

ARTICLE V. – Overlay Zoning Districts¹

Division 1. Establishment and Purpose.

Division 2. Chesapeake Bay Preservation Area Overlay (CBPA).

Division 3. Floodplain Management Overlay (FMOD).

Division 4. Highway Corridor Overlay (HCOD).

Division 5. Military Compatibility Area Overlay (MCAOD)^{2,3}.

Section 5-5-1. Additional Definitions⁴.

For purposes of this Division, the following terms shall have the meanings respectively ascribed to them, unless the context clearly requires otherwise.

- (A) *C-weighted decibel (dBC)*. The unit of measurement used for evaluating impulse noise and vibrations generated by heavy weapons such as artillery, mortars, and explosive charges. C-weighted decibels quantify sounds containing large amounts of low-frequency energy. Although people cannot hear low frequencies well, they may feel vibrations that low-frequency energy generates.
- (B) *C-Weighted Day-Night Average Levels (CDNL)*. The unit of measurement used for evaluating impulse noise and vibrations, averaged over a 24-hour period, with a 10-decibel weighting (penalty) applied to nighttime sound levels. The 10-decibel nighttime weighting accounts for the fact that noises at night sound louder because of the typically quieter environmental conditions at that time.
- (C) *Decibel (dB)*. The physical unit commonly used to describe noise levels.
- (D) *Day-Night Average Sound Level (DNL)*. The average sound level in decibels during a 24-hour period, with a 10-decibel weighting (penalty) applied to nighttime sound levels. The 10-decibel nighttime weighting accounts for the fact that noises at night sound louder because of the typically quieter environmental conditions at that time.

¹ Editor's Note: Divisions 1, 2, 3, and 4 have been included here to maintain section numbering. They are not part of the May 31 worksession review.

² Editor's Note: Military Compatibility Area Overlay District (MCAOD) is the overlay name recommended by the Joint Land Use Study.

³ Editor's Note: The Military Overlay is a collaborative effort with Dahlgren representatives and will be further discussed at the May 31 worksession. As a result of discussion, this draft will be edited.

⁴ Editor's Note: Some of the provided definitions are given for context and may not necessarily be used as terms in the text.

- (E) *Noise Sensitive Land Uses.* Uses that are not recommended to be within Noise Zones I and II by *Army Regulation 200-1, Chapter 14, Operational Noise*, such as housing, schools, and medical facilities.
- (F) *Noise Zone I.* The area in which DNL is lower than 62 dB CDNL for large caliber weapons.
- (G) *Noise Zone II.* The area where the noise is between 62 dB CDNL and 70 dB CDNL for large caliber weapons.
- (H) *Noise Zone III.* The area around the source of noise (NSF Dahlgren) in which the DNL is greater than 70 dB CDNL for large caliber weapons.
- (I) *Peak Sound Level.* The flat-weighted scale that can be used to measure noise from small arms (less than or equal to 20 mm) firing, heavy artillery, and explosives.

Section 5-5-2. Applicability.

- (A) The purpose of Military Compatibility Area Overlay District (MCAOD) is to⁵:
 - (1) Recognize the existence of Naval Support Facility Dahlgren (NSF) and address the interaction between NSF Dahlgren and surrounding land uses;
 - (2) Support NSF Dahlgren as a valuable economic development asset in the community;
 - (3) Protect public's health, safety, welfare, quality of life, and the economic stability of the County;
 - (4) Ensure that prospective buyers of real estate in the vicinity of NSF Dahlgren are aware of the presence of the facility, their operations, and the potential impacts that they may have;
 - (5) Protect the integrity of the operations and continued existence of NSF Dahlgren by establishing and delineating a geographic area which is subject to compatibility requirements caused by activities related to the normal operations of such facilities; and
 - (6) Promote an orderly transition between community and military land uses so that land uses remain compatible.
- (B) Nothing contained herein shall require any change or alteration in an already constructed or established building, structure, or use in existence at the time of the adoption or amendment of these regulations. These regulations are intended to regulate only the following:
 - (1) The erection, construction, use, or establishment of any new building;
 - (2) The moving, use, or relocation of any building or structure to a new site or new relocation; and
 - (3) The change from one use to another of any building, structure, or land, or the reestablishment of a use after its discontinuance for a period of two (2) years or more.

⁵ Editor's Note: Item (A) of Section 5-5-1 will be moved to Division 1 of this Article. It is temporarily placed here for review.

- (C) These provisions shall apply to all lands identified by the Board of Supervisors as the MCAOD, as shown on the Zoning Map.

Section 5-5-3. Subareas Establishment⁶.

Within the MCAOD, there are three (3) subareas, as shown on the Zoning Map.

(A) **Subarea 1⁷.**

- (1) **Description and Intent.** *Placeholder for description and intent of subarea⁸.*
- (2) **Control.** Sound attenuation is typically not required within this zone, as all types of land use are generally acceptable.

(B) **Subarea 2⁹.**

- (1) **Description and Intent.** *Placeholder for description and intent of subarea¹⁰.*
- (2) **Control.** This zone is considered to have moderate noise exposure and requires some land use noise control.

(C) **Subarea 3¹¹.**

- (1) **Description and Intent.** *Placeholder for description and intent of subarea¹².*
- (2) **Control.** This zone is considered an area of severe noise exposure and requires the greatest degree of land use noise control.

Section 5-5-4. General Requirements.

The following requirements apply to development in the Military Compatibility Area Overlay.

⁶ Editor’s Note: Subarea placeholders have been provided here; as a result of worksession discussion, the number of subareas may increase or decrease. Each of the subareas has a placeholder for subarea descriptions. These descriptions can be discussed during the worksession and will be edited accordingly.

⁷ Editor’s Note: Subarea 1 relates to the Noise MCA (the 120 dBP noise contour, plus a half-mile buffer, as presented in Figure 6 of the JLUS), as suggested by Thomas Hastings, NSF Dahlgren Community Planning & Liaison Officer.

⁸ Editor’s Note: To be discussed at the worksession and edited accordingly. The description should include the corresponding Noise Zone, noise level, noise contour, etc.

⁹ Editor’s Note: Subarea 2 relates to the Noise Zone II (the 62-70 dB CDNL noise contour, plus a buffer, as presented in Figure 2 of the JLUS), as suggested by Thomas Hastings, NSF Dahlgren Community Planning & Liaison Officer.

¹⁰ Editor’s Note: To be discussed at the worksession and edited accordingly. The description should include the corresponding Noise Zone, noise level, noise contour, etc.

¹¹ Editor’s Note: Subarea 3 relates to the Noise Zone III (the 70+ dB CDNL noise contour, plus a buffer, as presented in Figure 2 of the JLUS), as suggested by Thomas Hastings, NSF Dahlgren Community Planning & Liaison Officer.

¹² Editor’s Note: To be discussed at the worksession and edited accordingly. The description should include the corresponding Noise Zone, noise level, noise contour, etc.

(A) Uses¹³ which are permitted by-right and by Special Exception in the underlying districts shall be similarly permitted in each of the Subareas of the MCAOD (see Article VI, Use Matrix), with the exceptions provided in Table 5.1, below.

NOTE: The following chart, and the resulting control of land uses, are based on Department of Defense *Practical Guide to Compatible Civilian Development near Military Installations, 2005* (via the *NSF Dahlgren Joint Land Use Study*), as well as *Army Regulation 200-1, Environmental Protection and Enhancement, Chapter 14*. The Berkley Group recommends legal counsel review for potential conflicts with the Code of Virginia and relevant court findings.

Table 5.1 MCAOD Noise Sensitive Uses ¹⁴			
	Subarea 1	Subarea 2	Subarea 3
Residential Uses			
All Uses <i>(i.e., single-family or multi-family dwelling, townhouse, etc.)</i>	No restriction	Permitted with Performance Standards, see Section 5-5-6	Prohibited
Educational Uses			
Education Facility, Primary or Secondary	No restriction	Permitted with Performance Standards, see Section 5-5-6	Prohibited
Education Facility, College, University, Business, or Trade			
Day Care Center			
Medical Uses			
Hospital	No restriction	Permitted with Performance Standards, see Section 5-5-6	Prohibited
Nursing Home			
Office, Medical/Clinic			
Restricted Uses in All Subareas¹⁵			
Airport, Private	Special Exception required		
Airport, Public			
Communications Services			
Data Centers			

¹³ Editor’s Note: The provided uses in this section are based on the uses in the Draft Article VI, Use Matrix. Listing them specifically can provided greater clarity on how uses are permitted in the MCAOD. This section can be edited to be streamlined by only saying “housing, medical, and educational” uses. Further, this section will be edited based on changes to the Use Matrix, if applicable, as a result of the worksession review.

¹⁴ Editor’s Note: This matrix is based on the JLUS, via the *DoD Practical Guide to Compatible Civilian Development near Military Installations, 2005* and/or *Army Regulation 200–1, Chapter 14*, which suggest that medical, housing, and education uses be discouraged or prohibited in Noise Zones II and III (Subarea 2 and 3). See *Figure 5.12-2: Zoning In Range Noise Zones* of the JLUS for additional context.

¹⁵ Editor’s Note: This list, “Restricted Uses in All Subareas,” was compiled after reading the suggestions of the JLUS, and what uses may be incompatible (namely, frequency interference). This list can be edited based on worksession discussion and input from Dahlgren.

Equipment Sales, Rental, and Repair, (Heavy)
Manufacturing, Heavy
Resource Extraction
Telecommunications Facility
Transportation / Freight Services

(B) **Disclosures.**

- (1) **Property Buyer/Renter Disclosure¹⁶.** To make buyers and renters of any property within the MCAOD aware of its sensitive location, the owner, realtor, seller, broker, or agent of the property for sale is responsible for and must provide the buyer/renter with a disclosure statement stating the following:
 - (i) The residence, structure, or property offered for purchase or rent is located in the MCAOD;
 - (ii) The specific subarea that the residence, structure, or property is located;
 - (iii) The residence, structure, or property is near or next to a military facility and noise decibels, vibration levels, and potential frequency interference could be a concern as military operations are conducted at various times throughout the day;
 - (iv) The residence or structure on the property was built prior to enacting the MCAOD regulations and therefore, may not necessarily have been built to withstand high noise decibels, vibration levels, or frequency interference; and
 - (v) If in fact, the residence has been built to reduce noise levels indoors, state the noise level reduction (NLR) for which the building was designed.
- (2) Sales and purchases of property after [redacted] (effective date of revised ordinance), shall supply a copy of the disclosure, with signatures of the purchaser, in conjunction with any of the following, in accordance with Article 3, Permits and Applications, of this Ordinance:
 - (i) Zoning Text and Map Amendments (Rezoning);
 - (ii) Proffers for Zoning Map Amendments (Conditional Zoning);
 - (iii) Special Exception Permits; and
 - (iv) Site Plans.

(C) **Noise.**

¹⁶ Editor’s Note: The JLUS recommends that disclosures are provided to ensure that purchasers are aware, and to mitigate complaints after purchase. The JLUS also states that disclosures are only required for properties within Noise Zone or Accident Potential Zone for military air installations. The JLUS recommends the Virginia Residential Property Disclosure Act as a basis for a disclosure to be included in ordinances. The suggested text provided in this draft is loosely based on that Act, with additional statements related to noise levels.

(1) *Placeholder for noise requirements/limits*¹⁷.

(D) **Frequency.**

(1) *Placeholder for frequency requirements/limits*¹⁸.

(E) **Additional Standards**¹⁹. Where there is any conflict between the provisions or requirements of any of the MCAOD and those of any underlying district, the more restrictive provisions shall apply. In addition to the development standards specified in the Zoning Ordinance for underlying primary districts, the following additional standards shall apply in the MCAOD:

- (1) **Fencing.** All fences erected in MCAOD districts shall comply with the standards of Article VIII, Community Design Standards, of this Ordinance.
- (2) **Lighting.** All lighting installed in MCAOD districts shall comply with the standards of Article VIII, Community Design Standards, of this Ordinance.
- (3) **Signs.** All signs erected in MCAOD districts shall comply with the standards of Article VIII, Community Design Standards, of this Ordinance.
- (4) **Parking and Loading areas.** All parking and loading areas in MCAOD districts shall comply with the standards of Article VIII, Community Design Standards, of this Ordinance.
- (5) **Landscaping.** All landscaping in MCAOD districts shall comply with the standards of Article VIII, Community Design Standards, of this Ordinance.

Section 5-5-5. Subarea 1 Requirements.

(A) **Subarea Requirements.** *Placeholder for specification of subarea requirements, if any.*²⁰

Section 5-5-6. Subarea 2 Requirements.

(A) **Subarea Requirements.** *Placeholder for specification of subarea requirements, if any. (noise, frequency, etc.).*²¹

¹⁷ Editor's Note: General requirements for noise should be discussed with Dahlgren representatives at the worksession. Edits will be made accordingly.

¹⁸ Editor's Note: General requirements for frequency should be discussed with Dahlgren representatives at the worksession. Edits will be made accordingly.

¹⁹ Editor's Note: During the worksession, discussion should include what specific standards (extra fencing standards, extra lighting standards, etc.), if any, are desired for the MCAOD. These additional standards will be provided in Article VIII, and referenced here, as drafted.

²⁰ Editor's Note: Specific subarea requirements (lighting, noise, etc.) should be discussed with Dahlgren representatives at the worksession. These will be dependent on the number of subareas, where those subareas cover, and the intent of the subareas.

²¹ Editor's Note: Specific subarea requirements (lighting, noise, etc.) should be discussed with Dahlgren representatives at the worksession. These will be dependent on the number of subareas, where those subareas cover, and the intent of the subareas.

- (B) **Performance Standards**²². For all residential, educational, and medical uses within Subarea 2, the following performance standards apply:
- (1) Measures to achieve Noise Level Reduction (NLR) of [45 dB] shall be incorporated into the design and construction of portions of:
 - (i) Non-residential structures where the public is received;
 - (ii) Office areas; and
 - (iii) Noise sensitive areas; or
 - (iv) Where the normal noise level is low.
 - (2) Acoustical treatment shall be incorporated into all dwelling units to ensure that interior noise levels within living spaces (not including garages, sunrooms, or porches) do not exceed an average sound level of [45 db(A) Ldn]. Compliance with this standard shall be based on a certification from an acoustical engineer licensed in the Commonwealth of Virginia, submitted at the time of each building permit issuance, that the design and construction methods and materials to be used in the construction of the dwellings are such that the foregoing standard will be met, assuming exterior noise levels between [60-70 Ldn].

Section 5-5-7. Subarea 3 Requirements.

- (A) **Subarea Requirements.** Placeholder for specification of subarea requirements, if any. (noise, frequency, etc.).²³

Section 5-5-8. Administration.

- (A) **Site Plan Required.** Development within the MCAOD shall require approval of a Site Plan in accordance with Article III, permits and Applications, of this Ordinance.
- (B) **NSF Dahlgren Review.**
- (1) The following shall be sent to the NSF Dahlgren Community Planning & Liaison Officer²⁴ for review and comment:
 - (i) All development applications, excluding by-right²⁵, within the MCAOD.

²² Editor's Note: These standards are modeled on performance standards for development near an airport; this is provided as an example and should be reviewed and modified based on NSF Dahlgren's recommendations.

²³ Editor's Note: Specific subarea requirements (lighting, noise, etc.) should be discussed with Dahlgren representatives at the worksession. These will be dependent on the number of subareas, where those subareas cover, and the intent of the subareas. Note that most of this area currently falls within NSF Dahlgren boundaries based on the joint land use study; therefore, additional standards may not be necessary.

²⁴ Editor's Note: As a result of the May 31 Worksession, the designated reviewer from Dahlgren is the Community Planning & Liaison Officer, as requested by King George County staff.

²⁵ Editor's Note: As a result of the May 31 Worksession, Dahlgren will not review by-right development applications within the MCAOD.

- (ii) Any proposed changes to the Comprehensive Plan, Plan amendments, Zoning Map amendments, and proposed land development regulation which would affect the intensity, density, or use of the land within the MCAOD.
- (2) The NSF Dahlgren Community Planning & Liaison Officer’s review may include but not be limited to consideration of the following²⁶:
 - (i) The development’s Radio Frequency Interference (RFI) and Electromagnetic Interference (EMI), impacting critical operations;
 - (ii) The development’s overall light glare and impact on Dark Skies. Light sources from commercial, industrial, recreational, and residential uses at night can cause excessive glare and illumination impacting the use of military night vision devices and air operations; and
 - (iii) The development’s susceptibility and sensitivity to noise as a result of base operations.
- (3) King George County shall notify NSF Dahlgren of any of the abovementioned items submitted for review and action before the Planning Commission or Board of Zoning Appeals within²⁷ 30 days of receipt of the application, in accordance with the Code of Virginia 15.2-2204 (D).
- (4) Within 30 days²⁸ of receiving the application/development proposal, the NSF Dahlgren Community Planning & Liaison Officer may provide comments to King George County on the impact the proposed development may have on the mission of NSF Dahlgren and its tenants.
- (5) The NSF Dahlgren Community Planning & Liaison Officer’s comments, underlying studies, and reports shall not be binding to King George County. The County may take into consideration any comments provided by NSF Dahlgren.

²⁶ Editor’s Note: This list of considerations should be reviewed and edited with input from Dahlgren representatives.

²⁷ Editor’s Note: *As a result of the May 31 Worksession and King George County staff direction, this timeframe has changed from 30 days prior to the public hearing to within 30 days of receipt of the application.*

²⁸ Editor’s Note: This timeframe came from the Comprehensive Plan. This may not provide King George County (staff, PC, and/or BOS) with enough time prior to the public hearing for review and decision making.