

ARTICLE VIII. - MILITARY COMPATIBILITY OVERLAY DISTRICT (MCOD)

Sec. 1. Purpose and Intent

This Article is intended to codify and implement the findings and recommendations of the Montgomery-Maxwell Air Force Base – Gunter Annex Joint Land Use Study (JLUS). The purpose of the regulations is to protect the public health, safety and welfare of the community and to preserve and maintain existing and future operational capabilities of Maxwell Air Force Base – Gunter Annex.

Sec. 2. Applicability

This Article establishes regulations applicable to all land located within the boundary of the Military Compatibility Overlay District (MCOD) as depicted on the official Zoning Map for the City of Montgomery.

Sec. 3. - Relationship of MCOB to Underlying Zoning.

The regulations supplement, modify, and where indicated, supersede the regulations of the underlying zoning district. All definitions, references, requirements and other land use controls not specifically defined or modified by these regulations shall conform to the provisions of the underlying zoning district.

Sec. 4. - Conflicting Provisions.

The General Provisions, district regulations and all other standards established within all other Articles of this Zoning Ordinance are applicable within the MCOB to the extent such regulations within this Article establish a less restrictive standard for the same subject matter. Whenever a provision of the Zoning Ordinance contains a specific standard covering the same subject matter as an overlay district, the more restrictive requirement shall control.

Sec. 5. - Establishment – MCOB and MCA Boundaries.

The MCOB and component Military Compatibility Areas (MCAs) are hereby established as depicted on the official Zoning Map for the City of Montgomery and the figures below. The five (5) MCAs comprising the MCOB are as follows:

Safety MCA

Addresses safety issues associated with Clear Zones (CZs) and Accident Potential Zones (APZs).

BASH MCA

Establishes regulations to reduce impacts associated with increased bird and wildlife attractant land uses, activities and/or habitation.

Noise MCA

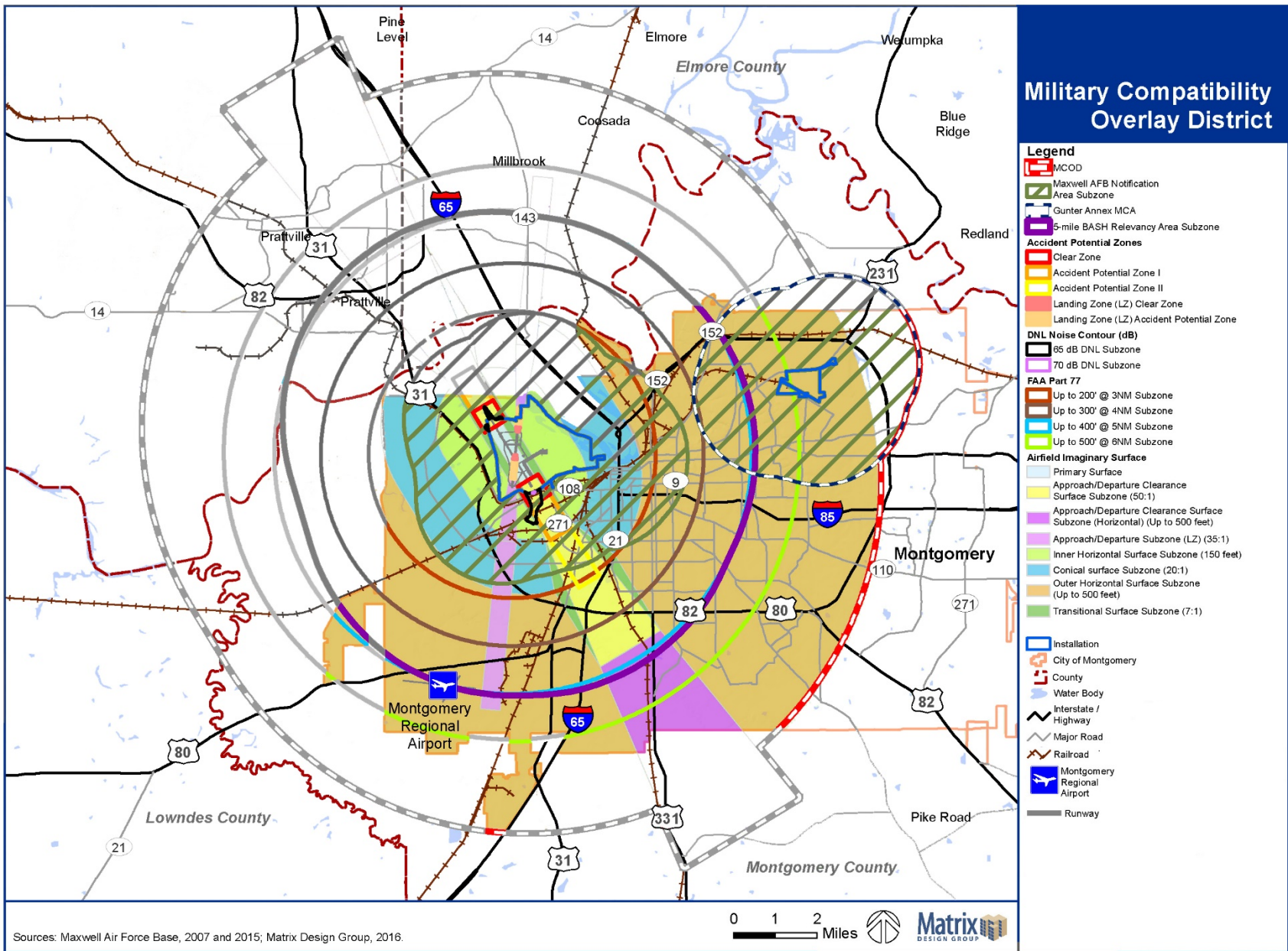
Addresses noise impact issues within the 65 dB and 70 dB noise contours.

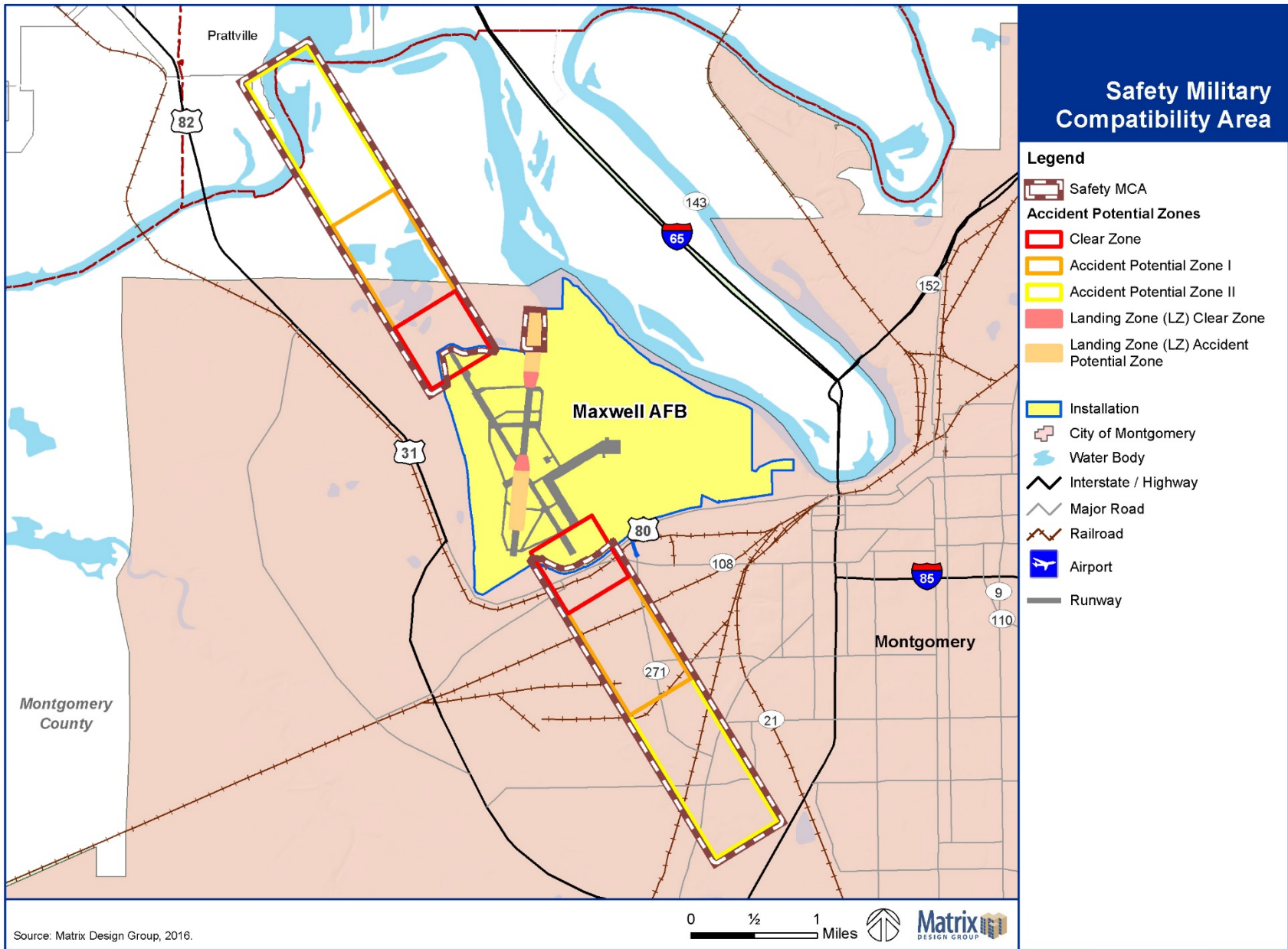
Vertical Obstruction MCA

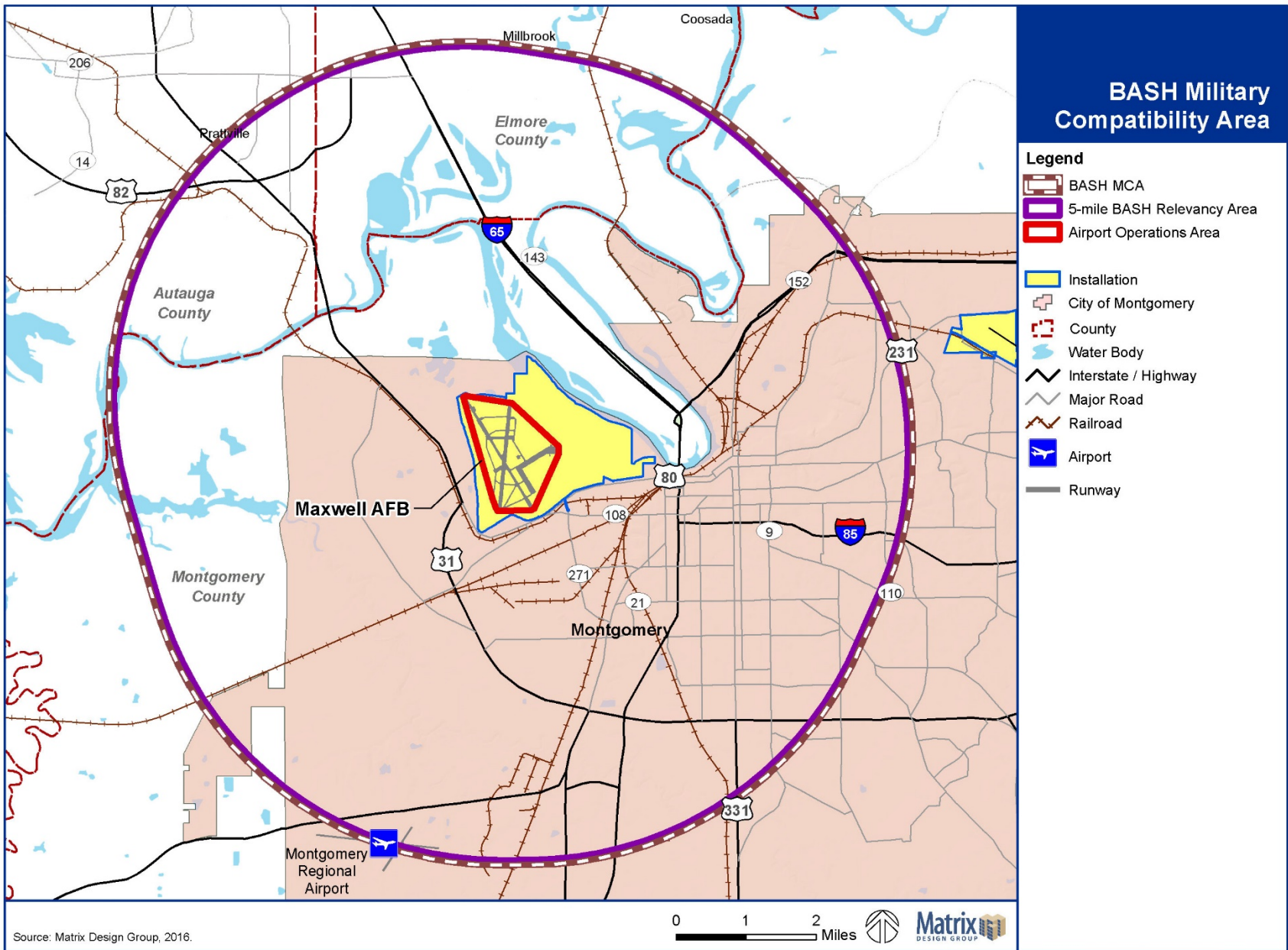
Establishes height limitations to structures and buildings to protect flight paths for aircraft out of Maxwell AFB.

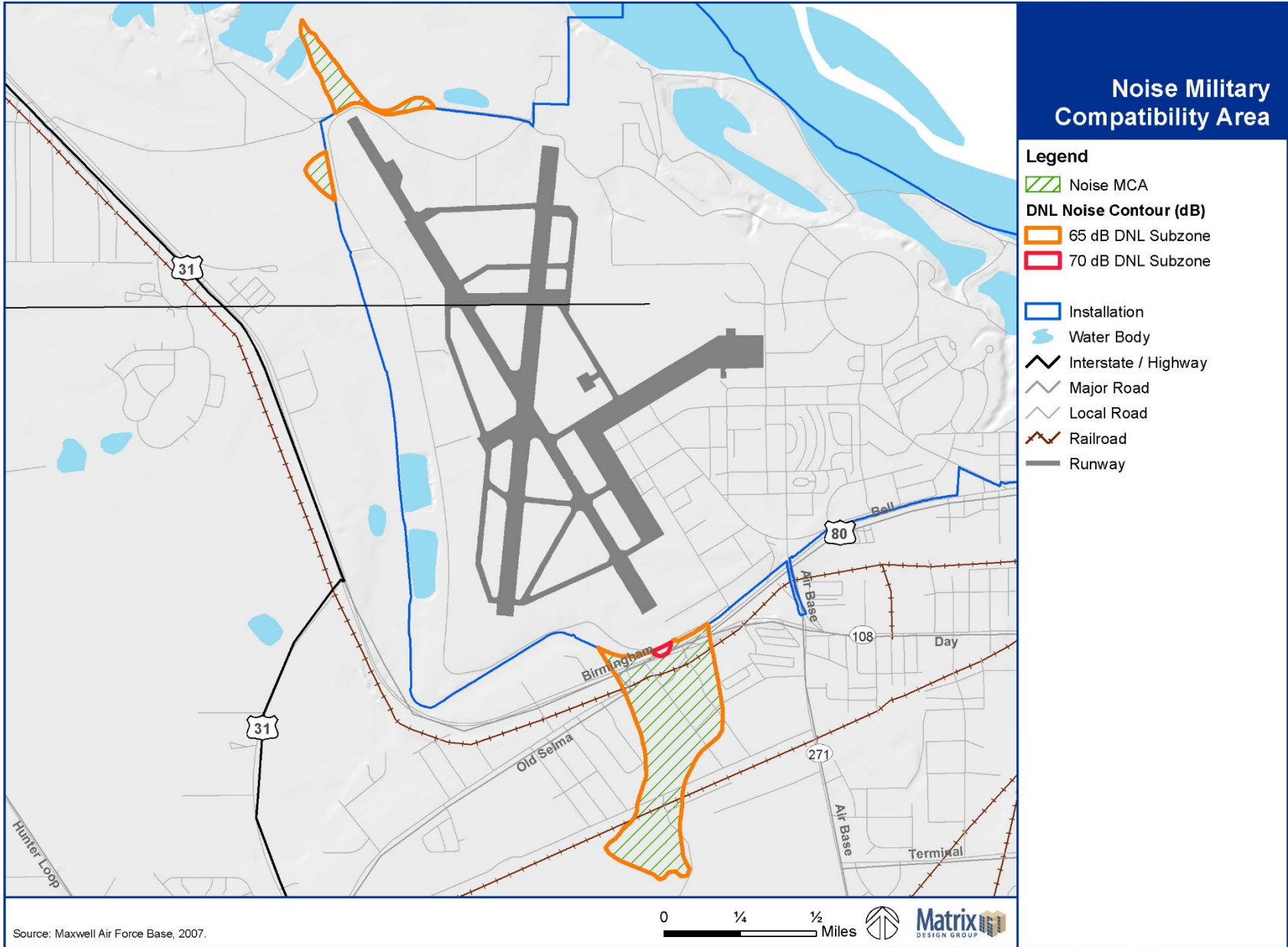
Gunter Annex MCA

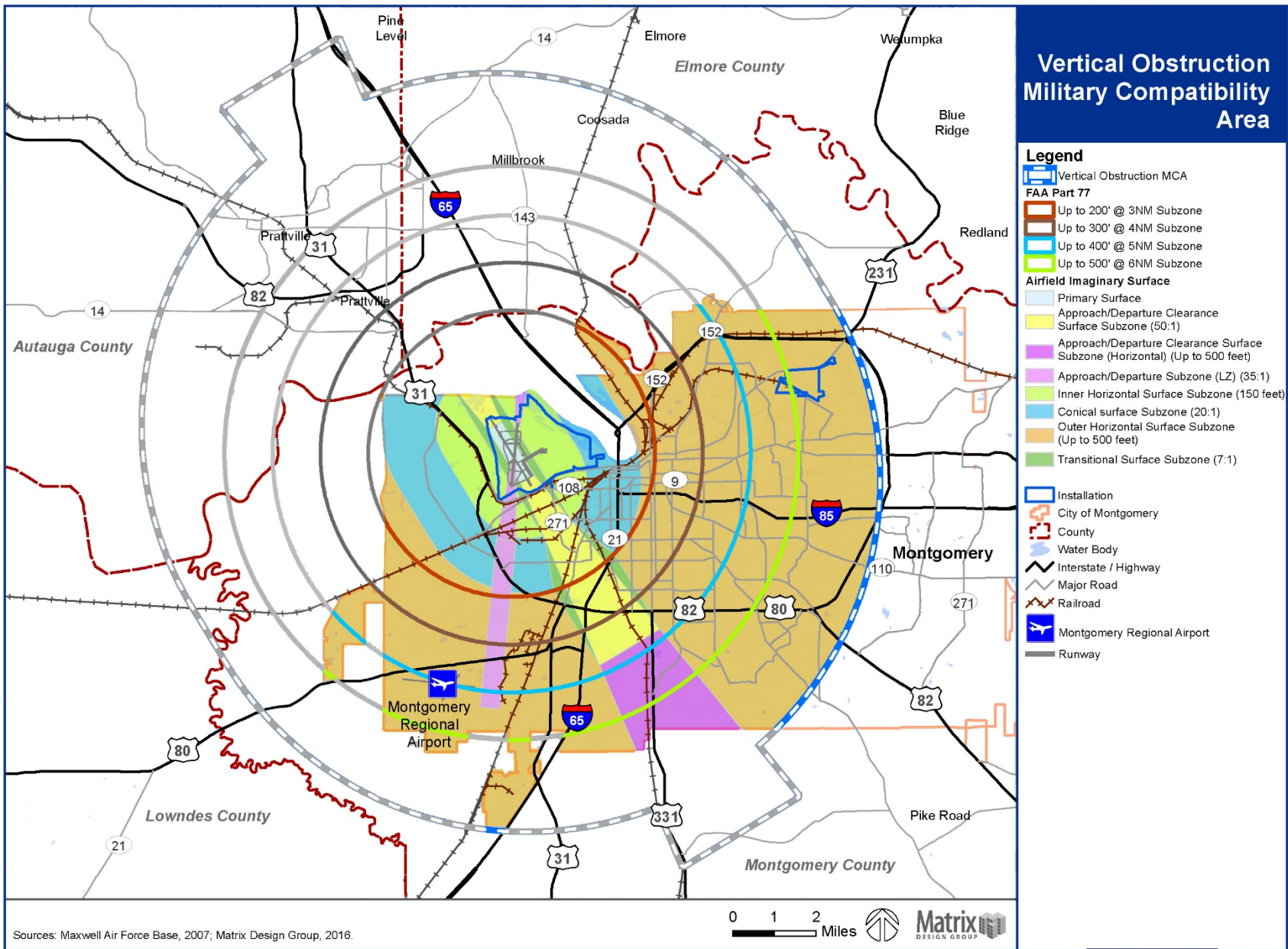
Addresses anti-terrorism / force protection concerns, frequency interference concerns and two (2) mile radius notification requirements.















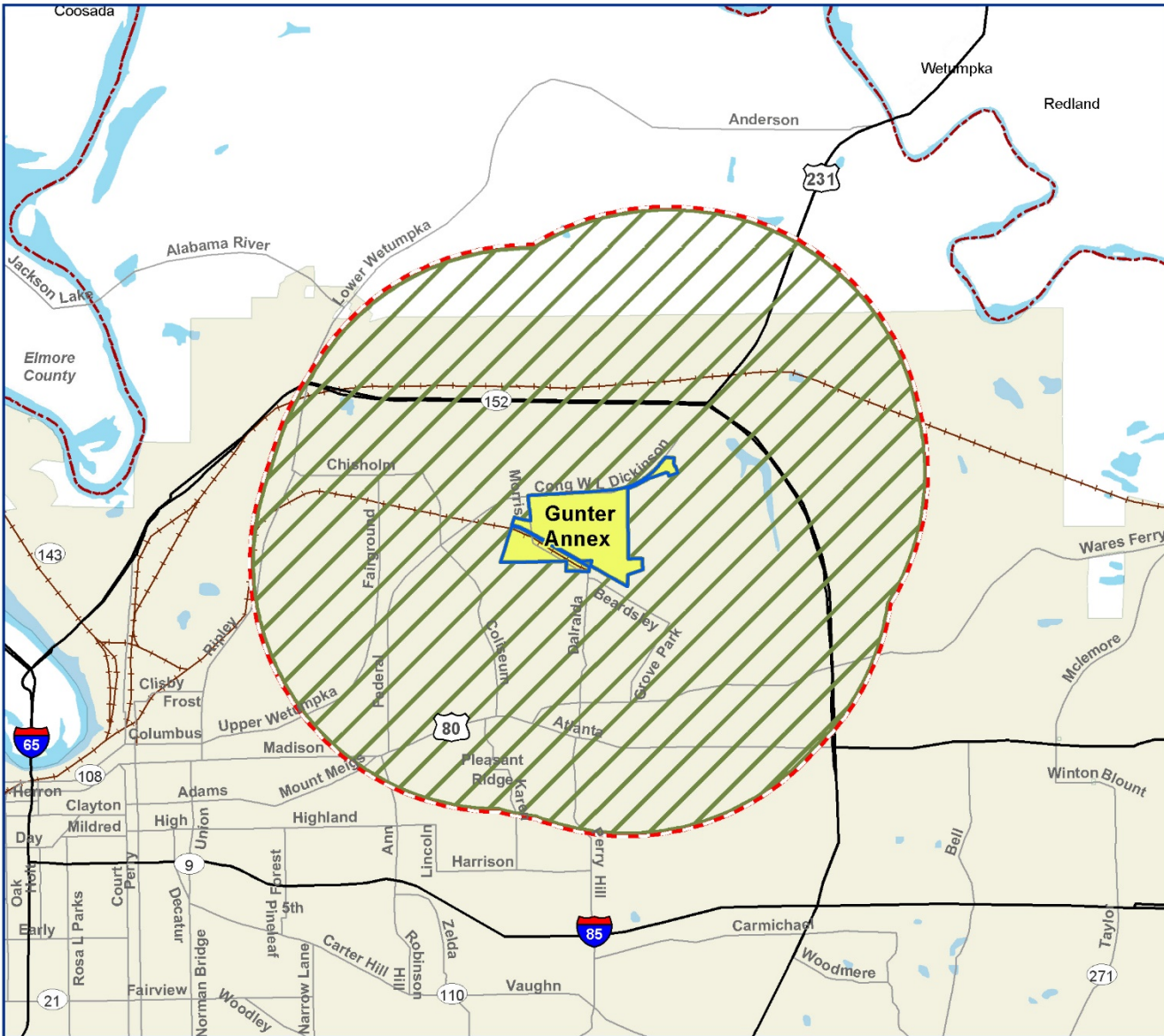






Gunter Annex Military Compatibility Area

- Legend**
-  Gunter Annex MCA
 -  Notification Area (2-Miles)
 -  Installation
 -  City of Montgomery
 -  County
 -  Water Body
 -  Interstate / Highway
 -  Major Road
 -  Railroad
 -  Runway



Source: Maxwell Air Force Base, 2015.



Sec. 6. MCOD General Requirements

a. **Real Estate Disclosure - Required Notation and Disclosure Language.** This section requires a notation be included on all Subdivision Plats within a three (3) mile radius of Maxwell AFB or Gunter Annex which discloses the property is within proximity of a military installation.

(1) **Subdivision Plats.** All applicable Subdivision Plats shall contain a plat note as required by this Section on the recorded plat.

(2) **Developer to Bear All Costs.** The developer and/or subdivider shall bear any and all costs recordation of the subdivision plat and any other costs associated with compliance with the notation and disclosure requirements.

b. Lighting.

(1) **Purpose.** The purpose of this section is to establish limitations to outdoor lighting to reduce visibility impacts to military aviation operations.

(2) **Applicability.** All properties within the MCOD are subject to the lighting requirements established in this Section. The requirements of this section shall apply to any property in the MCOD involving one or more of the following:

a. Any new development or building

b. Any addition to an existing development in excess of fifty (50) percent of the building square footage shall meet the requirements for the entire development and property

(3) **Prohibited Lighting.** The following lighting is prohibited:

a. Lighting that is aimed, directed, or focused so as to cause upward directed light,

b. The operation of searchlights for advertising purposes, and

c. 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.

(4) **General Lighting Requirements.**

a. All LED lighting shall have a Correlated Color Temperature (CCT) of 4100K or less.

b. All non-residential lighting shall not exceed two and one-half (2.5) foot candles (fc) measured at the property line.

c. All lighting shall be fully shielded (downward directed) and full cutoff.

c. Alternative Energy.

(1) **Purpose.** The purpose of this Section is to establish regulations for utility-scale (generating 10 or more megawatts) Alternative Energy facilities and structures to ensure impacts to military and aviation operations are minimized.

(2) **Applicability.** The requirements of this Section shall apply to any application for municipal approval for the erection and maintenance of the following utility-scale Alternative Energy facilities and structures within the MCOB:

- a. Solar Energy Facility;
- b. Wind Energy Facility; and
- c. Other similar uses which involve the production, storage and distribution of energy resources and involve vertical structures, glare or other impacts to aviation operations at Maxwell AFB.

(3) **Alternative Energy Development Standards.**

- a. Applications for energy development projects shall include a mission compatibility evaluation from the DoD Siting Clearinghouse.
- b. Applications for energy development projects shall include details related to the siting of facilities, energy capacity output, height of structures and facilities, and construction technology.
- c. Applications for solar energy development projects shall include a glare analysis that satisfies the requirements of the 2013 FAA Interim Policy 78 FR 63276 regarding yellow glare, glare at Air Traffic Control Towers and analysis and observer characteristics.
- d. Height Limits. No facility, building, or structure associated with the operation an Alternative Energy Facility shall exceed the heights established per the Vertical Obstruction MCA.

(4) The information in subsections c (1)-(3) shall be reviewed and considered before any decision is rendered to approve an application for an energy development project.

Sec. 7. - Safety Military Compatibility Area.

- a. **Safety Military Compatibility Area Development Standards.** All development within the CZs and APZs I and II shall conform to the following Table of Land Uses including residential density and non-residential intensity (Floor Area Ratio or FAR) standards, where density is expressed as dwelling units per acre (**Du/Ac**) and floor area ratio (**FAR**) is defined as the total square footage of the habitable portion of a building divided by the total property area.

- b. Existing legal non-conforming uses in the CZs that do not conform to the Table of Land Uses and their structures shall be permanently removed if the structure is more than 50 percent damaged or destroyed based on the replacement value. In no case shall the use be intensified, or the structure improved to enlarge the footprint, square footage or any vertical component.
- c. Existing legal non-conforming uses in the APZs that do not conform to the Table of Land Uses may be replaced, but not expanded. Such replacement may not expand or increase the density and intensity of the original nonconforming use.

Table of Land Uses

Land Use	Permitted			
Land Use Name	Clear Zone	APZ I	APZ II	Density ^{1,2}
Residential				
Single family dwellings	N	N	Y ²	Maximum density of 2 Du/Ac
All other Residential including two or more attached dwellings, corrections related housing and facilities, mobile dwellings, hotels and travel trailer parks	N	N	N	
Commercial – Retail / Dining and Drinking Establishments				
Store, Apparel, Furniture, Houseware and Household Wares, Sporting Goods	N	N	Y	Maximum FAR 0.28 in APZ II
Store, General Merchandise, Drugs and Sundries, Flowers, Gift Items, Jewelry	N	N	Y	Maximum FAR 0.16 in APZ II
Store, Food	N	N	Y	Maximum FAR 0.24 in APZ II
Lounges, Restaurants, Taverns	N	N	N	
Commercial – Services				
Bank, Barber and Beauty Shop, Dry Cleaners, Laundry, Office	N	N	Y	Maximum FAR 0.22 in APZ II
Warehouses ⁷	N	Y	Y	Maximum FAR 1.0 in APZ I; 2.0 in APZ II
Animal Clinic, Hospitals or kennels; Colleges; General Hospitals; Nursing Homes; Private Schools; Schools	N	N	N	

Land Use	Permitted			
Land Use Name	Clear Zone	APZ I	APZ II	Density ^{1,2}
Government Buildings, Post Office	N	N	Y	Maximum FAR 0.24 in APZ II
Manufacturing³				
Ice Cream Plants and Creameries, Bottling and Central Distribution Plants, Baking Plants; Central Mixing Plant; Forge Plant; Wool Pulling or Scouring	N	N	Y	Maximum FAR 0.56 in APZ II
Bag Cleaning; Coal Yard; Cold Storage Plants; Cotton Waste Reclaiming; Distillation of bones, coal, tar, or woods; Fat Rendering; Grist or Flour Mill; Ice Plants; Manufacture of Brick, Pottery, Terra Cotta or Tile, Concrete Blocks, Candles, Soap, and Tar Products; Lumber Yard; Scrap Paper, Rag Storage or Baling conducted entirely within a structure; Slaughterhouses; Stockyard; Textile Mills	N	Y	Y	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II
Dyeing Plants; Manufacture of Acetylene, Acid, Alcohol, Ammonia, Bleaching Powder, Disinfectants, Dyestuffs, Fertilizers, Illuminating or Heating Gas including Storage, Paint, Turpentine, and Varnish; Tanning	N	N	N	
Cultural, Entertainment and Recreation				
Auditoriums; Churches; Dance Halls; Libraries; Lodges, Clubs and Country Clubs; Musical Entertainment Facilities; Places of Assembly; Stadium; YMCA, YWCO; Playgrounds	N	N	N	
Golf courses; Parks (excluding Playgrounds)	N	Y ⁸	Y ⁸	Maximum FAR 0.11 in APZ I; 0.22 in APZ II
Places of Amusement	N	N	Y ¹⁰	

Land Use	Permitted			
Land Use Name	Clear Zone	APZ I	APZ II	Density ^{1,2}
Transportation and Utilities^{3,4}				
Auto Salvage Yard, Auto Wrecking, Junk Yard, Trucking Terminals	N	Y ⁵	Y	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II
Public Utilities ⁶	N	Y ⁵	Y ⁵	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II
Gasoline, Oil, Gas, or Alcohol Storage above ground in excess of 500 gallons	N	N	N	
Resource Production and Extraction				
Agriculture, poultry, and livestock raising	N	Y ⁹	Y ⁹	
Forestry activities ¹¹	N	Y	Y	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II; no activity which produces smoke, glare or involves explosives
Fishing activities ¹²	N ¹²	Y	Y	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II; no activity which produces smoke, glare or involves explosives
Mining activities ¹³	N	Y ¹³	Y ¹³	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II; no activity which produces smoke, glare or involves explosives
Other resource production or extraction	N	Y	Y	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II; no activity which produces smoke,

Land Use	Permitted			
Land Use Name	Clear Zone	APZ I	APZ II	Density ^{1,2}
				glare or involves explosives
Other				
Undeveloped land	Y	Y	Y	
Outdoor Advertising Structures	N	Y	Y	

Key to Table:

1. FARs are calculated using standard parking generation rates for various land uses, vehicle occupancy rates, and desired density in APZ I and II.
2. The suggested maximum density for detached single-family housing is two dwelling units per acre.
3. Other factors to be considered: labor intensity, structural coverage, explosive characteristics, air pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting and navigational aids necessary for the safe operation of the airfield when there are no other siting options), buildings, or above-ground utility and communications lines should normally be located in Clear Zone areas.
5. No above ground power transmission or distribution lines. Prohibited power lines include high-voltage transmission lines and distribution lines that provide power to cities, towns, or regional power for unincorporated areas.
6. Development of renewable energy resources, including solar and geothermal facilities and wind turbines, may impact military operations through hazards to flight or electromagnetic interference. Each new development should be analyzed for military impacts on a case-by-case basis that considers both the proposal and potentially affected mission.
7. Big box home improvement stores are not included as part of this category.
8. Facilities must be low intensity, and provide no playgrounds, club houses, meeting places, auditoriums, large classes.
9. Activities that attract concentrations of birds creating a hazard to aircraft operations are prohibited.
10. Amusement centers, family entertainment centers or amusement parks designed or operated at a scale that could attract or result in concentrations of people, including employees and visitors, greater than 50 people per acre at any given time are incompatible in APZ II.

11. *Lumber and timber products removed due to establishment, expansion, or maintenance of Clear Zone lands owned in fee will be disposed of in accordance with applicable DoD guidance.*
12. *Controlled hunting and fishing may be permitted for the purpose of wildlife management.*
13. *Surface mining operations that could create retention ponds that may attract waterfowl and present bird/wildlife aircraft strike hazards (BASH), or operations that produce dust or light emissions that could affect pilot vision are not compatible.*

Sec. 8. - BASH Military Compatibility Area.

- a. **BASH Military Compatibility Area Development Standards.** All development within a five (5) statute mile radius of the Airfield Operations Area at Maxwell AFB shall adhere to the following use standards:

- (1) **Solid Waste Landfills.** New solid waste landfills are prohibited. Solid waste landfills are defined as any discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile.

- (2) **Solid Waste Landfill Transfer Stations.** All new landfill transfer stations shall meet the following criteria:

- a. Shall be fully-enclosed and receive garbage behind closed doors;
- b. Process received garbage via compaction, incineration, or similar manner; and
- c. Remove all residue by enclosed vehicles.

Solid Waste Landfill Transfer Stations are prohibited if they:

- a. Handle or store putrescible waste outside or in a partially enclosed structure accessible to wildlife.
- b. Are open on one or more sides.
- c. Store uncovered quantities of municipal solid waste outside, even if only for a short time.
- d. Use semi-trailers that leak or have trash clinging to the outside.
- e. Do not control odors by ventilation and filtration systems (odor masking is not acceptable).

- (3) **Water Management Facilities.** Water management facilities include drinking water intake and treatment facilities, storm water and wastewater treatment facilities, associated retention and settling ponds, ponds built for recreational use,

and ponds that result from mining activities. All new water management facilities shall meet the following criteria:

- a. Designed and operated so as not to create above-ground standing water.
- b. Stormwater detention ponds shall be designed, engineered, constructed, and maintained for a maximum 48-hour detention period after the design storm and remain completely dry between storms. To facilitate the control of hazardous wildlife, steep-sided, rip-rap lined, narrow, linearly shaped water detention basins shall be used.

The following Water Management Facilities are prohibited:

- c. New wastewater management facilities or associated settling ponds.
 - d. Artificial marshes.
- (4) **Dredge spoil containment areas (also known as Confined Disposal Facilities).** These facilities are prohibited.
- (5) **Livestock Production.** Confined livestock operations (i.e., feedlots, dairy operations, hog or chicken production facilities, or egg laying operations) often attract flocking birds, such as starlings, that pose a hazard to aviation. These facilities are prohibited. Any livestock operation shall have a program developed to reduce the attractiveness of the site to species that are hazardous to aviation safety.
- (6) **Aquaculture.** All new aquaculture activities shall be within fully enclosed buildings. Aquaculture activities outside fully enclosed buildings are prohibited.
- (7) **Golf courses.** Construction of new golf courses is prohibited.

Sec. 9. - Noise Military Compatibility Area.

a. Noise Military Compatibility Area Development Standards.

Sound Attenuation Building Standards for New Construction.

- (1) **Noise Sensitive Land Uses.** For the purposes of this section, the term Noise Sensitive Land Use includes any residential, medical, elder care facilities, schools and religious institutions, or other uses that are substantially similar in character and located within the 65 dB noise contour as defined herein.
- (2) **Minimum Required Sound Attenuation Measures for New Construction.** Proposed plans shall reflect compliance with the following minimum sound attenuation measures:
 - a. The minimum Sound Transmission Class (STC) rating of structure components shall be in compliance with the following table:

dB LDN	Minimum STC of Exterior Walls and Roof Ceiling	Minimum STC of Doors and Windows
65-69	39	25
70-74	44	33
>75	49	38

- b. **Alternative Compliance.** As an alternative to the requirements in the table in subsection a. above, structures may be permitted by the Inspections Department to be designed and constructed so as to limit the interior noise level to no greater than 45 dB LDN. Exterior structures, terrain, and permanent plantings shall be permitted to be included as part of an alternative design. The alternative design shall be certified by an acoustical engineer at the expense of the applicant. The certification requirement may be waived if the proposed alternative design conforms with accepted acoustical engineering standards.
- c. All plans subject to the requirements herein shall be designed to meet accredited acoustical engineering standards accepted by the Inspections Department as meeting the purpose and intent of these requirements and accepted industry building construction methods to achieve sound attenuation of buildings. The Inspections Department may administratively adopt building construction methods which are acceptable in meeting the standards herein.

Sec. 10 Vertical Obstruction Military Compatibility Area.

a. **Purpose and Intent.** The purpose and intent of the Vertical Obstruction Military Compatibility Area is to establish the geography and regulations to protect important flight areas for aircraft at Maxwell AFB. These requirements are to ensure compliance of development with FAA Regulation Title 14 Part 77, commonly known as Part 77 and provide a basis for evaluation of vertical obstruction compatibility.

b. **Vertical Obstruction Military Compatibility Area Development Standards.**

(1) **Applicability.**

FAA Part 77.17 establishes standards to determine obstructions within navigable airspace, based on the height of the proposed building/structure(s) or natural features above ground level (AGL) in relation to the military installation and operations. Pursuant to Part 77.17 an obstruction to air navigation is an object that is greater than specific heights relative to military operations within established height thresholds.

FAA Part 77.21 establishes imaginary surfaces for military airports. An existing object, including a mobile object, is, and a future object would be an obstruction to air navigation if it is of greater height than the imaginary surfaces.

(2) **Development with Structures Greater than 199 Feet AGL.** An FAA Part 77 compliance review is required to be submitted with any development application that proposes structures greater than 199 feet AGL in height.

The City shall verify compliance of the development project with the city's Vertical Obstruction Assessment Tool.

- (3) **Development with Structures less than 199 Feet AGL.** The City shall verify compliance of the development project with the city's Vertical Obstruction Assessment Tool.

Sec. 11. - Gunter Annex Military Compatibility Area

- a. **Purpose and Intent.** The purpose and intent of the Gunter Annex Military Compatibility Area is to establish the geography and regulations to protect the area around Gunter Annex related to anti-terrorism/force protection, frequency interference, and establish notification requirements for proposed new development within a two (2) mile radius of Gunter Annex.

b. Gunter Annex Military Compatibility Area Development Standards

(1) Non-Conforming Accessory Building Registration Program

- a. **Compliance Timeframe.** All non-conforming accessory buildings on residential zoned properties for which legal non-conforming status cannot be established shall be brought into full compliance with the provisions of this Zoning Ordinance by January 1, 2021.

(2) Notification Requirements

- b. The City of Montgomery shall establish and administer procedures to notify Maxwell AFB – Gunter Annex of any business license applicant declaring the potential for electromagnetic frequency or radio frequency interference.

Sec. 12 Definitions - Military Compatibility Area

A-weighted Decibel (dBA). A unit of measurement for noise using a logarithmic scale and measured using the A-weighted sensory network on a noise-measuring device. An increase or decrease of 10 decibels corresponds to a tenfold increase or decrease in sound energy. A doubling or halving of sound energy corresponds to a 3 dBA increase or decrease.

Accident Potential Zone I (APZ I). APZ I is an area beginning at the end of each clear zone and continuing out to a length of 5,000 feet by 3,000 feet wide. This area has a lower potential for accidents and therefore has less restrictive development restrictions recommended.

Accident Potential Zone II (APZ II). APZ II is an area that begins at the end of each APZ I and extends an additional 7,000 feet in length by 3,000 feet wide. Again, the accident potential in this area reduces further, and with this, some additional development types are allowed.

Airport Operations Area. The Airport Operations Area (AOA) is an area that encompasses all the airfield's approach or departure airspace including the circling space.

Alternative Energy. The term alternative energy is applied broadly to energy derived from renewable sources (e.g., solar, hydroelectric, wind).

Approach-Departure Clearance Surface. This surface is symmetrical about the runway centerline extended, begins as an inclined plane (glide angle) 200 at the end of the primary surface of the centerline elevation of the runway end, and extends for 50,000 feet. The slope of the approach-departure clearance surface is 50:1 (50 horizontal feet for one vertical foot) along the extended runway (glide angle) centerline until it reaches an elevation of 500 feet above the established airfield elevation. It then continues horizontally at this elevation to a point 50,000 feet from the start of the glide angle. The width of this surface at the runway end is 2,000 feet; it flares uniformly, and the width at 50,000 feet is 16,000 feet.

Attenuation. Attenuation is a reduction in the level of sound resulting from an object's distance from the noise source or absorption by the surrounding topography, the atmosphere, barriers, construction techniques and materials, and other factors. Sound attenuation in buildings can be achieved through the use of special construction practices that reduce the amount of noise that penetrates the windows, doors, and walls of a building. Sound attenuation measures may be incorporated during initial construction for new buildings or as additional construction for existing buildings.

BASH Relevancy Area. The BASH Relevancy Area is a five (5) statute mile area from the AOA. This area has been determined by the FAA as an area where BASH incidences are likely to occur due to the types of flying operations that occur near the airfield. Such operations are typically at slower speeds and lower altitudes resulting in a greater chance for a BASH incident.

Bird / Wildlife Aircraft Strike Hazard (BASH). BASH refers to the likely occurrence for a collision between an airborne animal (usually a bird) or an animal on the ground on the runway and a man-made vehicle, particularly aircraft.

Clear Zone (CZ). The CZ begins at the end of each runway measuring 3,000 feet wide and extending outward to a length of 3,000 feet from the end of each runway. This area has the highest potential of an aircraft mishap. This area should be kept clear of all structures, including fences.

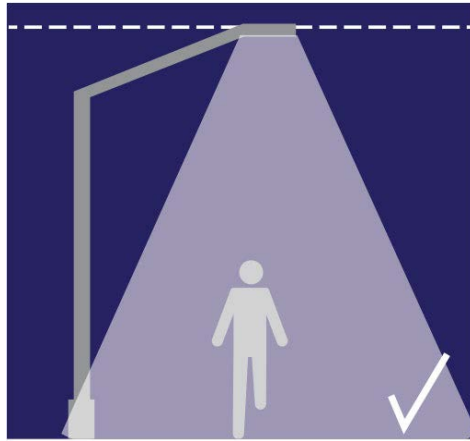
Conical Surface. This is an inclined surface extending outward and upward from the outer periphery of the inner horizontal surface for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation. The slope of the conical surface is 20:1 (20 horizontal feet for one vertical foot).

Day-Night Average Sound Level (LDN). LDN represents an average sound exposure over a 24-hour period. During the nighttime period (10:00 p.m. to 7:00 a.m.), averages are artificially increased by 10 dB. This weighting reflects the added intrusiveness and the greater disturbance potential of nighttime noise events attributable to the fact that community background noise typically decreases by 10 dB at night.

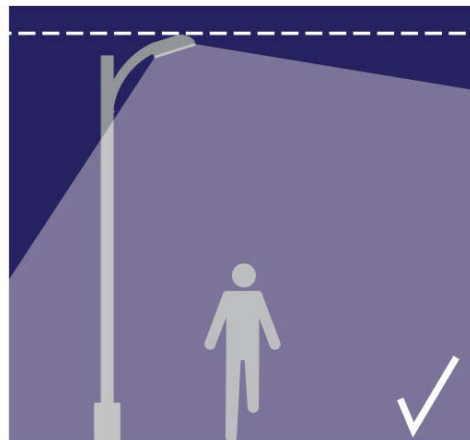
Decibel (dB). A decibel is the physical unit commonly used to describe noise levels. It is a unit for describing the amplitude of sound, as heard by the human ear.

Frequency Interference. Frequency interference refers to the inability to effectively distribute or receive a particular frequency because of similar frequency competition. As the use of the frequency spectrum increases (such as the rapid increase in cellular phone technology over the last decade) and as development expands near military installations and operational areas, the potential for frequency spectrum interference increases.

Full Cutoff. A lighting fixture that projects all of its light in a downward direction.

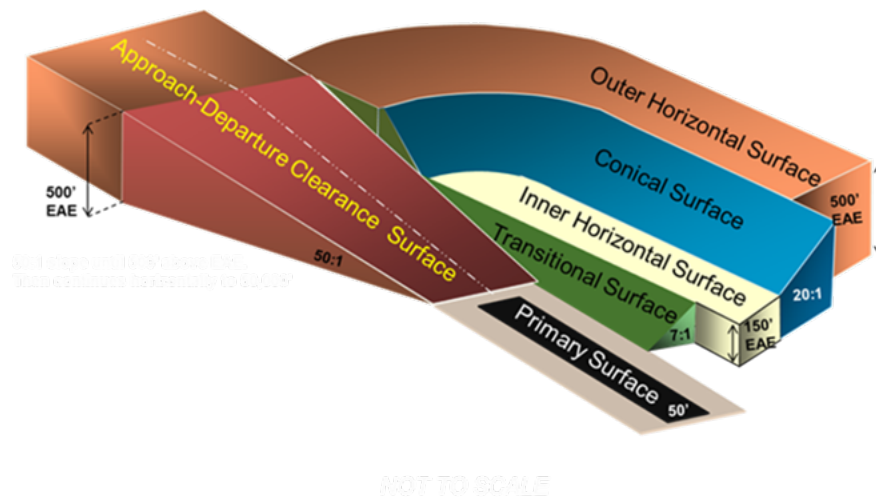


Fully Shielded. A light fixture that has a solid barrier (cap) at the top of the fixture in which the bulb is located so the lamp is not visible below the cap and no light is visible above the horizontal plane.



Glare. Light entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

Imaginary Surfaces. The term imaginary surface refers to the areas surrounding a heliport or airfield that must be kept clear of objects that might pose a safety threat to aviation activities. A man-made or natural object that projects above an imaginary surface is an obstruction. The graphic below illustrates a cross section of all the imaginary surfaces for a runway and the heights and ratios at which buildings and structures that penetrate above these thresholds can be vertical obstructions.



Inner Horizontal Surface. This surface is a plane, oval in shape at a height of 150 feet above the established airfield elevation. It is constructed by scribing an arc with a radius of 7,500 feet above the centerline at the end of the runway and interconnecting these arcs with tangents.

Military Compatibility Area Overlay District (MCOD). The MCOD delineates a geographic area where these regulations are established to implement compatibility standards and procedures. To better reflect the area of interest and focus implementation, the overall MCOD is divided into the following Military Compatibility Areas:

- Safety Military Compatibility Area
- BASH Military Compatibility Area
- Noise Military Compatibility Area
- Vertical Obstruction Military Compatibility Area
- Gunter Annex Military Compatibility Area

Noise. Defining noise from a technical perspective, sound is mechanical energy transmitted by pressure waves in a compressible medium such as air. More simply stated, sound is what we hear. As sounds reach unwanted levels, this is referred to as noise.

Noise Contour. Noise contours consist of noise impact lines constructed by connecting points of equal noise level measured in dB and identify areas on a map that fall within that particular dB noise contour.

Noise Sensitive Land Uses. Land Uses including any residential, medical, elderly care facilities, schools and religious institutions, or other uses which are substantially similar in character and located within the 65 dB noise contour of the Military Compatibility Area (MCA) as herein defined.

Non-conforming Building: A building or portion of which was lawful when established but does not conform to a subsequently established district or district regulations.

Non-conformity, Legal: A use of a building, structure, lot, or site that was legally established prior to the adoption or amendment of this Zoning Ordinance, but which would be prohibited, regulated, or restricted differently under the terms of this Zoning Ordinance or future amendments thereof.

Non-Residential. Any of the following:

- (1) A commercial establishment where goods and commodities or services are provided, displayed, exchanged, sold or bought;
- (2) An industrial establishment where goods and commodities are manufactured, stored, or assembled; or
- (3) A public building in which the possession and/or use, as well as the property inside the structure, gives members of the public free access or use and includes buildings in which the public may enter for a purpose, including where a fee is charged; or otherwise classified as occupiable space.

Part 77 or Part 77 Compliance. Federal Regulation Title 14 Part 77 establishes standards and notification requirements for objects affecting navigable airspace. Commonly referred to as Part 77 compliance, this regulation provides details to evaluate the potential for a vertical obstruction based on the elevation of the airfield, the height and resulting elevation of the new structure or facility, and the location of the structure or facility in relation to the airfield in question.

Primary Surface: This surface defines the limits of the obstruction clearance requirements in the immediate vicinity of the landing area. The primary surface comprises surfaces of the runway, runway shoulders, and lateral safety zones and extends 200 feet beyond the runway end.

Sound Transmission Class (STC) Rating. An integer rating of how well a building wall or building component attenuates airborne sound.

Substantial Improvement. A proposed building permit that modifies, alters, or expands an existing Noise Sensitive Land Use building by fifty percent (50%) or more the building footprint existing as of the effective date of this ordinance, including extension, enlargement, relocation, reconstruction, or substantial alteration of an existing Noise Sensitive Land Use within the 65 dB noise contour of the Noise MCA. The term Substantial Improvement includes increases in excess of fifty percent (50%) of the number of Habitable Units within the structure or structures, as defined by the 2010 U.S. Census.

Transitional Surfaces. These surfaces connect the primary surfaces, clear zones, and approach-departure clearance surfaces to the outer horizontal surface, conical surface, other horizontal surface, or other transitional surfaces. The slope of the transitional surface is 7:1 outward and upward at right angles to the runway centerline. To determine the elevation for the

beginning of the transitional surface slope at any point along the lateral boundary of the primary surface, including the CZ, draw a line from this point to the runway centerline. This line will be at right angles to the runway axis. The elevation at the runway centerline is the elevation for the beginning of the 7:1 slope.

ARTICLE VII. ~~X.~~ – DANNELLY FIELD AIRPORT HAZARD SUBAREA

Sec. 1. - Designated.

For the purpose of this ordinance the following area ~~or areas have~~ has been designated as an airport hazard areas:

- a. The area within two (2) miles of Dannelly Field, a municipally owned airport of the City of Montgomery; and as more particularly shown or described on the "Airport Zoning Map of the Dannelly Field Area of Montgomery." Said map and all explanatory matter thereon are hereby adopted and made a part of this ordinance.
- ~~b. The area extending within two miles of Maxwell Air Force Base, a United States owned airport, as more particularly shown or described on the map entitled, "Standards for Determining Obstructions to Air Navigation, Maxwell A. F. B., Montgomery, Alabama," said map and all explanatory matter thereon are hereby adopted and made a part of this ordinance. Sections 12 and 13, Township 16 North, Range 17 East, and Sections 7 and 18, Township 16 North, Range 18 East, are excluded from this ordinance as defined in the shaded areas shown on the map entitled "Standards for Determining Obstructions to Air Navigation, Maxwell A. F. B., Montgomery, Alabama."~~

Sec. 2. - Districts established.

For the purpose of this Ordinance the airport hazard areas ~~are~~ is hereby divided into the same number and types of districts and with the same designations or names as listed in Article VII of this ordinance, and boundaries of the said districts are hereby established as shown on the "Zoning Map of the City of Montgomery."

Sec. 3. - District regulations.

District regulations contained in Article VII of this Ordinance shall apply within an airport hazard area except only those regulations concerning uses and height are mandatory in any area outside the customary police jurisdiction of the city.

Sec. 4. - Additional regulations.

Within ~~an~~ the airport hazard area the following additional regulations shall apply:

- a. District height regulations shall apply to trees as well as to structures, except as hereinafter modified.
- b. Within an Agricultural 1 or 2 District, no structure or tree shall exceed 2½ stories or 35 feet in height except as hereinafter modified.
- c. Within an M-3 Industrial District, no structure or tree shall exceed three stories or 45 feet in height except as hereinafter modified.
- d. Height regulations concerning trees shall be enforced only when a failure to do so would allow an obstruction to air navigation to occur or exist.

- e. Height exceptions contained in Article I, Section 6 of this chapter shall not apply and exceptions to height regulations shall only be granted by the Board of Adjustment when said Board is satisfied that an exception will not create a hazard to air navigation; and the Board of Adjustment may impose reasonable conditions which it deems necessary to effectuate the purposes of this ordinance.
- f. ~~Maps entitled "Standards for Determining Obstructions to Air Navigations, Dannelly Field Area of Montgomery, Alabama and Maxwell Air Force Base,"~~ The Vertical Obstruction Assessment Tool Map shall serve as a guide or standard to the Board of Adjustment in its granting of exceptions to height limitations in ~~an~~ the airport hazard area. Said maps and all explanatory matter thereon are hereby adopted and made a part of this ordinance.

Sec. 5. - Administration and enforcement.

Within ~~an~~ the airport hazard area The Board of Adjustment (Article III), shall act as the "Administrative Agency" provided for in Sections 9 and 10 of Act No. 370 of the 1953 Session of the Alabama Legislature, and shall have all responsibilities and powers conferred by said section.

The provisions of this ordinance within ~~an~~ the airport hazard area shall be administered and enforced by the Administrative Official, and Article II of this ordinance shall apply in administering and enforcing the provisions herein.