXECUTED this the 25<sup>TH</sup> day of ~~June~~ AUGUST, 2009.

CORPORATION OF THE PRESIDING BISHOP  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS,

a Utah corporation sole



By: [Signature]

Name (Print): GLENN MCKAY

Its: Authorized Agent

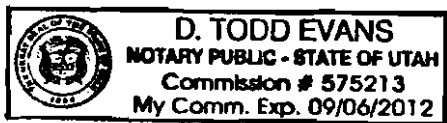
STATE OF UTAH )

:ss

COUNTY OF SALT LAKE )

On this 25<sup>TH</sup> day of ~~June~~ AUGUST, 2009 personally appeared before me GLENN MCKAY, personally known to me to be an Authorized Agent of **CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole**, who acknowledged before me that he signed the foregoing instrument as Authorized Agent for the **CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole**, and that the seal impressed on the within instrument is the seal of said corporation; and that said instrument is the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said corporation and that said corporation executed the same.

WITNESS my hand and official seal.



[Signature]

Notary Public for the  
State of Utah

**SELLER'S DISCLOSURE NOTICE**

CONCERNING THE PROPERTY AT: \_\_\_\_\_

in \_\_\_\_\_, Texas.

This notice is a disclosure of seller's knowledge of the condition of the property as of the date signed by seller and is not a substitute for any inspections or warranties the purchaser may wish to obtain. It is not a warranty of any kind by seller or seller's agents.

Notice is hereby given to the Purchaser(s) that this property is located in the vicinity of Naval Air Station (NAS) Kingsville and may be impacted by noise, odors, flight safety hazards, frequency interference and other potential compatibility issues relating to installation operations.

Notice is also hereby given that subject property may lie within the "Controlled Compatible Land Use Area" as defined by Chapter 241 of the Texas Local Government Code, Section 241.003(7) and / or within an area defined by the 65 decibel (dB) day-night average sound level (Ldn) noise contour(s) as defined in NAS Kingsville's current Air Installations Compatible Use Zones (AICUZ) study, plus ¼ mile outside that area and / or within an area defined by the accident potential zones as defined in NAS Kingsville's current AICUZ study. This property may also be subject to additional development regulations relative to the property's proximity to the installation.

**NOISE ZONES (INITIAL ONE)**

\_\_\_\_ / \_\_\_\_ Further than ¼ mile from the 65 dB Ldn contour

\_\_\_\_ / \_\_\_\_ Inside of 65 dB Ldn contour or within ¼ mile outside of 65 dB Ldn contour

**ACCIDENT POTENTIAL ZONES (APZ) (INITIAL ONE)**

\_\_\_\_ / \_\_\_\_ None (outside of APZs)

Inside of \_\_\_\_ / \_\_\_\_ APZ II      \_\_\_\_ / \_\_\_\_ APZ I      \_\_\_\_ / \_\_\_\_ Clear Zone

**WITHIN CONTROLLED COMPATIBLE LAND USE AREA (INITIAL ONE)**

\_\_\_\_ / \_\_\_\_ No      \_\_\_\_ / \_\_\_\_ Yes

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Date

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Date

THE UNDERSIGNED PURCHASERS HEREBY ACKNOWLEDGE RECEIPT OF THE FOREGOING NOTICE.

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Date

THE STATE OF TEXAS () COUNTY OF KLEBERG ()

The instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_  
Notary Public, State of Texas.

THE STATE OF TEXAS () COUNTY OF KLEBERG ()

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_  
Notary Public, State of Texas.

## PLATTING PROCEDURES

**Sec. 15-3-15. Preliminary conference.**

Prior to the official filing of a preliminary plat, the subdivider shall consult with and present a proposed plan of subdivision to the Department of Planning and Community Development for comments and advice on the procedures, specifications and standards required by the city for the subdivision of land.

(1962 Code, § 12-2-1)

**Sec. 15-3-16. Preliminary plat and accompanying data; fees; processing procedures.**

(A) *General.* Preliminary plat shall be required when substantial water, wastewater, earthwork, roadway improvements or if unusual property circumstance require further review by city staff. When minor improvements are required a letter of explanation and detailed sketch will suffice. Waiving the preliminary plat requirement will be left to the discretion of the city's authorized agent.

(B) *Time for filing and copies required.* The subdivider shall present 15 blue or black line copies of the plat to the Director of Planning no less than 10 working days prior to the date at which formal application for the preliminary plat approval is made to the Planning and Zoning Commission.

(C) *Filing fees.*

(1) Such plat shall be accompanied by a filing fee as noted below. An additional fee of \$200.00 shall be collected for any replat or amending plat to defray the expense of publication and notice required by local ordinance or state statute. No action by the Planning and Zoning Commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make formal application for preliminary plat approval or should the plat be disapproved.

TABLE INSET:

Preliminary Plat Filing Fees (Payable Upon Submittal)	
Up to 0.99 acres	\$115.00
One acre to 4.99 acres	230.00
Five acres or more	46.00 per acre

(2) The filing fee shall be waived when a preliminary plat is not required.

(D) *Form and content.* The preliminary plat shall be drawn at a scale of one inch to 100 feet on sheets 24 inches wide and 36 inches long, with a binding margin of not less than one and one-half inches on the left side of the sheet and margins on the other three sides of not less than one-half inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

(1) Names and addresses of the subdivider, record owner, engineer and/or surveyor.

- (2) Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the city limits or the extra-territorial jurisdiction of the city. Proposed names of streets, which shall not be the same or similar to those already assigned to other streets in other parts of the city unless there is a street continuation.
- (3) Names of contiguous subdivisions.
- (4) Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.
- (5) Existing sites as follows:
  - (a) The general location, dimensions, names and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.
  - (b) The general location, dimensions, description and name of all existing or recorded residential lots, parks, public areas and other sites within or contiguous with the subdivision.
  - (c) The general location, dimensions, description and flow line of the existing watercourses, associated floodplains and drainage structures within the subdivision or on contiguous tracts.
- (6) The general location, dimensions, description and names of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the subdivision. Exception: Specific lot dimensions do not have to be shown.
- (7) The location of sanitary sewer lines.
- (8) The location of water lines.
- (9) The location of watercourses, drainage and flood prevention structures.
- (10) Date of preparation, scale of plat and north arrow.
- (11) A copy of the U.S.G.S. topographical map.
- (12) Vicinity sketch or map at a scale of not more than 1,000 feet to an inch which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity.
- (13) AICUZ boundaries where applicable and identified by the Department of Planning and Community Development.
- (14) Staff reserves the right to request additional information to adequately enforce the intent of the preliminary plat requirements.
- (15) A final plan for the proposed fills or other structure-elevating techniques, levees, channel modifications, retaining walls and other methods to overcome flood or erosion-related hazards (see § 15-3-65(B)(3) of this article).

[\(E\) Supplemental content. The plat shall show the following if any part of the plat is inside of or within one quarter mile \(1/4\) outside of the Naval Air Station \(NAS\) Kingsville 65 dB Day-Night Average Sound Level contour line as established by the current version of the NAS Kingsville Air Installations Compatible Use Zones \(AICUZ\) study and/or within an Accident Potential Zone identified by the current version of the NAS Kingsville AICUZ study.](#)

(1) Notice: This property is located within an area that is one quarter mile (1/4) outside of the Naval Air Station (NAS) Kingsville 65 decibel (dB) Day-Night Average Sound Level noise contours and may be impacted by noise, odors, flight safety hazards, and other potential compatibility issues relating to installation operations. This property may also be within an Accident Potential Zone as established in the current AICUZ study. This property may also be subject to additional development regulations relative to the property's proximity to the installation and air operations associated with the installation.

DRAFT

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DRAFT



**JLUS Strategy 32, Ensuring Recording of Disclosures**, was grouped and presented with JLUS Strategy 31 since it dealt with related issues.

Please refer to the information provided under Tab 31.

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>33. Establish Joint Airport Zoning Board <u>and Appropriate Regulations</u></b></p> <p>The Joint Airport Zoning Board (JAZB) will include appointed members from NAS Kingsville, City of Kingsville, and Kleberg County. The JAZB will develop an airport hazard area or a controlled compatible land use area, and have the authority to adopt, administer, and enforce airport hazard area or compatible land use zoning regulations. Review of building permits shall also be incorporated into the authority of the JAZB. In addition to the creation of a JAZB, the City shall investigate the feasibility of annexing property within critical operational areas. Annexation may decrease the need for an additional regulatory board as properties would fall under the City’s existing land use regulatory authority.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>

## Background



### ATTACHMENT 33-1

The creation of a Joint Airport Zoning Board (JAZB) is authorized by Chapter 241 (Municipal and County Zoning Authority Around Airports) of the Texas Local Government Code, specifically Section 241.014. This is included in this package as **Attachment 33-1**. This section states:

- a. A political subdivision to whose benefit an airport is used in the interest of the public or in which an airport owned or operated by a defense agency of the federal government or the state is located may create a joint airport zoning board with another political subdivision in which an airport hazard area or a controlled compatible land use area relating to the airport is located. The political subdivisions must act by resolution or ordinance in creating the joint board.
- b. The joint airport zoning board has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Section 241.011 (Airport Hazard Area Zoning Regulations) and Section 241.012 (Airport Compatible Land Use Zoning Regulations).
- c. The joint airport zoning board must consist of two members appointed by each of the political subdivisions creating the board and, in addition, a chairman elected by a majority of the appointed members.
- d. If an agency of the state owns and operates an airport located within an airport hazard area or controlled compatible land use area governed by a joint airport zoning board, the agency is entitled to have two members on the board.
- e. The joint airport zoning board for an airport that is owned or operated by a defense agency of the federal government and that is closed by the federal government may provide that zoning regulations adopted by the board continue in effect until the fourth anniversary of the date the airport is closed.

Kingsville JLUS Figure 3-2, Proposed Joint Airport Zoning Board Area, took into account only one of NAS Kingsville’s two runways (the northwest-southeast runway). However, NAS Kingsville aircraft use all four runways as primary runways; therefore, the area that can be included in the Controlled Compatible Land Use Area requires modification as part of this Implementation Program.

## Establish Joint Airport Zoning Board and Appropriate Regulations

The Airport Compatibility Guidelines: Compatibility Planning, Compatible Land Use Zoning, Hazard Zoning for Airports in Texas, was published by the Texas Department of Transportation Aviation Division in January of 2003. Essentially, the guidelines are a compliment to the State of Texas Local Government Code Chapter 241, Municipal and County Zoning Authority around Airports (see Section 4.4). The guidelines are intended to aid decision-makers on how to plan for compatibility as housing and other types of development begin to move closer to airports. The primary tools discussed in the guidelines are Airport Compatible Land Use Zoning Ordinances and Hazard Zoning Ordinances.

The first two chapters explain the necessity for compatible land use planning by presenting data and background information on land use conflicts and assessing the current land use patterns in Texas. Chapter Three discusses how a municipality can determine if an Airport Compatible Land Use Ordinance or a Hazard Zoning Ordinance is best suited for the municipality. It also outlines preparation, such as the prerequisites, needed for implementation of Airport Compatible Land Use Zoning Ordinance and Hazard Zoning Ordinance. Chapter Four details procedural steps in developing and adopting an Airport Compatible Land Use Zoning Ordinance and/or a Hazard Zoning Ordinance.

### Steps to Implement JLUS Strategy #33

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
■							1	The Committee confirmed the desire to establish a JAZB. At meeting, reviewed the enabling legislation and potential functions for the JAZB.	Committee
	■						2	Committee reviewed and confirmed the proposed JAZB composition (2 appointed by City, 2 appointed by County, 1 appointed by 4 appointed members).	Committee
	■	■					3	Reviewed a draft Controlled Compatible Land Use Area map (the geography covered by the JAZB regulations). Major changes were: <ul style="list-style-type: none"> <li>■ The need to reflect the Accident Potential Zones (APZ) associated with all four runways.</li> <li>■ Remove any areas inside the city limits of Kingsville.</li> <li>■ Remove areas that were inside Nueces County to the north.</li> </ul> Map was reviewed and approved in concept by Committee with these changes.	Committee
		■					4	Establishing the JAZB <ul style="list-style-type: none"> <li>■ Prepared draft resolutions for Kleberg County and City of Kingsville establishing the Kingsville-Kleberg JAZB.</li> <li>■ Committee approved draft resolutions</li> </ul>	Consultant
		■					5	Perform legal review and revise resolutions to establish the JAZB.	County and City Attorneys

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
		■					6	Public hearings on resolutions forming JAZB: <ul style="list-style-type: none"> <li>County Commissioners Court of Kleberg County adopts resolution and appoints two members</li> <li>City Commission of the City of Kingsville adopts resolution and appoints two members</li> </ul>	Committee
			■	■	■		7	Review draft JAZB regulations with Committee.	Committee
			■				8	Convene JAZB. Four members appointed by City of Kingsville and Kleberg County (two each) appoint the fifth member for the JAZB.	JAZB
			■	■			9	Review draft JAZB regulations with JAZB (including comments from Committee meetings held before each JAZB).	JAZB
					■		10	Public hearing on proposed Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations.  Regulations approved by JAZB on July 21, 2010.	JAZB
						□	11	Hold public hearing on JAZB Outdoor Lighting Regulation (refer to JLUS Strategies 23 and 36 for details).	JAZB

## Supporting Materials



### ATTACHMENT 33-1

Chapter 241 (Municipal and County Zoning Authority Around Airports) of the Texas Local Government Code, specifically Section 241.014  
 Covers creation of a JAZB and associated regulations

- Airport Compatibility Guidelines: Compatibility Planning, Compatible Land Use Zoning, Hazard Zoning for Airports in Texas**, was published by the Texas Department of Transportation Aviation Division in January of 2003. Essentially, the guidelines are a compliment to the State of Texas Local Government Code Chapter 241, Municipal and County Zoning Authority around Airports (see Section 4.4). The guidelines are intended to aid decision-makers on how to plan for compatibility as housing and other types of development begin to mover closer to airports. The primary tools discussed in the guidelines are Airport Compatible Land Use Zoning Ordinances and Hazard Zoning Ordinances.

The first two chapters explain the necessity for compatible land use planning by presenting data and background information on land use conflicts and assessing the current land use patterns in Texas. Chapter Three discusses how a municipality can determine if an Airport Compatible Land Use Ordinance or a Hazard Zoning Ordinance is best suited for the municipality. It also outlines preparation, such as the prerequisites, needed for implementation of Airport Compatible Land Use Zoning Ordinance and Hazard Zoning Ordinance. Chapter Four details procedural steps in developing and adopting an Airport Compatible Land Use Zoning Ordinance and/or a Hazard Zoning Ordinance.

## Establish Joint Airport Zoning Board and Appropriate Regulations

Document can be downloaded at:

[ftp://ftp.dot.state.tx.us/pub/txdot-info/avn/avninfo/Airport\\_Compatibility\\_Guidelines.pdf](ftp://ftp.dot.state.tx.us/pub/txdot-info/avn/avninfo/Airport_Compatibility_Guidelines.pdf)

- Several examples of JAZBs or airport zoning ordinances from other municipalities in Texas were reviewed and discussed during preparation of the JAZB Regulations. These included:
  - Camp Bullis JAZB (proposed)
  - Del Rio International Airport Hazard Zoning Ordinance and Laughlin Air Force Base Compatible Land Use and Hazard Zoning Ordinance
  - Airport Zoning Ordinance for the Dallas-Fort Worth International Airport
  - Taylor Municipal Airport Zoning Ordinance (City of Taylor JAZB)

### Results

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#### ATTACHMENT 33-2

County Commissioners Court, Kleberg County

A resolution authorizing the creation of a Joint Airport Zoning Board and investing such Joint Airport Zoning Board with the powers such boards are authorized to exercise under the provision of the Airport Zoning Act, Texas Local Government Code §§ 241.001 et seq.



#### ATTACHMENT 33-3

City Commission, City of Kingsville

A resolution authorizing the creation of a Joint Airport Zoning Board and investing such Joint Airport Zoning Board with the powers such boards are authorized to exercise under the provision of the Airport Zoning Act, Texas Local Government Code §§ 241.001 et seq.



#### ATTACHMENT 33-4

Kingsville-Kleberg JAZB  
Board Membership



#### ATTACHMENT 33-5

Kingsville-Kleberg JAZB

NAS Kingsville Compatible Land Use Zoning Regulations

A regulation of the City of Kingsville - Kleberg County Joint Airport Zoning Board (JAZB), in accordance with state law, regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of NAS Kingsville, Texas by creating the appropriate land use zones, airport and hazard overlay zones and establishing the boundaries thereof; providing for restrictions of such zones and the enforcement of such restrictions; defining certain terms used herein; referring to Figure 1, NAS Kingsville Compatible Land Use Zoning Map and Table 1, Prohibited or Regulated Land Uses, both of which are incorporated herein and made a part of these regulations by reference; providing for an Administrative Agency, a Board of Adjustment, enforcement and imposing penalties.

## Establish Joint Airport Zoning Board and Appropriate Regulations

33

Included in this regulation is Figure 1 – NAS Kingsville Compatible Land Use Zoning Map. This map provides a diagram geographically defines the Controlled Compatible Land Use Area, AICUZ noise contours, Accident Potential Zones, and zoning designations used under the regulation.

*Please see the next page.*



Search Justia

## Texas Local Government Code

### CHAPTER 241. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND AIRPORTS

Search



Texas Code



All US State Codes

#### LOCAL GOVERNMENT CODE

#### SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

#### CHAPTER 241. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND AIRPORTS

#### SUBCHAPTER A. GENERAL PROVISIONS

§ 241.001. SHORT TITLE. This chapter may be cited as the Airport Zoning Act.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.002. LEGISLATIVE FINDINGS. The legislature finds that:

(1) an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;

(2) an airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;

(3) the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;

(4) it is necessary in the interest of the public health, public safety, and general welfare to prevent the creation of an airport hazard;

(5) the creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation; and

(6) the prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, or the marking and lighting of an airport hazard are public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.003. DEFINITIONS. In this chapter:

(1) "Airport" means an area of land or water, publicly or privately owned, designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for that purpose. The term includes an area with installations relating to flights, including installations, facilities, and bases of operations for tracking flights or acquiring data concerning flights.

(2) "Airport hazard" means a structure or object of natural growth that obstructs the air space required for the taking off, landing, and flight of aircraft or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.

(3) "Airport hazard area" means an area of land or water on which an airport hazard could exist.

(4) "Airport zoning regulation" means an airport hazard area zoning regulation and an airport compatible land use zoning regulation adopted under this chapter.

(5) "Centerline" means a line extending through the midpoint of each end of a runway.

(6) "Compatible land use" means a use of land adjacent to an airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport, including the taking off and landing of aircraft.

(7) "Controlled compatible land use area" means an area of land located outside airport boundaries and within a rectangle bounded by lines located no farther than 1-1/2 statute miles from the centerline of an instrument or primary runway and lines located no farther than five statute miles from each end of the paved surface of an instrument or primary runway.

(8) "Instrument runway" means an existing or planned runway of at least 3,200 feet for which an instrument landing procedure published by a defense agency of the federal government or the Federal Aviation Administration exists or is planned.

(9) "Obstruction" means a structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by an airport hazard area zoning regulation.

(10) "Political subdivision" means a municipality or county.

(11) "Primary runway" means an existing or planned paved runway, as shown in the official airport layout plan (ALP) of the airport, of at least 3,200 feet on which a majority of the approaches to and departures from the airport occur.

(12) "Runway" means a defined area of an airport prepared for the landing and taking off of aircraft along its length.

(13) "Structure" means an object constructed or installed by one or more persons and includes a building, tower, smokestack, and overhead transmission line.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.004. AIRPORT USED IN INTEREST OF PUBLIC. For the purposes of this chapter, an airport is used in the interest of the public if:

(1) the owner of the airport, by contract, license, or otherwise, permits the airport to be used by the public to an extent that the airport fulfills an essential community purpose; or

(2) the airport is used by the state or an agency of the state or by the United States for national defense purposes or for any federal program relating to flight.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.005. ADOPTION OF REGULATION INCLUDES AMENDMENT OR OTHER CHANGE. A reference in this chapter to the adoption of an airport zoning regulation includes the amendment, repeal, or other change of a regulation. A reference to the adoption of an airport zoning regulation also includes the amendment of an airport zoning regulation existing on the date the law codified by this chapter took effect, which was September 5, 1947.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

SUBCHAPTER B. ADOPTION OF AIRPORT ZONING REGULATIONS

§ 241.011. AIRPORT HAZARD AREA ZONING REGULATIONS. (a) To prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations for the airport hazard area.

(b) The airport hazard area zoning regulations may divide an airport hazard area into zones and for each zone:

- (1) specify the land uses permitted;
- (2) regulate the type of structures; and
- (3) restrict the height of structures and objects of natural growth to prevent the creation of an obstruction to flight operations or air navigation.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.012. AIRPORT COMPATIBLE LAND USE ZONING REGULATIONS. (a) A political subdivision may adopt, administer, and enforce, under its police power, airport compatible land use zoning regulations for the part of a controlled compatible land use area located within the political subdivision if the airport is:

- (1) used in the interest of the public to the benefit of the political subdivision; or
- (2) located within the political subdivision and owned or operated by a federal defense agency or by the state.

(b) The political subdivision by ordinance or resolution may implement, in connection with airport compatible land use zoning regulations, any federal law or rules controlling the use of land located adjacent to or in the immediate vicinity of the airport.

(c) The airport compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.013. EXTRATERRITORIAL ZONING IN POLITICAL SUBDIVISIONS WITH POPULATION OF MORE THAN 45,000. (a) A political subdivision with a population of more than 45,000 in which an airport used in the interest of the public to the benefit of the political subdivision is located may adopt, administer, and

enforce:

(1) airport hazard area zoning regulations applicable to an airport hazard area relating to the airport and located outside the political subdivision; and

(2) airport compatible land use zoning regulations applicable to a controlled compatible land use area relating to the airport and located outside the political subdivision.

(b) The political subdivision has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.

(c) The airport hazard area zoning regulations or airport compatible land use zoning regulations must include a statement that the airport fulfills an essential community purpose.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 98, § 1, 2, eff. Aug. 26, 1991.

§ 241.014. JOINT AIRPORT ZONING BOARD. (a) A political subdivision to whose benefit an airport is used in the interest of the public or in which an airport owned or operated by a defense agency of the federal government or the state is located may create a joint airport zoning board with another political subdivision in which an airport hazard area or a controlled compatible land use area relating to the airport is located. The political subdivisions must act by resolution or ordinance in creating the joint board.

(b) The joint airport zoning board has the same power to adopt, administer, and enforce airport hazard area zoning regulations or airport compatible land use zoning regulations under this section as that given a political subdivision by Sections 241.011 and 241.012.

(c) The joint airport zoning board must consist of two members appointed by each of the political subdivisions creating the board and, in addition, a chairman elected by a majority of the appointed members.

(d) If an agency of the state owns and operates an airport located within an airport hazard area or controlled compatible land use area governed by a joint airport zoning board, the agency is entitled to have two members on the board.

(e) The joint airport zoning board for an airport that is owned or operated by a defense agency of the federal government and that is closed by the federal government may provide that zoning regulations adopted by the board continue in effect until the fourth anniversary of the date the airport is closed.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 352, § 1, eff. May 27, 1997; Acts 1999, 76th Leg., ch. 1176, § 1, eff. June 18, 1999.

§ 241.015. INCORPORATION OF AIRPORT ZONING REGULATION INTO COMPREHENSIVE ZONING ORDINANCE. A political subdivision may incorporate an airport zoning regulation in a comprehensive zoning ordinance and administer and enforce it in connection with the administration and enforcement of the comprehensive zoning ordinance if:

(1) the two zoning regulations apply, in whole or in part, to the same area; and

(2) the comprehensive zoning ordinance includes, among other matters, a regulation on the height of buildings.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.016. AIRPORT ZONING COMMISSION. (a) Before an airport zoning regulation may be adopted, a political subdivision acting unilaterally under Section 241.013 must appoint an airport zoning commission. If the political subdivision has a planning commission or comprehensive zoning commission, that commission may be designated as the airport zoning commission.

(b) The commission shall recommend the boundaries of the zones to be established and the regulations for these zones.

(c) The commission shall make a preliminary report and hold public hearings on the report before submitting a final report.

(d) Before the 15th day before the date of a hearing under Subsection (c), notice of the hearing shall be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the airport hazard area or controlled compatible land use area to be zoned is located.

(e) A joint airport zoning board created under Section 241.014 is not required to appoint a commission under this section.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 697, § 1, eff. Sept. 1, 1995.

§ 241.017. PROCEDURAL LIMITATIONS APPLYING TO ADOPTION OF ZONING REGULATIONS. (a) The governing body of a political subdivision may not hold a public hearing or take other action concerning an airport zoning regulation until it receives the final report of the airport zoning commission.

(b) An airport zoning regulation may not be adopted except by action of the governing body of the political subdivision or a joint airport zoning board after the political subdivision or joint airport zoning board holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.

(c) Before the 15th day before the date of a hearing under Subsection (b), notice of the hearing must be published in an official newspaper or a newspaper of general circulation in each political subdivision in which the area to be zoned is located.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 697, § 2, eff. Sept. 1, 1995.

§ 241.018. REASONABLENESS OF AIRPORT ZONING REGULATIONS. (a) An airport zoning regulation must be reasonable and may impose a requirement or restriction only if the requirement or restriction is reasonably necessary to achieve the purposes of this chapter.

(b) In determining which airport zoning regulations to adopt, the governing body of a political subdivision or a joint airport zoning board shall consider, among other things:

(1) the character of the flying operations expected to be conducted at the airport;

(2) the nature of the terrain within the airport hazard area;

(3) the character of the neighborhood; and

(4) the current and possible uses of the property to be zoned.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.019. NONCONFORMING USES AND STRUCTURES. Except as provided by Section 241.035, airport zoning regulations may not require:

- (1) changes in nonconforming land use existing on the date of the adoption of the regulations;
- (2) the removal, lowering, or other change of a structure that does not conform to the regulations on the date of their adoption, including all phases or elements of a multiphase structure, regardless of whether actual construction has commenced, that received a determination of no hazard by the Federal Aviation Administration under 14 C.F.R., Part 77, before the regulations were adopted;
- (3) the removal, lowering, or other change of an object of natural growth that does not conform to the regulations on the date of their adoption; or
- (4) any other interference in the continuation of a use that does not conform to the regulations on the date of their adoption.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.020. PERMITS. (a) Airport zoning regulations may require that a permit be obtained before:

- (1) a new structure is constructed;
- (2) an existing structure is substantially changed or repaired;
- (3) a new use is established; or
- (4) an existing use is substantially changed.

(b) Airport zoning regulations must provide that a permit be obtained from the administrative agency authorized to administer and enforce the regulations before:

- (1) a nonconforming structure may be replaced, rebuilt, or substantially changed or repaired; or
- (2) a nonconforming object of natural growth may be replaced, substantially changed, allowed to grow higher, or replanted.

(c) A permit may not allow:

- (1) the establishment of an airport hazard;
- (2) a nonconforming use to be made;
- (3) a nonconforming structure or object of natural growth to become higher than it was at the time of the adoption of the airport zoning regulations relating to the structure or object of natural growth or at the time of the application for the permit; or
- (4) a nonconforming structure, object of natural growth, or use to become a greater hazard to air navigation than it was at the time of the adoption of the airport zoning regulations relating to the structure, object of natural growth, or use or at the time of the application for the permit.

(d) Except as provided by Subsection (c), an application for a permit shall be granted.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

#### SUBCHAPTER C. ADMINISTRATIVE AGENCY AND BOARD OF ADJUSTMENT

§ 241.031. ADMINISTRATIVE AGENCY. (a) Airport zoning regulations must provide for the administration and enforcement of the regulations by an administrative agency. The administrative

agency may be:

(1) an agency created by the regulations;  
(2) an existing official, board, or agency of the political subdivision adopting the regulations; or  
(3) an existing official, board, or other agency of a political subdivision that participated in the creation of a joint airport zoning board adopting the regulations, if satisfactory to that political subdivision.

(b) The administrative agency may not be the board of adjustment or include any member of the board.

(c) The administrative agency shall hear and decide all applications for permits under Section 241.020.

(d) The agency may not exercise any of the powers delegated to the board of adjustment.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.032. BOARD OF ADJUSTMENT. (a) Airport zoning regulations must provide for a board of adjustment.

(b) If a zoning board of appeals or adjustment exists, it may be designated as the board of adjustment under this chapter.

(c) If a zoning board of appeals or adjustment does not exist or is not designated as the board of adjustment under this chapter, a board of adjustment must be appointed. The board must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(d) The concurring vote of four members of the board is necessary to:

(1) reverse an order, requirement, decision, or determination of the administrative agency;

(2) decide in favor of an applicant on a matter on which the board is required to pass under an airport zoning regulation; or

(3) make a variation in an airport zoning regulation.

(e) The board shall adopt rules in accordance with the ordinance or resolution that created it.

(f) Meetings of the board are held at the call of the chairman and at other times as determined by the board. The chairman or acting chairman may administer oaths and compel the attendance of witnesses. All hearings of the board shall be open to the public.

(g) The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.033. AUTHORITY OF BOARD. The board of adjustment shall:

(1) hear and decide an appeal, as provided by Section 241.036, from an order, requirement, decision, or determination made by the administrative agency in the enforcement of an airport zoning regulation;

(2) hear and decide special exceptions to the terms of an airport zoning regulation when the regulation requires the board to do so; and

(3) hear and decide specific variances under Section 241.034.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.034. VARIANCES. (a) A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the board of adjustment for a variance from the regulation.

(b) The board shall allow a variance from an airport zoning regulation if:

(1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and

(2) the granting of the relief would:

(A) result in substantial justice being done;

(B) not be contrary to the public interest; and

(C) be in accordance with the spirit of the

regulation and this chapter.

(c) The board may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this chapter.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.035. HAZARD MARKING AND LIGHTING. If the administrative agency or board of adjustment considers it reasonable in the circumstances and advisable to accomplish the purposes of this chapter, the agency or board may require in a permit or a variance granted under this chapter that the owner of a structure or object of natural growth allow the political subdivision, at its own expense, to install, operate, and maintain on the structure or object of natural growth any markers and lights necessary to indicate to flyers the presence of an airport hazard.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.036. APPEAL TO BOARD. (a) A decision of the administrative agency made in its administration of an airport zoning regulation may be appealed to the board of adjustment by:

(1) a person who is aggrieved by the decision;

(2) a taxpayer who is affected by the decision; or

(3) the governing body of a political subdivision or a

joint airport zoning board that believes the decision is an improper application of the airport zoning regulation.

(b) The appellant must file with the board and the administrative agency a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the administrative agency shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

(c) An appeal stays all proceedings in furtherance of the action that is appealed unless the administrative agency certifies in writing to the board facts supporting the agency's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by an order of the board, after notice to the administrative agency, if due cause is shown.

(d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice



to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

(e) The board may reverse or affirm, in whole or in part, or modify the administrative agency's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative agency.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

#### SUBCHAPTER D. JUDICIAL REVIEW AND OTHER REMEDIES

§ 241.041. JUDICIAL REVIEW OF BOARD DECISION. (a) A person who is aggrieved or a taxpayer who is affected by a decision of a board of adjustment, or the governing body of a political subdivision or a joint airport zoning board that believes a decision of a board of adjustment is illegal, may present to a court of record a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality. The petition must be presented within 10 days after the date the decision is filed in the board's office.

(b) On the presentation of the petition, the court may grant a writ of certiorari directed to the board of adjustment to review the board's decision. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board the court may grant a restraining order if due cause is shown.

(c) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision that is appealed. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as provided by the writ.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.042. TRIAL BY COURT. (a) The court, in an appeal from a decision of a board of adjustment as provided by Section 241.041, shall try and determine the case de novo on the basis of the facts adduced in the trial of the case in the court. The court shall independently rule on the facts and the law as in an ordinary civil suit.

(b) The court has exclusive jurisdiction to reverse or affirm, in whole or in part, or modify the decision that is appealed and, if necessary, may order further proceedings by the board.

(c) Costs may not be assessed against the board unless the court determines that the board acted with gross negligence, in bad faith, or with malice in making its decision.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.043. EFFECT OF HOLDING OF THE COURT. If the court holds that an airport zoning regulation, although generally reasonable, interferes with the use or enjoyment of a particular structure or parcel of land to such an extent that, or is so onerous in its application to a particular structure or parcel of land that, the application of the regulation constitutes a taking or

deprivation of property in violation of the state or federal constitution, the holding does not affect the application of the regulation to any other structure or parcel of land.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.044. ADDITIONAL REMEDIES. (a) A political subdivision or joint airport zoning board adopting airport zoning regulations may bring an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation of:

- (1) this chapter;
- (2) an airport zoning regulation adopted by the political subdivision or board; or
- (3) an order or ruling made in connection with the administration or enforcement of an airport zoning regulation adopted by the political subdivision or board.

(b) The court shall grant any relief, including an injunction which may be mandatory, as may be proper under all the facts and circumstances of the case to accomplish the purposes of this chapter and the regulations adopted and orders and rulings made under it.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

#### SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

§ 241.901. CONFLICT OF AN AIRPORT HAZARD AREA ZONING REGULATION WITH ANOTHER REGULATION. (a) If an airport hazard area zoning regulation conflicts with any other regulation applicable to the same area, the more stringent limitation or requirement controls.

(b) Subsection (a) applies to any conflict with respect to the height of a structure or object of natural growth or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport hazard area zoning regulation whether the regulation was adopted by the political subdivision that adopted the airport zoning regulation or by another political subdivision.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.902. CONFLICT OF AN AIRPORT COMPATIBLE LAND USE ZONING REGULATION WITH ANOTHER REGULATION. (a) If an airport compatible land use zoning regulation conflicts with any other regulation applicable to the same area, the airport compatible land use zoning regulation controls.

(b) Subsection (a) applies to any conflict with respect to the use of land or any other matter.

(c) Subsection (a) applies to any regulation that conflicts with an airport compatible land use zoning regulation, whether the regulation was adopted by the political subdivision that adopted the airport compatible land use zoning regulation or by another political subdivision.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

§ 241.903. ACQUISITION OF AIR RIGHTS OR OTHER

PROPERTY. (a) A political subdivision may acquire from a person or other political subdivision an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use if:

(1) the acquisition is necessary to accomplish the purposes of this chapter;

(2) the property or nonconforming structure or use is located within the political subdivision, the political subdivision owns the airport, or the political subdivision is served by the airport; and

(3)(A) the political subdivision desires to remove, lower, or terminate the nonconforming structure or use;

(B) airport zoning regulations are not sufficient to provide necessary approach protection because of constitutional limitations; or

(C) the acquisition of a property right is more advisable than an airport zoning regulation in providing necessary approach protection.

(b) An acquisition under this section may be by purchase, grant, or condemnation in the manner provided by Subchapter B, Chapter 21, Property Code.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

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**RESOLUTION \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CREATION OF A JOINT AIRPORT ZONING BOARD AND INVESTING SUCH JOINT AIRPORT ZONING BOARD WITH THE POWERS SUCH BOARDS ARE AUTHORIZED TO EXERCISE UNDER THE PROVISION OF THE AIRPORT ZONING ACT, TEXAS LOCAL GOVERNMENT CODE §§ 241.001 ET SEQ.**

**WHEREAS**, the County Commissioners Court of Kleberg County recognizes that the continued operation of Naval Air Station Kingsville (NAS Kingsville) is important to the economy of the Kleberg County, the City of Kingsville, and the region and that its future operational capacity should be protected because it fulfills an essential community purpose; and

**WHEREAS**, a joint airport zoning board is necessary to coordinate future planning efforts of the Kleberg County and City of Kingsville to avoid airport hazards and to maintain the operational capacity of NAS Kingsville;

**NOW, THEREFORE BE IT RESOLVED** by the County Commissioners Court of Kleberg County, Texas, that:

1. The County Commissioners Court of Kleberg County, Texas, as authorized by the provisions of the Airport Zoning Act, Texas Local Government Code, §§ 241.001 et seq., hereby creates a joint airport zoning board to be known as the Kingsville-Kleberg County Joint Airport Zoning Board, which board shall have the powers and exercise the duties set forth in Texas Local Government Code, §§ 241.014.
2. The Kingsville-Kleberg County Joint Airport Zoning Board shall be composed of five (5) members, two (2) members to be appointed by the Kleberg County Commissioners Court; two (2) members to be appointed by the City Commission of the City of Kingsville; and, one (1) member elected by a majority of the members so appointed and said fifth member shall serve as chairman of the said Kingsville-Kleberg County Joint Airport Zoning Board.
3. Exercising its rights as an appointing authority, the County Commissioners Court of Kleberg County, Texas, shall appoint, by a majority vote, two members to a new joint airport zoning board. The initial term for one member shall be three years and a term of two years for the second member. Subsequent terms for both members shall be two years.
4. This resolution shall be in full force and effect from and after its passage by this County Commissioners Court.

PASSED AND APPROVED by a majority vote of the Commission of Kleberg County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Pete De La Garza, County Judge

ATTEST:

\_\_\_\_\_  
Leo H. Alvarez, County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Delma Rios-Salazar, County Attorney

**RESOLUTION \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CREATION OF A JOINT AIRPORT ZONING BOARD AND INVESTING SUCH JOINT AIRPORT ZONING BOARD WITH THE POWERS SUCH BOARDS ARE AUTHORIZED TO EXERCISE UNDER THE PROVISION OF THE AIRPORT ZONING ACT, TEXAS LOCAL GOVERNMENT CODE §§ 241.001 ET SEQ.**

**WHEREAS**, the City Commission of the City of Kingsville recognizes that the continued operation of Naval Air Station Kingsville (NAS Kingsville) is important to the economy of the City of Kingsville, Kleberg County, and the region and that its future operational capacity should be protected because it fulfills an essential community purpose; and

**WHEREAS**, a joint airport zoning board is necessary to coordinate future planning efforts of the City of Kingsville and Kleberg County to avoid airport hazards and to maintain the operational capacity of NAS Kingsville;

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas, that:

1. The City Commissioners of the City of Kingsville, Texas, as authorized by the provisions of the Airport Zoning Act, Texas Local Government Code, §§ 241.001 et seq., hereby creates a joint airport zoning board to be known as the Kingsville-Kleberg County Joint Airport Zoning Board, which board shall have the powers and exercise the duties set forth in Texas Local Government Code, §§ 241.014.
2. The Kingsville-Kleberg County Joint Airport Zoning Board shall be composed of five (5) members, two (2) members to be appointed by the County Commission of Kleberg County, Texas; two (2) members to be appointed by the City Commission of the City of Kingsville; and, one (1) member elected by a majority of the members so appointed and said fifth member shall serve as chairman of the said Kingsville-Kleberg County Joint Airport Zoning Board.
3. Exercising its rights as an appointing authority, the City Commission of the City of Kingsville, Texas, shall appoint, by a majority vote, two members to a new joint airport zoning board. The initial term for one member shall be three years and a term of two years for the second member. Subsequent terms for both members shall be two years.
4. This resolution shall be in full force and effect from and after its passage by this City Commission.

PASSED AND APPROVED by a majority vote of the Kingsville City Commission  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Sam R. Fugate, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Edna S. Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney



## Kingsville-Kleberg JAZB Membership

---

William Bledsoe ..... Chairman, appointed by other four JAZB members  
David Cano ..... Appointed by City of Kingsville  
Ramon Perez Jr..... Appointed by City of Kingsville  
Anse Windham..... Appointed by Kleberg County  
Brad Womack ..... Appointed by Kleberg County

*Please see the next page.*

## ***Naval Air Station (NAS) Kingsville Compatible Land Use and Hazard Zoning Regulations***

A regulation of the City of Kingsville - Kleberg County Joint Airport Zoning Board (JAZB), in accordance with state law, regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of NAS Kingsville, Texas by creating the appropriate land use zones, airport and hazard overlay zones and establishing the boundaries thereof; providing for restrictions of such zones and the enforcement of such restrictions; defining certain terms used herein; referring to *Figure 1, NAS Kingsville Compatible Land Use Zoning Map* and *Table 1, Prohibited or Regulated Land Uses*, both of which are incorporated herein and made a part of these regulations by reference; providing for an Administrative Agency, a Board of Adjustment, enforcement and imposing penalties.

WHEREAS, these regulations are adopted pursuant to the authority conferred by the Airport Zoning Act, Texas Local Government Code, §§ 241.001, et seq;

WHEREAS, the Kingsville City Commission and the Kleberg County Commissioner's Court has established the Kingsville - Kleberg County Joint Airport Zoning Board (JAZB) and conferred upon it the powers authorized by the Airport Zoning Act, Texas Local Government Code Annotated §§ 241.001, et seq; and

WHEREAS, the Kingsville - Kleberg County JAZB has found that an obstruction has the potential for endangering the lives and property of users of NAS Kingsville, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of NAS Kingsville, and that an obstruction may reduce the size of areas available for the landing, take-off and maneuvering of aircraft, and that excessive noise levels generated by airport operations disrupt activities and impair the welfare, use and enjoyment of land by the occupants, thus tending to damage or impair the utility of NAS Kingsville, and the public investment therein; and

WHEREAS, the Kingsville - Kleberg County JAZB has declared that:

- 1) NAS Kingsville fulfills an essential flight training role for the U.S. Navy and Department of Defense;
- 2) the creation or establishment of an obstruction or the encroachment of noise sensitive or otherwise incompatible land uses within certain areas set forth herein has the potential of being a nuisance and may injure the owners, occupiers or users of land in the region surrounding NAS Kingsville;
- 3) it is necessary in the interest of public health, public safety, and general welfare that the creation or establishment of obstructions or potential incompatible land uses that are a hazard to air navigation or the public health and safety be prevented; and

- 4) the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

WHEREAS, it is further declared by the Kingsville – Kleberg County JAZB that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, the marking and lighting of obstructions or the prevention of other potential incompatible land uses are public purposes for which a political subdivision may raise and expend public funds and acquire land or interest in land.

Therefore, be it ordered by the Joint Airport Zoning Board of the City Commission of the City of Kingsville, Texas and the Commissioner's Court of the County of Kleberg, Texas:

**Section 1. Short Title**

These regulations shall be known and may be cited as the "NAS Kingsville Compatible Land Use Zoning Regulations."

**Section 2. Exclusions**

The purpose and intent of this regulation is to provide a reasonable basis for the review of future zoning and development requests. This regulation will NOT be used to control or restrict the following.

- A. Agricultural Use.** This regulation shall not be used to regulate any operational aspect of an agricultural use, including the cultivation and harvesting of crops, land management activities (controlled burning, clearing, spraying, trimming), livestock management, hunting, or use and application of water.
- B. Agricultural Support Facilities.** This regulation will not be used to regulate non-residential, support facilities (storage facilities, barns, animal enclosures or shade structures, barns or similar structures, fences, roads) designed to support on-site agricultural uses. This exclusion does not apply to: 1) processing plants or 2) permanent structures over 50 feet in height.
- C. Existing Structures.** This regulation does not restrict or limit the use of legally established, existing land uses and structures.
- D. NAS Kingsville.** The areas designated as NAS on Figure 1, NAS Kingsville Compatible Land Use Zoning Map (incorporated herein and made a part of these regulations by reference) are owned or managed by the Department of Defense / NAS Kingsville. As federal property, the JAZB does not have land

use authority over these areas, and the requirements contained in this regulation do not apply to lands so designated.

**E. Temporary Uses Relative to Exploratory Drilling.** Temporary structures or drilling equipment related to exploratory drilling shall be exempt from this regulation if all of the following conditions are met:

- (1) The equipment or structure erected does not exceed 125 feet in height, as measured from the ground level at the site.
- (2) Notice of the location and type of equipment to be used will be provided to NAS Kingsville 15-days before any structure or equipment is placed on a site that meets either or both of the following criteria: 1) any structure placed in a Clear Zone or 2) any structure placed in Accident Potential Area I that is over 100 feet in height (see Figure 1 for Clear Zone and Accident Potential Zone I locations).
- (3) All equipment and structures exceeding 50 feet in height above the ground level at the site shall be marked with appropriate beacon lighting, as defined in consultation with NAS Kingsville.
- (4) Equipment / structures will only be on site for a period not to exceed 90 days.

**F. Single Residential Units on Existing Parcels.** Legally established parcels shall have the ability to develop one (1) single family residential unit by right, and not subject to this regulation if all of the following conditions are met:

- (1) The parcel is at least five (5) acres in size.
- (2) The footprint of the residential structure is entirely outside of any Clear Zones and Accident Potential Zones designated by NAS Kingsville.
- (3) The footprint of the residential structure is entirely outside of the 75 decibel noise contour as established in the NAS Kingsville Air Installations Compatible Use Zones (AICUZ).

**Section 3. Definitions**

As used in these regulations, unless the context otherwise requires:

- A. Accident Potential Zone (APZ)** – An area of land adjacent to each end of an airport runway where, within the airfield environs, an accident is most likely to take place and how large an impact area is likely to result from any single accident. The dimensions have been determined by the analysis of the Navy accident history.

- B. Accident Potential Zone I (APZ I)** – The land area three-thousand (3,000) feet wide and five-thousand (5,000) feet long centered on each runway, immediately beyond the clear zone, which possesses significant potential for accidents. The APZ I for NAS Kingsville is curved, conforming to the predominate flight tracks associated with the runways.
- C. Accident Potential Zone II (APZ II)** – The land area three-thousand (3,000) feet wide and seven-thousand (7,000) feet long centered beyond the APZ I which is less critical than APZ I but still possess potential for accidents. APZ II also curves to conform to the primarily used flight track at NAS Kingsville.
- D. Administrative Agency** – The appropriate person or office of a political subdivision which is responsible for the administration and enforcement of the regulations prescribed herein. The Administrative Agency is set forth in Section 4 of these regulations.
- E. Airport** – Refers to NAS Kingsville, Texas, including the ultimate development of that facility.
- F. Airport Elevation** – Means the established elevation of the highest point on the usable land area measured in feet from sea level.
- G. Airport Hazard** – Means any structure or plant (e.g., tree, shrub, etc.) or use of land which obstructs air space required for the flight of aircraft or which obstructs or interferes with the control or tracking and/or data acquisition in the landing, taking off or flight of an airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of the flight craft; is hazardous, interferes with or obstructs such landing, taking off or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.
- H. Airport Hazard Area** – Means any area of land or water upon which an airport hazard might be established if not prevented as provided in these regulations.
- I. Air Installations Compatible Land Use Zones (AICUZ)** – The Navy's AICUZ program (defined in Navy operational instruction [OPNAVINST] 11010.36C) seeks to develop a cooperative relationship between communities and military installations and provides land use compatibility guidelines designed to protect public health and safety, as well as maintain military readiness. As designed, the AICUZ study prepared for an installation evaluates three components: noise, vertical obstructions, and accident potential zones.

- J. **Airport Noise Zones** – Means any area of land or water between designated noise contours on a noise exposure map where an incompatible use might be established if not prevented as provided in these regulations.
- K. **Airport Reference Point** – Means the point established as the approximate geographic center of the airport landing area and so designated.
- L. **Approach Surface** – A surface longitudinally centered on, and extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 7 of these regulations. In plan view, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- M. **Approach, Transitional, Horizontal, and Conical Zones** – These zones are set forth in Section 7 of these regulations.
- N. **Board of Adjustment** – A board so designated by these regulations as provided in Texas Local Government Code, §§241.032. Provisions for the Board of Adjustment are set forth in Section 11 of these regulations.
- O. **Clear Zone** – high crash potential area that is a trapezoidal area that extends directly beyond the end of the runway and outward along the extended runway center line for a distance of three-thousand (3,000) feet. The Clear Zone is 1,500 feet in width at the threshold of the runway and 2,284 feet in width at the outer edge.
- P. **Compatible Land Use** – Any use of land adjacent to or in the immediate vicinity of the airport that does not endanger the health, safety, and welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport, including the taking off, landing or flight of aircraft.
- Q. **Conical Surface** – A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of 7,000 feet.
- R. **Controlled Compatible Land Use Area** – Established by the Texas Local Government Code. Annotated, §§ 241.003. An area of land located outside airport boundaries and within a rectangle bounded by lines no farther than one and one-half (1 1/2) statute miles from the centerline of an instrument or primary runway and lines located no farther than five (5) miles from each end of the paved surface of an instrument or primary runway. For airports with more than one runway, this area is defined by the combination of the rectangle areas defined for each runway.
- S. **Decibel (db)** – The physical unit commonly used to describe noise levels. A unit for describing the amplitude of sound, as it is heard by the human ear.

- T. Floor Area Ratio (FAR)** – Standards of building intensity for non-residential uses, such as commercial and industrial development, are stated as maximum floor-area ratios (FARs). A FAR is the ratio of the gross building square footage on a lot to the net square footage of the lot (or parcel). For example, on a lot with 10,000 net square feet of land area, an FAR of 1.00 will allow 10,000 square feet of gross building floor area to be built, regardless of the number of stories in the building (e.g., 5,000 square feet per floor on two floors or 10,000 square feet on one floor). On the same 10,000-square-foot lot, an FAR of 0.50 would allow 5,000 square feet of floor area, and an FAR of 0.25 would allow 2,500 square feet.
- U. Hazard to Air Navigation** – An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- V. Height** – For the purpose of determining the height limits in all zones set forth in these regulations and shown on the NAS Kingsville Compatible Land Use Zoning Map, the datum shall be mean sea level elevation.
- W. Horizontal Surface** – A horizontal plane one-hundred-fifty (150) feet above the established airport elevation, the perimeter of which in plan view coincides with the perimeter of the horizontal zone.
- X. Joint Airport Zoning Board (JAZB)** – Means a board consisting of five (5) members, two (2) members appointed by the City Commission of the City of Kingsville, Texas and two (2) members appointed by the Commissioner's Court of Kleberg County, Texas. The four (4) members so appointed shall elect, by a majority vote, a fifth (5th) member who shall serve as chairman of said Kingsville – Kleberg County JAZB.
- Y. Landing Area** – Means the surface area of the airport used for the landing, take-off, or taxiing of aircraft.
- Z. Ldn (Yearly Day-Night Average Sound Level)** – The 24-hour average sound level, in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between 10:00 P.M. and 7:00 a.m. the following day, averaged over a span of one year. A mathematical definition of Ldn can be found in Federal Aviation Regulation Part 150; Subpart A150.201.
- AA. Noise Contour** – A noise impact line constructed by connecting points of equal noise level measured in decibels Ldn, on a map.
- BB. Noise Exposure Map** – A scaled, geographic depiction of an airport, its noise contours and surrounding area.



- CC. Noise Level Reduction (NLR)** – The amount of reduction in noise for any given point as achieved through the incorporation of noise attenuation measures incorporated into the design and construction of buildings. These reductions may be incorporated during initial construction or as additional construction for existing buildings.
- DD. Nonconforming Use** – Any use of land which is inconsistent with the provisions of these regulations and which is existing as of the effective date of these regulations.
- EE. Non-precision Instrument Runway** – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or approach procedure that has been approved or planned.
- FF. Obstruction** – Any structure, growth, or other object, including a mobile object, which exceeds a height set forth in Section 7 of these regulations.
- GG. Person** – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- HH. Primary Runway** – An existing or planned paved runway of at least 3,200 feet in length as shown on the official Airport Layout Plan for the airport and on which a majority of the approaches to and departures from the airport occur.
- II. Primary Surface** – A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two-hundred (200) feet beyond each end of that runway; but when the runway has no specially hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations for the most precise approach, existing or planned, for either end of that runway. The elevation of a point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface for other than a utility runway is one-thousand (1,000) feet for a non-precision instrument runway having non-precision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.
- JJ. Runway** – A defined area on an airport prepared for landing and take-off of aircraft along its length.
- KK. Sound Level (also Noise Level)** – In decibels, the quantity measured by an instrument satisfying requirements of American National Standard Specification for Sound Level Meters SI.4-1971, or the latest revision thereof.

Unless explicitly described otherwise, the sound level shall be the frequency-weighted sound pressure level obtained with the frequency weighted A and the standardized dynamic characteristic SLOW. In this order, the sound level is to be understood to be the A-weighted sound level matter is relatively less sensitive to low frequency sound, somewhat in the way the ear is progressively less sensitive to sounds of frequency below 1000 Hertz (cycles per sound).

- LL. Sound Transmission Class (STC)** – A single-figure rating of the sound insulating properties of a partition as determined by methods described in "Determination of Sound Transmission Class", American Society of Testing and Materials designation E413-73.
- MM. Standard Land Use Coding Manual (SLUCM)** – A standard system for identifying and coding land use activities. "Standard Land Use Coding Manual", Urban Renewal Administration/ Housing and Home Finance Agency and Bureau of Public Roads, Department of Commerce, First Edition, 1965.
- NN. Structure** – An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, antennas, communication or other towers, cranes, smokestacks, earth formations, wind generation structures, and overhead transmission lines (see also Section 2, Exclusions).
- OO. Transitional Surfaces** – These surfaces extend outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal surface.
- PP. Visual Runway** – A runway intended solely for the operation of aircraft using visual approach procedures.
- QQ. Zoning Board of Adjustment** – A board consisting of at least five (5) members appointed by the City Commission of the City of Kingsville, Texas as provided by Texas Local Government Code Annotated, §§ 211.008.

#### **Section 4. Administrative Agency**

It shall be the duty of the Director of Development Services, City of Kingsville, to administer and enforce the regulations prescribed herein and is hereby designated as the Administrative Agency.

**Section 5. Zoning Use Districts and Regulations**

**A. Zoning Districts Established**

The land within the Controlled Compatible Land Use Area is divided into nine (9) zoning districts. Portions of each district may also be designated as being within an Airport Overlay Zone, as defined in Section 6 herein, and thus be subject to the additional regulations of the applicable overlay district based on location. The regulations established are uniform for each class of buildings within each district.

**B. Zoning Districts**

The districts established herein shall be known as:

- AG Agricultural District
- R1 Single Family District 1
- R2 Two Family District 2
- R3 Multi-Family District 3
- C1 Neighborhood Service District
- C2 Retail District
- I1 Light Industrial District
- I2 Heavy Industrial District
- NAS NAS Kingsville District

All definitions, references, requirements and other land use controls not specifically defined in this regulation shall conform to those specified in Chapter 15, City of Kingsville Code of Ordinances, incorporated herein and made a part of these regulations by reference.

**C. Zoning Map**

The boundaries of the zoning districts are delineated upon the map entitled Figure 1, NAS Kingsville Compatible Land Use Zoning Map, incorporated herein and made a part of these regulations by reference.

#### **D. Zoning District Boundaries**

Zoning district and zoning overlay district boundary lines not established by legal definition (as established by the geographic information system files maintained by the Administrative Agency) shall be determined as follows:

- (1) Boundaries indicated as approximately following the centerlines of streets, alleys or easements shall be construed to follow such centerlines.
- (2) Boundaries following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as following city limits shall be construed as following the city limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be the centerline of the right-of-way.
- (5) Boundaries indicated as parallel to or extensions of features indicated on the map shall be so construed. Distances not specifically designated shall be determined by the scale of the map.

#### **E. Use Regulations – Use of Land and Buildings**

Land use and buildings in each of the districts included in this regulation may be used for any of the allowed uses specified for the district in which it is located as set forth in the Table 1, Land Use Compatibility Guidelines. No land hereafter will be used, and no building or structure shall hereafter be erected, altered or converted which is arranged or designed or used for other than those uses specified for the district in which it is located as set forth in the Table 1, Land Use Compatibility Guidelines.

#### **F. Classification of New and Unlisted Uses**

Should the Administrative Agency determine that a type or form of land use which an applicant is seeking to locate in the Controlled Compatible Land Use Area does not appear as a permitted or conditional use, the Administrative Agency shall determine the appropriate classification of the new or unlisted use as follows:

- (1) Should the Administrative Agency determine that the new or unlisted use for all intent and purposes, is listed under another name or category, the application will proceed accordingly; or
- (2) The Administrative Agency shall consider all facts concerning the nature of the use, types of activities to be conducted, the amount of noise,

odor, fumes, dust, toxic material, vibration, and traffic likely to be generated, and the general impact on public utilities;

- (a) The Administrative Agency shall meet with interested parties to consider the compatibility of the proposed use with the uses permitted in the various districts and determine the zoning district or districts, if any, within which such use should be allowed as a permitted or special use.
  - (b) The Administrative Agency shall transmit their findings and recommendations to the JAZB. The JAZB shall make such determination concerning the classification of such use as is determined appropriate.
- (3) The Administrative Agency shall maintain a copy of the JAZB findings and treat all subsequent requests for the use accordingly.

#### **G. Land Use Definitions**

- (1) **Accessory Building/Use.** A subordinate building on the same lot with a principal building for exclusive use for accessory uses as defined. A use which is clearly incidental and subordinate to the use of the main use of the property; and commonly associated with the principal use, including semi-public and auxiliary parking when approved.
- (2) **Alternative Mounting Structure.** A manmade tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennas.
- (3) **Amusement, Commercial (Indoor).** Any amusement enterprise offering entertainment or games of skill, not elsewhere listed, wholly enclosed in a building including a bowling alley, billiard or pool hall, pinball parlor, electronic games, or similar activities.
- (4) **Amusement, Commercial (Outdoor).** Any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, not elsewhere listed, wherein any portion of the activity takes place in the open, including a golf driving range, amusement park, miniature golf, or similar activities.
- (5) **Antenna.** A structure or device used to collect or radiate electromagnetic waves, including directional antennas, such as panels, wireless cable and satellite dishes, and omnidirectional antennas, such as whips, but not including satellite earth stations.

- (6) **Antenna, Amateur Radio.** An antenna used by an amateur radio operator that is less than 50 feet (15 meters) in height, and whip antennas less than 4 inches in diameter and less than 10 feet (3 meters) in height.
- (7) **Antenna Array.** An arrangement of antennas and their supporting structure.
- (8) **Antenna, Dish.** A parabolic or bowl-shaped device that receives and/or transmits signals in a specific directional pattern.
- (9) **Antenna, Panel.** An antenna that receives and/or transmits signals in a directional pattern.
- (10) **Antenna, Radio And Television Broadcast.** An antenna used to broadcast commercial radio and television signals, including digital broadcasts and other digital transmissions by a licensed radio or television broadcast station.
- (11) **Antenna, Stealth.** A telecommunications antenna that is effectively camouflaged or concealed from view.
- (12) **Antenna, Telecommunications.** An antenna used to provide a telecommunications service. This excludes lightning rods, private mobile radio systems, amateur radio antennas less than 50 feet (15 meters) in height, whip antennas less than 4 inches in diameter and less than 10 feet (3 meters) in height, and radio and television broadcast antennas.
- (13) **Antenna, Whip.** An omnidirectional dipole antenna of cylindrical shape that is no more than 6 inches (15 centimeters) in diameter.
- (14) **Appliance Service or Repair.** This term includes major and small appliances as well as radio and television.
- (15) **Bakery or Confectionery Shop, Retail.** A place for preparing, baking, or selling all products on the premises where prepared (no deliveries to buyers, wholesaler, or other retail outlets).
- (16) **Country Club or Other Private Club.** A private recreational club with restricted membership, usually including a clubhouse, golf facilities, swimming pool, tennis courts, handball courts, or similar facilities, none of which are available to the general public.
- (17) **Dwelling, Two-Family.** A single structure designed and constructed with two living units under a single roof for occupancy by two families.

- (18) **Dwelling Unit.** A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters and includes sanitary, sleeping and food preparation facilities.
- (19) **Family.** Defined for purposes of R1, R2 and MH Zones: Any number of individuals living together in a dwelling unit which are related by blood, marriage, or adoption, or up to and including three unrelated individuals. Defined for purposes of R3 and R4 Zones: Any number of individuals living together in a dwelling unit which are related by blood, marriage, or adoption, or up to and including four unrelated individuals.
- (20) **Family Food Production.** Raising of crops for family use.
- (21) **Farm Accessory Building.** A structure other than a dwelling on a farm for the shelter, protection or storage of the usual farm equipment, animals or crops.
- (22) **Farm, Ranch or Orchard.** A contiguous area of 10 or more acres which is used for the commercial production of crops or the keeping of game, poultry and/or livestock and normal accessory uses for these purposes.
- (23) **Fraternity or Sorority House.** A building designed as group living quarters for members only and offering social and recreational activities.
- (24) **Gasoline Sales.** An automobile service station which excludes the repairing, painting, or upholstering of motor vehicles.
- (25) **Hobby.** An accessory use carried on by the occupant of the premises in a shop, studio or other workroom, purely for personal enjoyment, amusement or recreation; provided that the articles produced or constructed in the shop, studio or workroom are not sold either on or off the premises, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.
- (26) **Home Occupation.** Any occupation which is customarily incidental to the main use of the premises as a dwelling place, and is conducted by a member of a family residing in the dwelling, and in connection with which there is kept no stock in trade nor commodity to be sold or prepared upon the premises; provided that no person is employed other than a member of the immediate family, residing on the premises; provided further that no mechanical equipment shall be used which will be obnoxious or offensive by reason of vibrations, noise, odor, dust, smoke or fumes. The operation of beauty culture schools, beauty parlors, barber shops, dancing schools, and food product preparation shall not be considered home occupations.

- (27) **Hospital (Acute Care).** An institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas.
- (28) **Hotel or Motel.** Any building which is designed to cater to transient occupancy, offering temporary abiding space to individuals and families. To be classified as a hotel or motel an establishment shall contain individual guest rooms and furnish services such as linens, maids and furnishings.
- (29) **Institutions of Religious or Philanthropic Nature.** An institution sponsored or operated by organizations established for religious or philanthropic purposes.
- (30) **Light Manufacturing Processes.** Manufacturing processing which do not emit detectable dust, odor, smoke, gas, or fumes beyond the property lines of the lot or tract upon which the use is located and which do not generate noises or vibrations above the ambient level of noise.
- (31) **Lot.** A parcel of land platted in a subdivision occupied or to be occupied by a main building, or group of buildings (main and accessory), together with such yards, open spaces, lot width and lot area as are required by this article and having frontage upon or access to a street. Except for group dwellings, not more than one dwelling structure shall occupy any one lot.
- (32) **Kennel.** The keeping of three or more dogs or other animals at least four months old.
- (33) **Manufactured Housing or Manufactured Home.** A HUD-CODE manufactured home or a mobile home and collectively means and refers to both. The definition of MOBILE HOME HUD-CODE MANUFACTURED HOME, and MANUFACTURED HOME as set forth in this section are binding on all persons and agencies in this state and under the jurisdiction of the JAZB. For the purposes of this article, a mobile home is not a HUD-CODE manufactured home and a HUD-CODE manufactured home is not a mobile home. Recreational vehicles, however, may be located and used only in approved recreational vehicle parks or approved manufactured home parks.
- (34) **Mobile Home.** Structure that was constructed before June 15, 1976, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems.



- (35) **Nursing Home.** An institution licensed by the State of Texas where those persons suffering from illness, injury, deformity, deficiency or age are given care or treatment on a prolonged or permanent basis.
- (36) **Parcel.** Any contiguous land under common ownership which does not satisfy the definition of a lot.
- (37) **Private School, Private College Or Private University.** An institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university.
- (38) **Public School.** A school under the sponsorship of a school district established under Texas law.
- (39) **Railroad Tract and Right-of-Way.** This does not include railroad stations, team tracks, yards, or maintenance areas.
- (40) **Residence Home for the Aged.** A home where elderly people are provided with lodging and meals with or without nursing care.
- (41) **Secondary Residential Structure.** A subordinate dwelling unit (detached), other than a mobile home.
- (42) **Servant or Caretaker Quarters.** A subordinate dwelling unit, used solely as living quarters by a person(s) or family(ies) employed at least 20 hours per week on the premises.
- (43) **Sexually Oriented Business.** Any sexual encounter center, adult cabaret, adult theater, escort agency, nude modeling studio, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers. All terms defined in Title XV, Article 7 shall be given the same meaning for purposes of interpreting the definition of a sexually oriented business under the zoning ordinance.
- (44) **Stealth.** The design of a tower or tower structure that blends into the surrounding environment and is visually unobtrusive. Examples of a stealth design or tower are: architecturally screened, roof-mounted antenna/array/equipment; building-mounted antenna/array/equipment that is painted and treated as an architectural element to blend with the existing building; designs that conceal the antenna/array/equipment, such as manmade trees, clock towers, bell towers, steeples, light poles, and similar alternative-design mounting structures.

- (45) **Storage of Autos.** A tract of land devoted to storing operative and/or inoperative automobiles and/or other vehicles that is enclosed by a fence of at least eight feet in height, and which accommodates, on a continuing basis, the storage of such automobiles and/or vehicles. In no instance shall wrecking and/or salvage operations be affiliated with the use of the land, or the stored autos be partially disassembled or dismantled.
- (46) **Structure.** Anything, other than a fence, constructed or erected, requiring location on the ground or attachment to something located on the ground. This includes, but is not limited to: advertising signs, billboards, poster boards, buildings, poles, water towers, cranes, smokestacks, earth formations and overhead transmission lines.
- (47) **Tavern.** Any enterprise which has as its principle business the selling of alcoholic beverages for consumption on the premises.
- (48) **Telecommunications.** The transmission, between or among points specified by the user, of audio and/or visual information of the user's choosing, without change in the form or content of the information as sent and received.
- (49) **Telecommunications Facility.** A telecommunication tower, antennas, and related equipment buildings, but the term also includes antennas and related equipment installed on roof tops.
- (50) **Telecommunications Service.** The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (51) **TIA/EIA-222.** Telecommunications Industry Association/Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures."
- (52) **Tower, Electric Transmission.** A self-supporting structure over 50 feet (15 meters) in height, designed to support high-voltage electric lines. This does not include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.
- (53) **Tower, Guyed.** Any telecommunications tower supported, in whole or in part, by cables anchored to the ground.
- (54) **Tower, Height.** The distance measured from grade to the highest point of any and all components of the structure, which includes antennas, hazard lighting and other appurtenances, but excludes lightning rods.

- (55) **Tower, Monopole.** A self-supporting telecommunications tower that consists of a single vertical pole fixed into the ground and/or attached to a foundation.
- (56) **Tower, Self-Supporting Lattice.** A telecommunications tower that consists of an open network of metal braces forming a tower, which is usually triangular or square in cross-section.
- (57) **Tower, Telecommunications.** A self-supporting lattice, monopole, or guyed structure more than 20 feet (6 meters) in height, built primarily to support one or more telecommunications antennas.
- (58) **Trade or Commercial School.** A school, operated for profit, teaching vocational skills.
- (59) **Utility, Others Not Listed.** Any utility facility franchised or approved for service in the Controlled Compatible Land Use Area.
- (60) **Utility Shops Or Storage Yards and Buildings.** An area or building used by utilities for the repair and/or storage of equipment, vehicles or supplies.
- (61) **Wrecking or Salvage Yard for Autos or Parts.** A tract of land devoted to wrecking, dismantling, or salvage operations where automobiles, other vehicles and/or machinery are subject to being dismantled, compacted, or similarly processed. All such operations, inclusive of storage of vehicles, shall be completely enclosed by a wall at least eight feet in height, except for a maximum of two gates no more than 20 feet wide.

**Section 6. Airport Overlay Zones**

**A. Application of Overlay Zones**

Overlay zones are designed to deal with unusual conditions related to noise and safety issues. Special regulations associated with these districts shall be complied with prior to the issuance of any required permit in areas designated. The regulations under this Section further refine the land uses and structures that can occur within the Controlled Compatible Land Use Area. The types of land uses allowed under Section 5 may be further restricted or controlled based on the location of the property relative to the Airport Overlay Zones defined herein.

**B. Creation of Airport Overlay Zones**

In order to carry out the provisions of these regulations, there are hereby created and established certain Airport Overlay Zones for the purposes of further regulating

and developing uses of land within each zone that do not endanger the health, safety, and general welfare of the owners, occupants, or users of the land because of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport, including the taking off and landing of aircraft.

The Controlled Compatible Land Use Area is hereby divided into seven (7) zones, shown on the NAS Kingsville Compatible Land Use Zoning Map. These zones are based on the 1998 NAS Kingsville Air Installations Compatible Use Zones map and shown on Figure 1, NAS Kingsville Compatible Land Use Zoning Map. Noise contours and accident potential zones that extend outside of the Controlled Compatible Land Use Area are not covered by this regulation.

- (1) Airport Noise Zone One (NZ-1) is that area within the controlled area and outside the 65 Ldn noise contour.
- (2) Airport Noise Zone Two (NZ-2) is that area within the controlled area between the 65 Ldn and 70 Ldn noise contours.
- (3) Airport Noise Zone Three (NZ-3) is that area within the controlled area between the 70 Ldn and 75 Ldn noise contours.
- (4) Airport Noise Zone Four (NZ-4) is that area within the controlled area between the 75 Ldn and 80 Ldn noise contours.
- (5) Airport Noise Zone Five (NZ-5) is that area within the controlled area of the 80 Ldn and above noise contours.
- (6) Accident Potential Zone I (APZ I) is the area within APZ I.
- (7) Accident Potential Zone II (APZ II) is the area within APZ II but outside of APZ I.

Each zone shall correspond as nearly as practical to the different noise contours and APZs within the controlled area for NAS Kingsville. These noise contours are plotted in increments of five (5) dB Ldn on the NAS Kingsville Compatible Land Use Zoning Map and said noise contours hereby establish the boundaries of the Airport Noise Zones. Figure 1 illustrates the contours and is made a part hereof.

### **C. Updating Airport Overlay Zones**

As the NAS Kingsville AICUZ study is updated in the future and a published version is made available, the JAZB shall consider updating Figure 1, NAS Kingsville Compatible Land Use Zoning Map, to reflect any published changes in noise contours and accident potential zones. Such update shall be done as part of a noticed public hearing with the JAZB.

## **D. Boundaries**

Where uncertainty exists as to the boundaries of the NAS Kingsville Compatible Land Use Zoning Map, the following rules shall apply:

- (1) Boundaries shall be scaled from the nearest physical feature shown on the map.
- (2) Distances not specifically indicated on the original NAS Kingsville Compatible Land Use Zoning Map shall be determined by a scaled measurement on the map.
- (3) Where physical features on the ground differ from the information shown on the NAS Kingsville Compatible Land Use Zoning Map or when there arises a question as to how or where a parcel of property is zoned and such questions cannot be resolved by the application of the rules above, the land shall be classified as within the least restrictive NAS Kingsville Compatible Land Use zone.
- (4) Where a parcel of land lies within more than one Airport Noise Zone or an Accident Potential Zone as herein described, the zone within which each portion of the property is located shall apply individually to each portion of the development.
- (5) Relative to a structure or use, where a parcel of land lies within more than one Airport Noise Zone or an Accident Potential Zone as herein described, the regulations applied will be based on the location of the structure's footprint relative to these lines. If the structure's footprint is bisected by more than one Airport Noise Zone or an Accident Potential Zone as herein described, the most restrictive conditions will be applied to the entire structure.

## **E. Use Restrictions**

Notwithstanding any other provisions of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create potential bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off or maneuvering of aircraft intending to use the airport.

Incompatible uses and uses requiring either specific acreage density for development or minimum specified construction standards for noise reduction within structures that are within specific zones are hereby established as shown in Table 1, Land Use Compatibility Guidelines (attached). The entry in Table 1

with the greatest accuracy for defining a land use shall be controlling for purposes of this Order. Table 1 and all amendments and footnotes thereto are hereby incorporated by reference into this regulation.

## **Section 7. Airport Hazard Abatement Zones and Height Limitations**

In order to carry out the hazard abatement provisions of these regulations, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transition surfaces, horizontal surface and conical surface as they apply to NAS Kingsville, Texas. Such zones are shown on Figure 2, Airport Hazard Abatement Overlay Zones, hereby incorporated by reference into this regulation. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.

Except as otherwise provided in these regulations, no structure shall be erected, altered, or maintained, and no plant shall be allowed to grow in any zone created by these regulations to a height in excess of applicable height limits herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

### **A. Approach Zones**

- (1) **Runway 13** – Approach zone is established beneath the approach surface at the end of Runway 13 on Naval Air Station (NAS) Kingsville of non-precision instrument landings and take-offs with visibility minimums as low as three-fourths statute mile. The inner edge of the approach zone shall have a width of two-thousand (2,000) feet which coincides with the width of the primary surface at a distance of two-hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of sixteen-thousand (16,000) feet at a horizontal distance of fifty-thousand (50,000) feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.

Height Limitations – One (1) foot in height for each fifty (50) feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point twenty-five-thousand (25,000) feet from the end of the primary surface. Then continuing horizontally until it reaches fifty-thousand (50,000) feet.

- (2) **Runway 17** – Approach zone is established beneath the approach surface at the end of Runway 17 on NAS Kingsville for visual landings and take-offs. The inner edge of the approach zone shall have a width of two-thousand (2,000) feet which coincides with the width of the primary surface at the end of the runway, widening thereafter uniformly to a width of sixteen-thousand (16,000) feet at a horizontal distance of fifty-thousand (50,000) feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.

Height Limitations – One (1) foot in height for each fifty (50) feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point twenty-five-thousand (25,000) feet from the end of the primary surface. Then horizontally to a point fifty- thousand (50,000) feet from the beginning.

## **B. Transition Zones**

Transition zones are hereby established beneath the transition surfaces adjacent to each runway and approach surfaces as indicated on the zoning map. Transition surfaces, symmetrically located on either side of the runways, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the approach surfaces.

Height Limitations – Slopes seven (7) feet outward for each foot upward beginning-at the sides and at the same elevation as the primary surface and the approach surface, and extending to a height of one-hundred-fifty (150) feet above the airport elevation which is fifty (50) feet above mean sea level.

## **C. Horizontal Zone**

The area beneath a horizontal plane one-hundred-fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of seven-thousand and five-hundred (7,500) feet radii from the center of each end of the primary surface of Runways 13 and 17 and connecting the adjacent arcs by lines tangent to those arcs.

Height Limitations – Established at one-hundred and fifty (150) feet above the airport elevation, or a height of two hundred (200) feet above mean sea level.

## **D. Conical Zone**

The area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of seven-thousand (7,000) feet.

Height Limitations – Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one-hundred and fifty (150) feet above the airport elevation and extending to a height of five-hundred (500) feet above the airport elevation which is five hundred fifty (550) feet above mean sea level.

## **E. Excepted Height Limitations**

Nothing in these regulations shall be construed as prohibiting the growth, construction, or maintenance of any plant or structure to a height up to fifty (50) feet above the surface of the land.

### **Section 8. Permits**

Before any new structure or use, not specifically exempted in Section 2, which could be defined as an airport hazard or incompatible land use under this regulation may be constructed or established, and before any such existing use or structure may be increased in height or otherwise altered, a permit to do so must be secured by the owner involved or their agent. All permit applications shall be made to the Administrative Agency.

Application shall be made and permit procured from the Administrative Agency created hereunder in each of the following instances and subject to the following conditions:

- A.** Where it is desired to erect or locate structures, to increase the height of existing structures or to place or transplant plants within the Controlled Compatible Land Use Area to a height in excess of ten feet below the height limit herein provided (Section 7) with respect thereto.
- B.** Where it is desired to replace, substantially alter or repair, rebuild, or relocate any nonconforming structure or plant within the Controlled Compatible Land Use Area, provided however, that whenever the JAZB determines that a nonconforming structure within the Controlled Compatible Land Use Area has been abandoned or more than 80% torn down, destroyed, deteriorated or decayed, no permit shall be granted.
- C.** No permit shall be granted that would allow the establishment or creation of an airport hazard or that would permit a nonconforming structure or plant or nonconforming use to be made or to become higher or to become a greater airport hazard.
- D.** In granting any permit, the Administrative Agency may, if it deems such action advisable to effectuate the purpose of this regulation and reasonable in the circumstances, so condition such permit as to require the owner of a structure or plant in question to permit NAS Kingsville, the Federal Aviation Administration, City of Kingsville, or Kleberg County, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.
- E.** Whenever any person prior to erection, alteration or relocation of structures or placing or transplanting of plants within the Controlled Compatible Land Use Area makes a report of the contemplated erection, alteration or relocation of structures or the contemplated placing or transplanting of plants within said



Controlled Compatible Land Use Area, to the Administrative Agency, the Administrative Agency shall promptly investigate and determine whether or not there would be a violation of the regulation, and if a violation be found, the Administrative Agency shall so advise such person who shall thereupon alter his plans so as to meet the requirements of the regulation.

- F.** The Administrative Agency or its designated representative shall have the right to inspect any site receiving a permit (within the JAZB regulatory area) during and after construction, renovation, alteration, and/or repair of the permitted area to ensure compliance with the JAZB regulations.
- G.** The JAZB, as a condition of any permit issuance, shall require a condition of approval that requires the land owner to file and record a deed notification on the parcel(s) associated with the permit to disclose the proximity of NAS Kingsville. The form and content of such disclosure shall be provided by the Administrative Agency.
- H.** The JAZB, as a condition of any permit issuance, will require the installation and use of appropriate materials and design so as to reduce interior noise levels to 45 dB Ldn in areas within the 65 dB Ldn line as shown on Figure 1, NAS Kingsville Compatible Land Use Zoning Map.
- I.** All construction requiring a permit will be subject to the requirements contained in the Building Code for the City of Kingsville (Chapter 15, City of Kingsville Code of Ordinances, incorporated herein and made a part of these regulations by reference) that have been adopted as of the date of the building permit's issuance.

If the Administrative Agency issues a permit erroneously allowing the beginning of erection of any structure or plant, such permit shall not constitute a variance or be construed in any manner to allow any person to penetrate the imaginary surfaces established. It will remain incumbent on the sponsor, building, property owner or their agents, as the case may be, to prevent the creation of any object or use that will cause an airport hazard within the meaning of this regulation.

Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or plant would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of these regulations shall be granted unless a variance has been approved in accordance with Section 10.

In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any plant or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such plant or structure would extend above the height limits prescribed for such zones.

In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four-thousand-two-hundred (4,200) feet from each end of the runways, no permit shall be required for any plant or structure less than seventy-five (75) feet of vertical height above the ground, except when such plant or structure would extend above the height limit prescribed for such approach zones. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any plant in excess of any of the height limits established by these regulations.

### ***Section 9. Nonconforming Uses***

Whenever the Joint Airport Zoning Board, Building Official, or representatives of the Kingsville City Manager, Kleberg County Commissioners, or the Administrative Agency, in consultation with the Commanding Officer of NAS Kingsville, determines that a nonconforming use, hazardous structure or plant has been abandoned for a set time period or more than eighty (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or plant to exceed the applicable height limit or otherwise deviate from the zoning regulations. Abandonment of a non-conforming use occurs after six (6) months of inactivity, or non-use, per the City of Kingsville Code of Ordinances, §§ 15-6-24 (G).

The regulations prescribed herein shall not be construed as to require changes in the use of any land or other change or alteration of any structure not conforming to these regulations as of the effective date of these regulations or otherwise interfere with the continuance of any nonconforming use. Nothing contained herein shall be construed as to require any change in the construction, alteration, or intended use of any nonconforming structure, the construction of which was begun prior to the effective date of these regulations and is diligently prosecuted.

### ***Section 10. Variances***

Any person who desires to use their property in violation of any of the regulations contained herein may apply to the Board of Adjustment for a variance. Such variances may be allowed where it is duly found that a literal application or enforcement of these regulations will result in practical difficulty or unnecessary hardship and the granting of relief would result in substantial justice, not be contrary to the public interest, and be in accordance with the spirit of these regulations. Any variance granted may, at the discretion of the Board of Adjustment, impose any reasonable conditions as may be necessary to accomplish the purpose of these regulations.

Any person who desires to erect, substantially change, or increase the height of any structure or establish or allow the growth of any plant which would exceed the height limitations set forth in Section 7 of these regulations or change the use of property in such a way as to create a hazardous condition as described in these regulations must apply to the Board of Adjustment and receive a variance. The application for variance must be accompanied by a determination from the Federal Aviation Administration

under 14 C.F.R. Part 77 as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in practical difficulty or unnecessary hardship and the granting of relief would result in substantial justice, not be contrary to the public interest, and be in accordance with the spirit of these regulations.

**Section 11. Board of Adjustment**

- A.** The Board of Adjustment of the City of Kingsville, Texas is hereby designated as the Board of Adjustment for the purposes of these regulations and shall have and exercise the following powers:
  - (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Agency in the administration or enforcement of these regulations;
  - (2) to hear and decide special exceptions to the terms of these regulations when the board is required to do so; and
  - (3) to hear and decide specific variances.
- B.** The Board of Adjustment shall be comprised of at least five (5) members and shall adopt rules for its governance and procedure in harmony with the provisions of these regulations.

Meetings of the Board of Adjustment shall be held at the call of the chairman and at such times as the Board of Adjustment may determine, but the start of the hearing process shall be held within 30 days of the receipt of the appeal request by the Administrative Agency. The chairman, or in his/her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or if any member is absent or fails to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board of Adjustment. All such records shall be public records.

- C.** The Board of Adjustment shall make written findings of fact and conclusions of law stating the facts upon which it relied when making its legal conclusions in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of these regulations.
- D.** The concurring vote of at least four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Agency, to decide in favor of the applicant on any matter

upon which it is required to pass under these regulations, or to effect any variance to these regulations.

## **Section 12. Appeals**

- A.** Any person aggrieved or any taxpayer affected by a decision of the Administrative Agency made in the administration of these regulations may appeal to the Board of Adjustment if that person or taxpayer is of the opinion that a decision of the Administrative Agency is an improper application of these regulations. This same right of appeal is extended to the governing bodies of the City of Kingsville, Texas, and Kleberg County, Texas, and to the City of Kingsville – Kleberg County Joint Airport Zoning Board.
- B.** All appeals hereunder must be taken within a reasonable time, but no later than 10 calendar days after receiving notice of the reason for the appeal, as provided by the rules of the Board of Adjustment by filing a notice of appeal with the Board of Adjustment and the Administrative Agency specifying the grounds for the appeal. The Administrative Agency shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed was taken.
- C.** An appeal shall stay all proceedings in furtherance of the action appealed unless the Administrative Agency certifies in writing to the Board of Adjustment that by reason of the facts stated in the certificate, a stay would, in the opinion of the Administrative Agency, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Administrative Agency and on due cause shown.
- D.** The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, and/or by attorney.
- E.** The Board of Adjustment may reverse or affirm, in whole or in part, or modify the Administrative Agency's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for this purpose the Board of Adjustment has the same authority as the Administrative Agency.

## **Section 13. Judicial Review**

Any person aggrieved or any taxpayer affected by any decision of the Board of Adjustment that believes the decision of the Board of Adjustment is illegal, may present to a court of record within 10 calendar days of receiving notice of the Board's decision, a petition stating that the decision of the Board of Adjustment is illegal, in whole or in part, and specifying the grounds for the illegality, as provided by the Airport Zoning Act, Texas Local Government Code Annotated, §§ 241.041.

**Section 14. Enforcement and Remedies**

The governing bodies of the City of Kingsville, Texas, or Kleberg County, Texas, or the City of Kingsville – Kleberg County Joint Airport Zoning Board may institute in a court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of these regulations or of any order or ruling made in connection with their administration or enforcement including, but not limited to, an action for injunctive relief.

**Section 15. Penalties**

Each violation of these regulations or of any regulation order, or ruling promulgated hereunder shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not more than \$200.00 and each day a violation continues to exist shall constitute a separate offense.

**Section 16. Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed herein and any other regulations applicable to the same area, whether the conflict be with respect to the use of land, the height of structures or plants, or any other matter, the more stringent limitation or requirement shall govern and prevail.

**Section 17. Severability**

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

**Section 18. Adherence with State Laws**

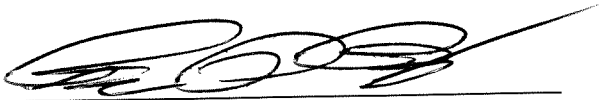
Any actions brought forth by any person or taxpayer as a result of the administration, enforcement, or the contesting of these regulations will be in accordance with the provisions of Texas Local Government Code, §§241.001 and other applicable State laws.


**Section 19. Effective Date**

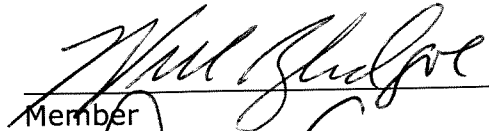
WHEREAS, the immediate operation of the provisions of these regulations is necessary for the preservation of the public health, safety, and general welfare, an emergency is hereby declared to exist, and these regulations shall be in full force and effect from and after their adoption by the City of Kingsville – Kleberg County Joint Airport Zoning Board and publication and posting as required by law.


Adopted by the Kingsville - Kleberg County Joint Airport Zoning Board this 21st day of July, 2010.

  
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Chairperson, City of Kingsville - Kleberg County Joint Airport Zoning Board

  
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Member

  
\_\_\_\_\_  
Member

  
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Member

  
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Member

Attest:   
\_\_\_\_\_  
JAZB Administrative Agency, Planning Director

Table 1. Prohibited or Regulated Land Uses

	JAZB Zoning Designations										Safety Zones				Aircraft Noise Contour Zones				Vertical Controls		Light Controls		Notes - Noise Zones	
	AG	R1	R2	R3	C1	C2	I1	I2	NAS	CZ	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB	80-85 dB	Height Restrictions	Light Glare	Safety Zones (Note 2)	Notes - Noise Zones				
<b>Residential (Note 1)</b>																								
1. Single units; detached; <= 2 du/ac																			Yes	Note 3	Note 17			
2. Single units, detached; > 2 du/ac																			Yes	Note 3	Note 17			
3. Single units; semidetached; > 2 du/ac																			Yes	Note 3	Note 17			
4. Single units; attached row; > 2 du/ac																			Yes	Note 3	Note 17			
5. Two units; side-by-side																			Yes	Note 3	Note 17			
6. Two units; one above the other																			Yes	Note 3	Note 17			
7. Apartments; walk up																			Yes	Note 3	Note 17			
8. Apartments; elevator																			Yes	Note 3	Note 17			
9. Group quarters (farm worker housing)																			Yes	Note 3	Note 17			
10. Residential hotels																			Yes	Note 3	Note 17			
11. Mobile home parks or courts																			Yes	Note 3	Note 17			
12. Transient lodgings																			Yes	Note 3	Note 17			
13. Other residential																			Yes	Note 3	Note 17			
<b>Manufacturing</b>																								
14. Food & kindred products; manufacturing																			Yes	Note 4	Note 17			
15. Textile mill products; manufacturing																			Yes	Note 4	Note 17			
16. Apparel and other finished products made from fabrics, leather, and similar materials; manufacturing																			Yes	Note 4	Note 17			
17. Lumber and wood products (except furniture); manufacturing																			Yes	Note 4	Note 17			
18. Furniture and fixtures; manufacturing																			Yes	Note 4	Note 17			
19. Paper & allied products; manufacturing																			Yes	Note 4	Note 17			
20. Printing, publishing, and allied industries																			Yes	Note 4	Note 17			
21. Chemicals and allied products; manufacturing																			Yes	Note 4	Note 17			
22. Petroleum refining and related industries																			Yes	Note 4	Note 17			
23. Rubber and misc. plastic products, manufacturing																			Yes	Note 4	Note 17			
24. Stone, clay and glass products manufacturing																			Yes	Note 4	Note 17			
25. Primary metal industries																			Yes	Note 4	Note 17			
26. Fabricated metal products; manufacturing																			Yes	Note 4	Note 17			
27. Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks manufacturing																			Yes	Note 4	Note 17			
28. Miscellaneous manufacturing																			Yes	Note 4	Note 17			

	JAZB Zoning Designations										Safety Zones				Aircraft Noise Contour Zones				Vertical Controls Restrictions	Light & Glare	Notes - Safety Zones (Note 2)	Notes - Noise Zones
	AG	R1	R2	R3	C1	C2	C3	I1	I2	NAS	CZ	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB	80-85 dB					
<b>Transportation, communications and utilities</b>																						
29 Railroad, rapid rail transit and street railroad transportation																				Yes	Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
30 Motor vehicle transportation																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
31 Aircraft transportation																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
32 Marine craft transportation																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
33 Highway & street right-of-way																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
34 Automobile parking																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
35 Communications																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	Note 18
36 Utilities																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
37 Solid waste disposal (landfills, incineration, etc.)																				Yes	Note 6 Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
38 Other transportation, communications and utilities																				Yes	Note 6	Note 18
<b>Trade</b>																						
39 Wholesale trade																				Yes	Max FAR 0.28 in APZ I, Max FAR 0.56 in APZ II	
40 Retail trade-building materials, hardware and farm equipment																				Yes	Note 7	
41 Retail trade-shopping centers, general merchandise																				Yes	Note 8 Max FAR 0.16 in APZ II	
42 Retail trade-food																				Yes	Max FAR 0.24 in APZ II	
43 Retail trade-automotive, marine craft, aircraft and accessories																				Yes	Max FAR 0.14 in APZ I	
44 Retail trade-apparel and accessories																				Yes	Max FAR 0.28 in APZ II	
45 Retail trade-furniture, home furnishings and equipment																				Yes	Max FAR 0.28 in APZ II	
46 Retail trade-eating and drinking establishments																				Yes	Max FAR 0.28 in APZ II	
47 Other retail trade																				Yes	Max FAR 0.16 in APZ II	



Table 1. Prohibited or Regulated Land Uses

	JAZB Zoning Designations										Safety Zones				Aircraft Noise Contour Zones			Vertical Controls	Light Controls	Notes - Noise Zones	
	AG	R1	R2	R3	C1	C2	I1	I2	NAS	CZ	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB	80-85 dB	Height Restrictions	Glare	Safety Zones (Note 2)	Notes - Noise Zones	
<b>Services</b>	Note 9																				
48 Finance, insurance and real estate services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.22 in APZ II "General Office/Office park" in APZ II		
49 Personal services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Office uses only Max FAR 0.22 in APZ II	Note 19 >85 dB Note 21 >80 dB	
50 Cemeteries	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Green	Green	Green	Green	Green	Under 50' allowed.	Yes	Note 10		
51 Business services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.22 in APZ II		
52 Warehousing and storage	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 1.0 in APZ I Max FAR 2.0 in APZ II		
53 Repair services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.11 in APZ I Max FAR 0.22 in APZ II		
54 Professional services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.22 in APZ II		
55 Hospitals, other medical facilities	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.11 in APZ I		
56 Nursing home	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.24 in APZ II		
57 Contract construction services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.22 in APZ II		
58 Governmental services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.11 in APZ I		
59 Correctional Facility	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.22 in APZ II		
60 Educational services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.24 in APZ II		
61 Miscellaneous services	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.22 in APZ II		
<b>Cultural, entertainment and recreational</b>	Note 11 for APZ I & II																				
62 Cultural activities (including churches)	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Note 11 for APZ I & II		
63 Nature exhibits	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes			
64 Public assembly	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes			
65 Auditoriums, concert halls	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes			
66 Outdoor music shell, amphitheaters	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes			
67 Outdoor sports arenas, spectator sports	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes		Note 20	
68 Amusements (fairgrounds, miniature golf, driving ranges, amusement parks, etc.)	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes			
69 Recreational activities (including golf courses, riding stables, water recreation)	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Note 11 for APZ I & II Max FAR 0.11 in APZ I Max FAR 0.22 in APZ II	Note 17	
70 Resorts and group camps	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Note 11 for APZ I & II	Note 17	
71 Parks	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Max FAR 0.11 in APZ I Max FAR 0.22 in APZ II	Note 17	
72 Other cultural, entertainment and recreation	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Under 50' allowed.	Yes	Note 10 for APZ I & II Max FAR 0.11 in APZ I Max FAR 0.22 in APZ II	Note 17	

Resources production and extraction	JAZB Zoning Designations										Safety Zones			Aircraft Noise Contour Zones				Vertical Controls	Light & Glare	Notes - Safety Zones (Note 2)	Notes - Noise Zones
	AG	R1	R2	R3	C1	C2	I1	I2	NAS	CZ	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB	80-85 dB	Height Restrictions	Light & Glare	Notes - Safety Zones (Note 2)	Notes - Noise Zones	
73 Agriculture (except livestock)	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Note 5 in CZ Note 12 in APZ I & II	Note 21 >80 dB	
74 Agriculture (except livestock) w/residential	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Note 5 in CZ Note 12 in APZ I & II		
75 Livestock farming and animal breeding	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Note 12, 13 in APZ I & II		
76 Livestock farming and animal breeding w/residential	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Notes 12, 13		
77 Agricultural related activities	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Note 12 Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activity which produces smoke, glare, or involves explosives	Note 21 >80 dB	
78 Agricultural related activities w/residential	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Note 12 Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activity which produces smoke, glare, or involves explosives		
79 Forestry activities and related services	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green		Under 50' allowed. > 50' requires Part 77 assessment.	Yes	Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activities involving explosives		
80 Forestry activities and related services w/residential	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activities involving explosives		
81 Forestry activities	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Note 14 Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activity which produces smoke, glare, or involves explosives	Note 21 >80 dB	
82 Fishing activities and related services	Green	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Green	Green	Green	Green			Yes	Note 15 Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activity which produces smoke, glare, or involves explosives		

Table 1. Prohibited or Regulated Land Uses

	JAZB Zoning Designations										Aircraft Noise Contour Zones				Vertical Controls Restrictions	Light & Glare	Notes - Safety Zones (Note 2)	Notes - Noise Zones	
	R1	R2	R3	C1	C2	I1	I2	NAS	CZ	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB					80-85 dB
83 Mining activities and related services	Red	Red	Red	Red	Red	Yellow	Yellow	Grey	Red	Yellow	Green	Green	Green	Green	Green	Under 50' allowed. > 50' requires Part 77 assessment.	Yes	Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activity which produces smoke, glare, or involves explosives	
84 Other resources production and extraction	Red	Red	Red	Red	Red	Yellow	Yellow	Grey	Red	Yellow	Green	Green	Green	Green	Green	Under 50' allowed. > 50' requires Part 77 assessment.	Yes	Max FAR 0.28 in APZ I Max FAR 0.56 in APZ II No activity which produces smoke, glare, or involves explosives	

Legend

- Generally allowed
- Conditionally allowed with Special Use Permit (specific uses may not be appropriate without design review and application of site appropriate conditions)
- Residential discouraged. If no viable alternatives, noise attenuation to 45 dB interior noise level
- Noise attenuation to 45 dB interior noise level for public areas
- Not allowed
- Designation applied only to lands that are used for NAS Kingsville. The JAZB has no regulatory authority over the use of these lands.

JAZB Zoning Designations	Safety Zones		Aircraft Noise Contour Zones				Vertical Controls		Light Controls	Notes - Noise Zones
	APZ I	APZ II	65-69 dB	70-74 dB	75-79 dB	80-85 dB	Height Restrictions	Light & Glare		
AG										
R1										
R2										
R3										
C1										
C2										
I1										
I2										
NAS										
CZ										
APZ I										
APZ II										
65-69 dB										
70-74 dB										
75-79 dB										
80-85 dB										
Height Restrictions										
Light & Glare										
Notes - Safety Zones (Note 2)										

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**Table 1. Prohibited or Regulated Land Uses  
Notes – General**

1. See Section 2.F., Exemptions relative to Single Residential Units on Existing Parcels.

**Notes - Safety Zones**

2. 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. Floor Area Ratios (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.
3. The suggested Max density for detached single-family housing is one to two dwelling units per acre (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.
4. 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.
5. 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.
6. No passenger terminals and no major above ground transmission lines in APZ I.
7. 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.
8. 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 shall 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."

9. Low intensity office uses only. Accessory uses such meeting places, auditoriums, etc., are not recommended.
10. No chapels are allowed within APZ I or APZ II.
11. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not recommended.
12. 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.
13. Includes feedlots and intensive animal husbandry.
14. 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.
15. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
16. Naturally occurring water features (e.g., rivers, lakes, streams, (wetlands) are compatible.

## Notes - Noise Zones

### 17. 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 Noise Level Reduction (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.

18. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.
19. No buildings.
20. Land use compatible provided special sound reinforcement systems are installed.
21. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

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**JLUS Strategy 34, Include AICUZ Overlay District in Zoning Regulations**, was grouped and presented with JLUS Strategy 7 since it dealt with related issues.

Please refer to the information provided under Tab 7.

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>35. Mitigate Dust / Visibility Issues from Agricultural Burning</b></p> <p>Review existing procedures on coordination of controlled or open burns to minimize visibility impacts to the installation and associated military training routes (MTRs).</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> <li>▪ Private Property Owners</li> <li>▪ TCEQ</li> </ul>

**Background**

There are two issues that were presented to the Committee to consider.

- To answer the question, “Are there any issues from NAS Kingsville regarding dust / smoke that need to be addressed?”
- Current or proposed legislation. A search of the Texas legislature for any house or senate bills related to providing notice of agricultural burns over five acres yielded no results; however, the Texas Administrative Code, Title 30, Section 111.219.3, states that:
  - Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).

A specific area of concern that was discussed with the Committee is the practice of prescribed agricultural burns. During the Committee meetings, NAS Kingsville personnel stated that these burns had not been a significant concern. Coordination with land owners prior to major burns is desirable, and will be handled as part of normal community outreach.

Currently, the Texas Administrative Code, Title 30, Section 111.219.3, states that:

- Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).

See also JLUS Strategy 12, Code Enforcement Relative to Compatibility Concerns.

## Steps to Implement JLUS Strategy #35

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■							1	Committee reviewed need for strategy (i.e., were there any pressing issues). NAS Kingsville to review and report back to Committee.	NAS Kingsville
	■						2	NAS Kingsville representatives confirmed that there were no significant issues associated with dust or burning that required additional actions.	NAS Kingsville
		■					3	Strategy removed from JLUS implementation program.	Committee

## Supporting Materials

- Texas Administrative Code, Title 30, Chapter 111, Subchapter B: Outdoor Burning Sections 111.201, 111.203, 111.205, 111.207, 111.209, 111.211, 111.213, 111.215, 111.219, 111.221 <http://www.tceq.state.tx.us/assets/public/legal/rules/rules/pdflib/111b.pdf>
- *Outdoor Burning in Texas, Field Operations*, Texas Commission on Environmental Quality [http://www.tceq.state.tx.us/comm\\_exec/forms\\_pubs/pubs/rg/rg-049.html/at\\_download/file](http://www.tceq.state.tx.us/comm_exec/forms_pubs/pubs/rg/rg-049.html/at_download/file)

## Results

- This strategy can be marked as “completed” and made an on-going activity (removed from the 0-2 year timeframe).

## Next Steps

- NAS Kingsville to continue monitoring the issue of visibility and will work with the City of Kingsville, Kleberg County and the JAZB should an issue arise in the future.

**JLUS Strategy 36, Develop or Update Light and Glare Controls**, was grouped and presented with JLUS Strategy 23 since it dealt with related issues.

Please refer to the information provided under Tab 23.

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>37. Ensure FAA Part 77 Compliance</b></p> <p>Review existing Wireless Telecommunications Facilities regulations (sections 15-6-45 to 15-6-47) and other pertinent components of the Zoning Ordinance to include height limitations for structures based on the development of a regional suitability map. Ensure regulations remind applicants of the FAA requirement to prepare an Obstacle Evaluation (OE).</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ NAS Kingsville</li> </ul>

## Background

### Federal Aviation Act

The Federal Aviation Act requires the Secretary of Transportation to make long-range plans to formulate policy for the orderly development and use of “navigable air space” to serve the needs of civilian aeronautics and national defense except for the specific needs of military agencies. Military planning strives to work alongside local, state, and federal aviation law and policies but sometimes must supersede other levels of government due to national security interests.

The ‘500-foot rule’ is discussed in the Federal Aviation Act. It states that flights 500 feet or more above ground level (AGL) do not represent a compensable taking because flights 500 feet AGL enjoy a right of free passage without liability to the owners below. This is important to military installations and their surrounding communities when considering land acquisition and development rights.

### FAA Part 77

Another important outcome of the Federal Aviation Act is known as FAA Part 77, Objects Affecting Navigable Airspace. The main focus of FAA Part 77 is to establish standards used to determine obstructions within navigable airspace, typically within a certain distance from an airport or airfield. It defines an obstruction to air navigation as an object that is of “greater height than any of the following heights or surfaces:

- A height of 500 feet AGL at the site of the object.
- A height that is 200 feet AGL or above the established airport elevation, whichever is higher, within 3 nautical miles of the established reference point of an airport, excluding heliports, with its longest runway more than 3,200 feet in actual length, and that height increases in the proportion of 100 feet for each additional nautical mile of distance from the airport up to a maximum of 500 feet.
- A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required clearance.
- A height within an en route obstacle clearance area, including turn and termination areas, of a Federal airway or approved off-airway route, that would increase the minimum obstacle clearance altitude.
- The surface of a takeoff and landing area of an airport or any imaginary surface established under 77.25, 77.28, or 77.29. However, no part of the take-off or landing area itself will be considered an obstruction.” FAR Part 150, Airport Noise Compatibility Planning, sets forth compatibility guidelines for residential, public, commercial, manufacturing, and recreational land uses.

In addition, per Section 77.13, any entity proposing construction or alteration meeting certain criteria, such as exceeding 200 feet or being placed on an airport operated by the armed forces of the U.S., must submit a Notice of Proposed Construction or Alteration to the FAA.

### Construction Affecting Navigable Airspace

If a landowner or organization is planning to sponsor any construction or alterations which may affect navigable airspace (as defined in Part 77), you must file a Notice of Proposed Construction or Alteration (Form 7460-1) with the FAA.

<https://oeaaa.faa.gov/oeaaa/external/content/7460-1.pdf>

## Steps to Implement JLUS Strategy #37

Meeting						F O	Step	Actions	Responsible
1	2	3	4	5	6				
■							1	Committee reviewed need for strategy as a short term priority. No pressing issues with compliance were noted.	Committee
	■						2	Committee recommended that this strategy be changed to an on-going item.	Committee

## Supporting Materials

- Federal Aviation Regulations  
Part 77, Objectis Affecting Navigable Airspace  
Subchapter C, Aircraft, of Title 14 of the Code of Federal Regulations  
<https://oeaaa.faa.gov/oeaaa/external/portal.jsp>



### ATTACHMENT 37-1

Notice of Proposed Construction or Alteration  
Construction Affecting Navigable Airspace  
Form 7460-1

## Results

- This strategy was made an on-going activity (removed from the 0-2 year timeframe).

## Next Steps

- The City of Kingsville, Kleberg County and the JAZB will need to address compliance with FAA Part 77 guidance as part of future development review.



## NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION

### §77.13 Construction or alteration requiring notice.

(a) Except as provided in §77.15, each sponsor who proposes any of the following construction or alteration shall notify the Administrator in the form and manner prescribed in §77.17:

(1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(i) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport specified in paragraph (a) (5) of this section with at least one runway more than 3,200 feet in actual length, excluding heliports.

(ii) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport specified in paragraph (a) (5) of this section with its longest runway no more than 3,200 feet in actual length, excluding heliports.

(iii) 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area of each heliport specified in paragraph (a) (5) of this section.

(3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) (1) or (2) of this section.

(4) When requested by the FAA, any construction or alteration that would be in an instrument approach area (defined in the FAA standards governing instrument approach procedures) and available information indicates it might exceed a standard of Subpart C of this part.

(5) Any construction or alteration on any of the following airports (including heliports):

(i) An airport that is available for public use and is listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement.

(ii) An airport under construction, that is the subject of a notice or proposal on file with the Federal Aviation Administration, and except for military airports, it is clearly indicated that that airport will be available for public use.

(iii) An airport that is operated by an armed force of the United States.

(b) Each sponsor who proposes construction or alteration that is the subject of a notice under paragraph (a) of this section and is advised by an FAA regional office that a supplemental notice is required shall submit that notice on a prescribed form to be received by the FAA regional office at least 48 hours before the start of construction or alteration.

(c) Each sponsor who undertakes construction or alteration that is the subject of a notice under paragraph (a) of this section shall, within 5 days after that construction or alteration reaches its greatest height, submit a supplemental notice on a prescribed form to the FAA regional office having jurisdiction over the region involved, if —

(1) The construction or alteration is more than 200 feet above the surface level of its site; or

(2) An FAA regional office advises him that submission of the form is required.

### §77.15 Construction or alteration not requiring notice.

No person is required to notify the Administrator for any of the following construction or alteration:

(a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height; and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

(b) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

(c) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

(d) Any construction or alteration for which notice is required by any other FAA regulation.

### §77.17 Form and time of notice.

(a) Each person who is required to notify the Administrator under §77.13 (a) shall send one executed form set of FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area within which the construction or alteration will be located. Copies of FAA Form 7460-1 may be obtained from the headquarters of the Federal Aviation Administration and the regional offices.

(b) The notice required under §77.13 (a) (1) through (4) must be submitted at least 30 days before the earlier of the following dates —

(1) The date the proposed construction or alteration is to begin.

(2) The date an application for a construction permit is to be filed.

However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to the FAA at the same time the application for construction is filed with the Federal Communications Commission, or at any time before that filing.

(c) A proposed structure or an alteration to an existing structure that exceeds 2,000 feet in height above the ground will be presumed to be a hazard to air navigation and to result in an inefficient utilization of airspace and the applicant has the burden of overcoming that presumption. Each notice submitted under the pertinent provisions of this part 77 proposing a structure in excess of 2,000 feet above ground, or an alteration that will make an existing structure exceed that height, must contain a detailed showing, directed to meeting this burden. Only in exceptional cases, where the FAA concludes that a clear and compelling showing has been made that it would not result in an inefficient utilization of the airspace and would not result in a hazard to air navigation, will a determination of no hazard be issued.

(d) In the case of an emergency involving essential public services, public health, or public safety that requires immediate construction or alteration, the 30 day requirement in paragraph (b) of this section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed FAA Form 7460-1 submitted within five (5) days thereafter. Outside normal business hours, emergency notices by telephone or telegraph may be submitted to the nearest FAA Flight Service Station.

(e) Each person who is required to notify the Administrator by paragraph (b) or (c) of §77.13, or both, shall send an executed copy of FAA Form 7460-2, Notice of Actual Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area involved.



## Announcement

Please send all future FAA form 7460-1 notices to the FAA's new...

### EXPRESS PROCESSING CENTER

Federal Aviation Administration  
Southwest Regional Office  
Air Traffic Airspace Branch, ASW-520  
2601 Meacham Blvd.  
Fort Worth, TX 76137-4298  
Phone: (817) 838-1990

## INSTRUCTIONS FOR COMPLETING FAA FORM 7460-1

### PLEASE TYPE or PRINT

**ITEM #1.** Please include the name, address, and phone number of a personal contact point as well as the company name.

**ITEM #2.** Please include the name, address, and phone number of a personal contact point as well as the company name.

**ITEM #3.** New Construction would be a structure that has not yet been built.

Alteration is a change to an existing structure such as the addition of a side mounted antenna, a change to the marking and lighting, a change to power and/or frequency, or a change to the height. The nature of the alternation shall be included in **ITEM #21** "Complete Description of Proposal". Existing would be a correction to the latitude and/or longitude, a correction to the height, or if filing on an existing structure which has never been studied by the FAA. The reason for the notice shall be included in **ITEM #21** "Complete Description of Proposal".

**ITEM #4.** If Permanent, so indicate. If Temporary, such as a crane or drilling derrick, enter the estimated length of time the temporary structure will be up.

**ITEM #5.** Enter the date that construction is expected to start and the date that construction should be completed.

**ITEM #6.** Please indicate the type of structure. **DO NOT LEAVE BLANK.**

**ITEM #7.** In the event that obstruction marking and lighting is required, please indicate type desired. If no preference, check "other" and indicate "no preference". **DO NOT LEAVE BLANK.** *NOTE: High intensity lighting shall be used only for structures over 500' AGL.* In the absence of high intensity lighting for structures over 500' AGL, marking is also required.

**ITEM #8.** If this is an existing tower that has been registered with the FCC, enter the FCC Antenna Structure Registration number here.

**ITEM #9.** and **#10.** Latitude and longitude must be geographic coordinates, accurate to within the nearest second or to the nearest hundredth of a second if known. Latitude and longitude derived solely from a **hand-held GPS instrument is acceptable.** This data, when plotted, should match the site depiction submitted under **ITEM #20.**

**ITEM #11.** NAD 83 is preferred; however, latitude/longitude may be submitted in NAD 27. Also, in some geographic areas where NAD 27 and NAD 83 are not available other datums may be used. It is important to know which datum is used. **DO NOT LEAVE BLANK.**

**ITEM #12.** Enter the name of the nearest city/state to the site. If the structure is or will be in a city, enter the name of that city/state.

**ITEM #13.** Enter the full name of the nearest public-use (not private-use) airport (or heliport) or military airport (or heliport) to the site.

**ITEM #14.** Enter the distance **from** the airport or heliport listed in **#13 to the structure.**

**ITEM #15.** Enter the direction **from** the airport or heliport listed in **#13 to the structure.**

**ITEM #16.** Enter the site elevation above mean sea level and expressed in **whole feet** rounded to the nearest foot (e.g. 17' 3" rounds to 17, 176" rounds to 18'). This data should match the ground contour elevations for site depiction submitted under **ITEM #20.**

**ITEM #17.** Enter the total structure height **above ground level in whole feet** rounded to the **next highest foot** (e.g. 173" rounds to 18'). **The total structure height shall include anything mounted on top of the structure, such as antennas, obstruction lights, lightning rods, etc.**

**ITEM #18.** Enter the overall height above mean sea level and expressed in **whole feet.** This will be the total of **ITEM #16 + ITEM #17.**

**ITEM #19.** If an FAA aeronautical study was previously conducted, enter the previous study number.

**ITEM #20.** Enter the relationship of the structure to roads, airports, prominent terrain, existing structures, etc. Attach an 8-1/2" X 11" non-reduced copy of the appropriate 7.5 minute U.S. Geological Survey (USGS) Quadrangle Map MARKED WITH A PRECISE INDICATION OF THE SITE LOCATION. To obtain maps, Contact USGS at 1-888-275-8747 or via Internet at <http://store.usgs.gov/>. If available, attach a copy of a documented site survey with the surveyor's certification stating the amount of vertical and horizontal accuracy in feet.

**ITEM #21.**

- For transmitting stations, include maximum effective radiated power (ERP) and all frequencies.
- For antennas, include the type of antenna and center of radiation (*Attach the antenna pattern, if available*).
- For microwave, include azimuth relative to true north.
- For overhead wires or transmission lines, include size and configuration of wires and their supporting structures (*Attach depiction*).
- For **each** pole/support, include coordinates, site elevation, and structure height above ground level or water.
- For buildings, include site orientation, coordinates of **each** corner, dimensions, and construction materials,
- For alterations, explain the alteration thoroughly,
- For existing structures, thoroughly explain the reason for notifying the FAA (*e.g. corrections, no record of previous study, etc.*).

**Filing this information with the FAA does not relieve the sponsor of this construction or alteration from complying with any other federal state or local rules or regulations. If you are not sure what other rules or regulations apply to your proposal, contact local/state aviation and zoning authorities.**

**Paperwork Reduction Work Act Statement:** This information is collected to evaluate the effect of proposed construction or alteration on air navigation and is not confidential. Providing this information is mandatory for anyone proposing construction or alteration that meets or exceeds the criteria contained in 14 CFR , part 77. We estimate that the burden of this collection is an average 19 minutes per response. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless R displays a currently valid OMB control number. The OMB control number for this collection is 2120-0001.

**FAA Form 7460-1** (2-99) Supersedes Previous Edition  
0008

NSN: 0052-00-012-



U.S. Department of Transportation  
Federal Aviation Administration

Failure To Provide All Requested Information May Delay Processing of Your Notice

FOR FAA USE ONLY

Aeronautical Study Number

# Notice of Proposed Construction or Alteration

- - -

**1. Sponsor** (*person, company, etc. proposing this action*) :

Attn. of: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

**2. Sponsor's Representative** (*if other than #1*) :

Attn. of: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

**3. Notice of:**  New Construction  Alteration  Existing

**4. Duration:**  Permanent  Temporary ( \_\_\_\_\_ months, \_\_\_\_\_ days)

**5. Work Schedule:** Beginning \_\_\_\_\_ End \_\_\_\_\_

**6. Type:**  Antenna Tower  Crane  Building  Power Line  
 Landfill  Water Tank  Other \_\_\_\_\_

**7. Marking/Painting and/or Lighting Preferred:**

Red Lights and Paint  Dual - Red and Medium Intensity White  
 White - Medium Intensity  Dual - Red and High Intensity White  
 White - High Intensity  Other \_\_\_\_\_

**8. FCC Antenna Structure Registration Number** (*if applicable*):  
 \_\_\_\_\_

**9. Latitude:** \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ "''

**10. Longitude:** \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ "''

**11. Datum:**  NAD 83  NAD 27  Other \_\_\_\_\_

**12. Nearest:** City: \_\_\_\_\_ State: \_\_\_\_\_

**13. Nearest Public-use** (not private-use) or Military Airport or Heliport:  
 \_\_\_\_\_

**14. Distance from #13.** to Structure: \_\_\_\_\_

**15. Direction from #13.** to Structure: \_\_\_\_\_

**16. Site Elevation (AMSL):** \_\_\_\_\_ ft.

**17. Total Structure Height (AGL):** \_\_\_\_\_ ft.

**18. Overall height (#16. + #17.) (AMSL):** \_\_\_\_\_ ft.

**19. Previous FAA Aeronautical Study Number** (if applicable):  
 \_\_\_\_\_ - OE

**20. Description of Location:** (Attach a USGS 7.5 minute Quadrangle Map with the precise site marked and any certified survey.)

**21. Complete Description of Proposal:**

\_\_\_\_\_

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Frequency/Power (kW)	

Notice is required by 14 Code of Federal Regulations, part 77 pursuant to 49 U.S.C., Section 44718. Persons who knowingly and willingly violate the notice requirements of part 77 are subject to a civil penalty of \$1,000 per day until the notice is received, pursuant to 49 U.S.C., section 46301 (a).

I hereby certify that all of the above statements made by me are true, complete, and correct to the best of my knowledge. In addition, I agree to mark and/or light the structure in accordance with established marking and lighting standards as necessary.

Date	Typed or Printed name and Title of Person Filing Notice	Signature
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# Mitigate Frequency Spectrum Impedance and Interference Issues Associated with Development

JLUS Strategy	Responsibility / Partner
<p><b>38. Mitigate Frequency Spectrum Impedance and Interference Issues Associated with Development</b></p> <p>Work with the City of Kingsville and Kleberg County to establish procedures to identify proposed projects that may potentially involve a source of frequency emissions (including Wi-Fi). Develop regulations for electrical interference to incorporate into the Zoning Ordinance that designates what level of frequency and location is attuned with military frequency to avoid interference with flight operations. Update the ordinance with changes in FAA/FCC restrictions.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>City of Kingsville</li> <li>Kleberg County</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>NAS Kingsville</li> </ul>

## Background

Not applicable at this time.

## Steps to Implement JLUS Strategy #38

Meeting							F O	Step	Actions	Responsible
1	2	3	4	5	6					
■							1	Installation will collect information to better describe issue prior to specific actions being taken. NAS Kingsville to report back at next meeting.	NAS Kingsville	
	■						2	Discuss potential projects that could impact the installation.	Committee	
			■	■			3	Incorporate frequency controls in JAZB Compatible Land Use and Hazard Zoning Regulations (see JLUS Strategy #33, and Section 6.E. in the JAZB Compatible Land Use and Hazard Zoning Regulations).	JAZB	
				■			4	See Strategies #19 and #41 concerning notification and comment by NAS Kingsville on projects. Committee felt this would address frequency issues for projects within the City of Kingsville.	Committee	
						■	5	Public hearing / consideration on JAZB Compatible Land Use and Hazard Zoning Regulations (JLUS Strategy 33).  Regulations approved by JAZB on July 21, 2010.	JAZB	

## Supporting Materials

No additional information necessary for this item.

## Results

- Frequency interference / impedance issues were addressed as part of the JAZB Compatible Land Use and Hazard Zoning Regulations (JLUS Strategy 33).

Mitigate Frequency Spectrum Impedance and Interference Issues Associated with Development

*Please see the next page.*

# Encourage Use of Cluster Development Techniques

JLUS Strategy	Responsibility / Partner
<p><b>39. Encourage Use of Cluster Development Techniques</b></p> <p>Encourage use of cluster zoning techniques, or other similar tools (such as planned developments, specific plans, etc.), to maximize open space in the portions of a project site with highest compatibility issues and thereby, reduce compatibility issues.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ None Identified</li> </ul>

This strategy was not designated as a short-term program in the Kingsville JLUS, and was therefore not covered in the scope of this initial implementation effort. This strategy will be pursued in the future as needed.

**39**

## Encourage Use of Cluster Development Techniques

*Please see the next page.*



JLUS Strategy	Responsibility / Partner
<p><b>40. Incentives for Infill Development</b></p> <p>Consider offering incentives to developers for infill development or densification within the city to preserve the City fringes for agriculture uses and to avoid future compatibility issues.</p>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>City of Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>Kleberg County</li> </ul>

## Background

The City of Kingsville’s current Master Plan was in preparation simultaneously with the Kingsville JLUS. During the development of the JLUS, one potential issue discussed was how to reduce pressure on land near the installation. One solution was to make better use of vacant land within the existing city limits; in other words, to “infill” the city.

As part of the Implementation Program, this issue was reevaluated based on the City’s new Master Plan, which was adopted in 2008.

## Steps to Implement JLUS Strategy #40

Meeting						F	Step	Actions	Responsible
1	2	3	4	5	6	O			
■							1	Discuss the need for this strategy. <ul style="list-style-type: none"> <li>City to provide information on existing incentives for next meeting.</li> <li>The Committee felt that the efforts described, in addition to new planning tools in the City’s new Master Plan, provided enough incentives to reduce pressures for growth outside the City limits.</li> </ul>	Committee
	■						2	The City of Kingsville felt that their new Master Plan provides an appropriate context for infill, and that no further action as part of the JLUS program is needed.	Committee City of Kingsville

## Supporting Materials

- City of Kingsville Master Plan, 2008

## Results

- The Committee determined that infill was adequately addressed in the new City Master Plan, and that no further actions were needed. This strategy was deemed complete.

*Please see the next page.*

**JLUS Strategy 41, Include NAS Kingsville in Development Review Process**, was grouped and presented with Strategies 19 and 42 since they dealt with related issues.

Please refer to the information provided under Tab 19.

41

## Include NAS Kingsville in Development Review Process

*Please see the next page.*

**JLUS Strategy 42, Develop Development Review Checklist**, was grouped and presented with Strategies 19 and 41 since they dealt with related issues.

Please refer to the information provided under Tab 19.

*Please see the next page.*

JLUS Strategy	Responsibility / Partner
<p><b>43. Periodic JLUS Review</b></p> <p>Perform comprehensive reviews and evaluations of the JLUS study to ensure the study vision and goals remain current and sustainable over time. Review of the study is two-fold:</p> <ul style="list-style-type: none"> <li>▪ Annual Progress Report. – Annual evaluations shall measure the progress of the implementation of the JLUS. These reports should include, but are not limited to, significant accomplishments during the past year, the status of each strategy, implementation constraints, and recommendations for additional actions to promote compatibility.</li> <li>▪ Comprehensive Review and Evaluation. Occurring on a 5-year cycle, a comprehensive examination of the JLUS study shall occur. The purpose of this evaluation is to determine the ability of the study to successfully implement the vision and objectives of the JLUS. If conditions have significantly changed, a new JLUS or update to the existing JLUS may be necessary. As with any dynamic situation, events may occur that would require a comprehensive evaluation of the JLUS:                         <ul style="list-style-type: none"> <li>○ Mission changes on the installation, including but not limited to, significant changes to the number of aviators trained, changes to aircraft, addition of new operational missions</li> <li>○ Shifts in political, economic, physical or social conditions of the local communities</li> </ul> </li> </ul> <p>Considerations for future JLUS studies include:</p> <ul style="list-style-type: none"> <li>▪ Development of subsequent JLUS studies should consider adding the Naval Auxiliary Landing Field Orange Grove and the Dixie and Yankee Ranges. As critical training areas for NAS Kingsville.</li> <li>▪ The JLUS should be developed prior to subsequent revisions of the City of Kingsville Master Plan in order to incorporate JLUS recommendations into subsequent revisions.</li> </ul>	<p><b>Primary Responsibility</b></p> <ul style="list-style-type: none"> <li>▪ City of Kingsville</li> <li>▪ Kleberg County</li> <li>▪ NAS Kingsville</li> </ul> <p><b>Partners</b></p> <ul style="list-style-type: none"> <li>▪ JLUS Implementation Board</li> </ul>

This strategy was not designated as a short-term program in the Kingsville JLUS, and was therefore not covered in the scope of this initial implementation effort. This strategy will be pursued in the future as needed.

*End of document.*