

**Draft**

**Marina Municipal Airport  
Comprehensive Land Use Plan**

**April 2006**

**WADELL ENGINEERING CORPORATION**



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**AIRPORT PLANNING □ ENGINEERING □ MANAGEMENT CONSULTANTS**



**Draft**

**Marina Municipal Airport  
Comprehensive Land Use Plan**

**Revisions Incorporating Safety Areas from the  
California Airport Land Use Planning Handbook  
(January 2002)  
With  
Updated AMBAG Forecasts  
And Updated Noise Modeling  
Using the FAA INM 6.1**

**April 2006**

**Prepared for the:  
City of Marina**

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**(Revised Sections Shown in Italics)**

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## **CHAPTER ONE-INTRODUCTION**

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### **PURPOSE AND AUTHORIZATION**

The California State Aeronautics Act (Public Utility Code section 21670 et seq.) provides for the creation of local Airport Land Use Commissions (ALUCs) and conveys on ALUCs the responsibility for preparing Comprehensive Land Use Plans (CLUPs) for all public use airports within their jurisdiction. The purpose of a Comprehensive Land Use Plan is to provide for the orderly development of new land uses surrounding public use airports while at the same time protecting the health, safety, and welfare of persons who live and work around the airport.

Toward that goal this plan adopts a comprehensive set of policies designed to ensure that proposed development surrounding the Marina Municipal Airport will be compatible with the noise, safety, and overflight impacts created by the operation of the airport. In addition, by adopting policies with regard to flight hazards, the plan ensures that such development will not cause a hazard to aircraft in flight.

California Public Utilities Code (Section 21670et seq.) sets forth the requirements for the establishment of Airport Land Use Commissions and provides the following statement of purpose for their creation:

*"It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems. "*

*"It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses. "*

In order to achieve the above stated purpose, the law requires each ALUC to prepare a comprehensive land use plan for each public use airport within its jurisdiction as follows:

*"Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general." (PUC Section 21675).*

## **Monterey County Airport Land Use Commission**

The Monterey County ALUC is made up of seven members. Two members are appointed by the Board of Supervisors, two members by the mayors' selection committee, two members selected by the managers of the public airports in the county, and one member of the general public selected by the other six commissioners. Each commissioner is required to appoint a proxy to provide for alternate representation. Although the County provides administrative and staff support to the ALUC, the Commission is its own entity; decisions made by the Commission are not appealable although they may be overruled by a two-thirds vote of the affected jurisdiction, which is the Marina City Council or the Monterey County Board of Supervisors, as applicable. In addition to preparing CLUPs, the ALUC is responsible for reviewing general plan amendments and rezonings within airport planning areas, as well amendments to airport master plans. By agreement with the local jurisdiction, the ALUC may also review other land use actions related to aviation impacts and/or safety.

### **PLAN ORGANIZATION**

This CLUP is organized into four chapters. Chapter One provides the purpose and goals of the plan as well as a description of the enabling legislation and the organization of the plan. Chapter Two uses data from the 1993 Marina Airport Master Plan to describe the airport infrastructure, proposed improvements, and proposed flight activity through the year 2025 (updated by AMBAG 2005). By state law the policies in a comprehensive land use plan must be based on the airport master plan. Chapter Two also provides a short history of the Marina Municipal Airport. Chapter Three explains each of the airport compatibility issues addressed by this plan (noise, safety, flight hazards, and overflight impacts), and addresses the specific compatibility issues that exist at the Marina Airport. Chapter Four contains the Plan policies that, once implemented, will ensure that new development will be compatible with airport operations. This plan also contains an appendix containing a copy of Federal Aviation Regulations (FAR) part 77 height restrictions, a procedure for calculating persons per acre density, and a list of sources used in preparing the plan.

### **PLAN ADOPTION PROCESS**

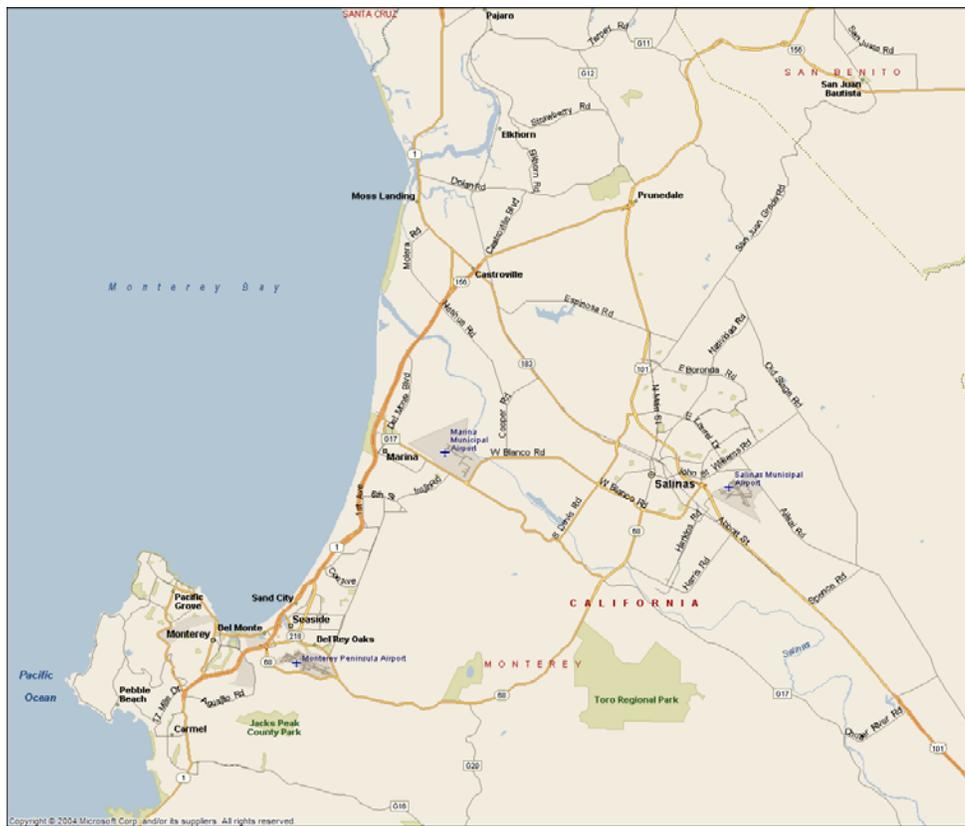
The Monterey County Airport Land Use Commission developed the first plan through a series of public meetings held in late 1995 and early 1996. The Commission adopted the plan on November 18, 1996. After plan adoption, the commission must review the General Plans of both the City of Marina and the County of Monterey to determine the consistency of those Plans with the newly adopted CLUP. If a General Plan is found to be inconsistent with the adopted CLUP, the County and/or City then have 180 days to either amend their General Plan or overrule the ALUC's adoption of the CLUP by a two thirds vote of the City Council and/or Board of Supervisors. The overrule must be accompanied by findings based on substantial evidence that the City Council or Board of Supervisors action is consistent with the purpose of the State Aeronautics Act (PUC section 21676). This 2006 update prepared by Wadell Engineering Corporation as airport consultants under contract with the City of Marina follows the same general procedures.

## CHAPTER TWO – MARINA MUNICIPAL AIRPORT

### LOCATION AND SETTING

The Marina Municipal Airport is an 845.5-acre site located within the City of Marina approximately two miles from the shore of Monterey Bay and approximately 10 miles north of the City of Monterey. See Figure 2-1. Development on the site consists of one 3,000 foot runway and several aviation related structures. The topography of the site ranges from flat to steep bluffs sloping down toward the Salinas River. The dominant vegetation type is annual grassland. The property contains several species of plant and animal life identified as threatened, rare, or endangered. In order to protect these biological resources, approximately 167 acres has been set aside as a habitat protection area.

**Figure 2-1  
Location Map**



### HISTORY

The airport is on the site of the previous Fritschze Army Air Field, which served as the airport for Fort Ord, the former U.S. Army base which was substantially downsized in 1994 as a result of post-Cold War defense cutbacks. The airfield had been used by the Army since the 1950's, primarily for helicopter training although it was also used by the U.S. Air Force and the U.S. Navy for approach training<sup>1</sup>.

:

<sup>1</sup> Association of Monterey Bay Area Governments, Regional Airport System Plan; August 1995; p.2

The conversion of the airfield to civilian use is one of the key elements of the Initial Fort. Ord Base Reuse Plan, approved in April, 1993 by Monterey County and local cities working together as the Fort Ord Reuse Group. In August, 1995 the 845.5 acre site was officially conveyed by the Army to the City of Marina for use as a municipal airfield.

### EXISTING LAND USE

The "Airport Land Use Plan" (Figure 2-2, contained in the Master Plan for the Airport<sup>2</sup>, shows the airport property to consist of 845.5 acres. The proposed use of the property is as follows

|                                  |                    |
|----------------------------------|--------------------|
| Aviation                         | 401.8 Acres        |
| Non-Aviation (Revenue Producing) | 265.0 Acres        |
| Habitat Protection               | 167.1 Acres        |
| FAA Lease                        | 3.5 Acres          |
| Highway Easement                 | 8.1 Acres          |
| <b>Total</b>                     | <b>845.5 Acres</b> |

Figure 2-3 shows the existing uses of the land surrounding the airport property. With the exception of the existing improvements on the airport property itself, the site is completely surrounded by open space and/or agricultural uses. Approximately 3,500 feet south of the runway is Reservation Road, a major traffic artery for the City of Marina. The portion of Reservation Road within the Marina City limits is zoned commercial and there are several existing commercial uses along the road. South of Reservation Road are residential areas in the City of Marina. Approximately two miles to the north of the end of the existing runway is the Marina landfill which provides solid waste disposal services for the Monterey Peninsula.

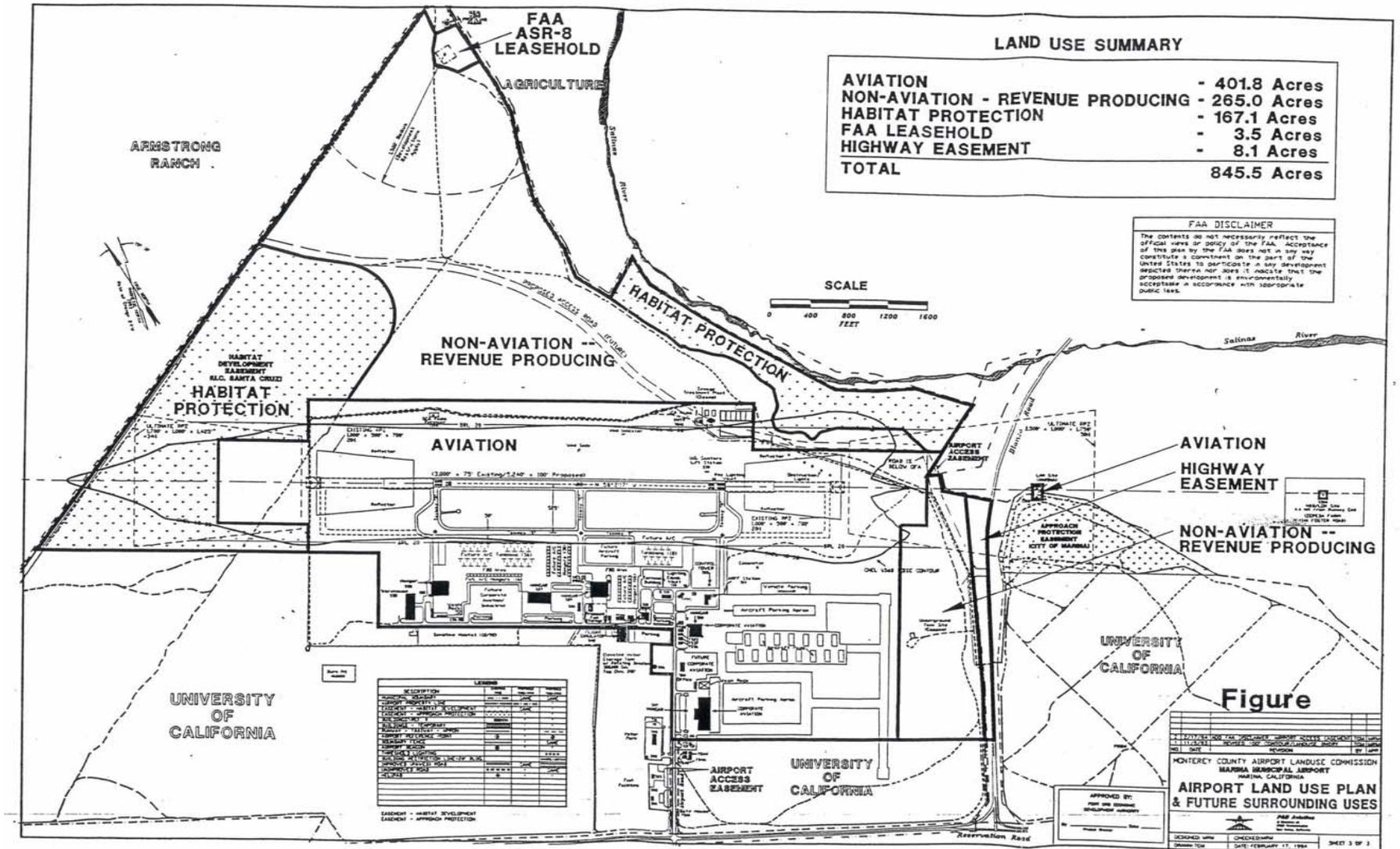
### PROPOSED SURROUNDING LAND USES

There are three locations surrounding the airport that could see large scale development within the next 15 years:

1. The master plan designates a 265 acre area of the airport property to the north and east of the runway as "Non-aviation Revenue Producing". Anticipated uses in this area include commercial, industrial, and resort/recreation developments as well as corporate aviation uses. Most of this area is located in the Traffic Pattern Zone (TPZ).
2. The Armstrong Ranch is a 2,000 acre property located northwest of the airport, portions of which are directly under the departure/approach path or runway 29/11. Approximately 322 acres of the Armstrong Ranch are within Marina's city limits. However, the majority of the property is currently unincorporated and is in agricultural production or is used as grazing

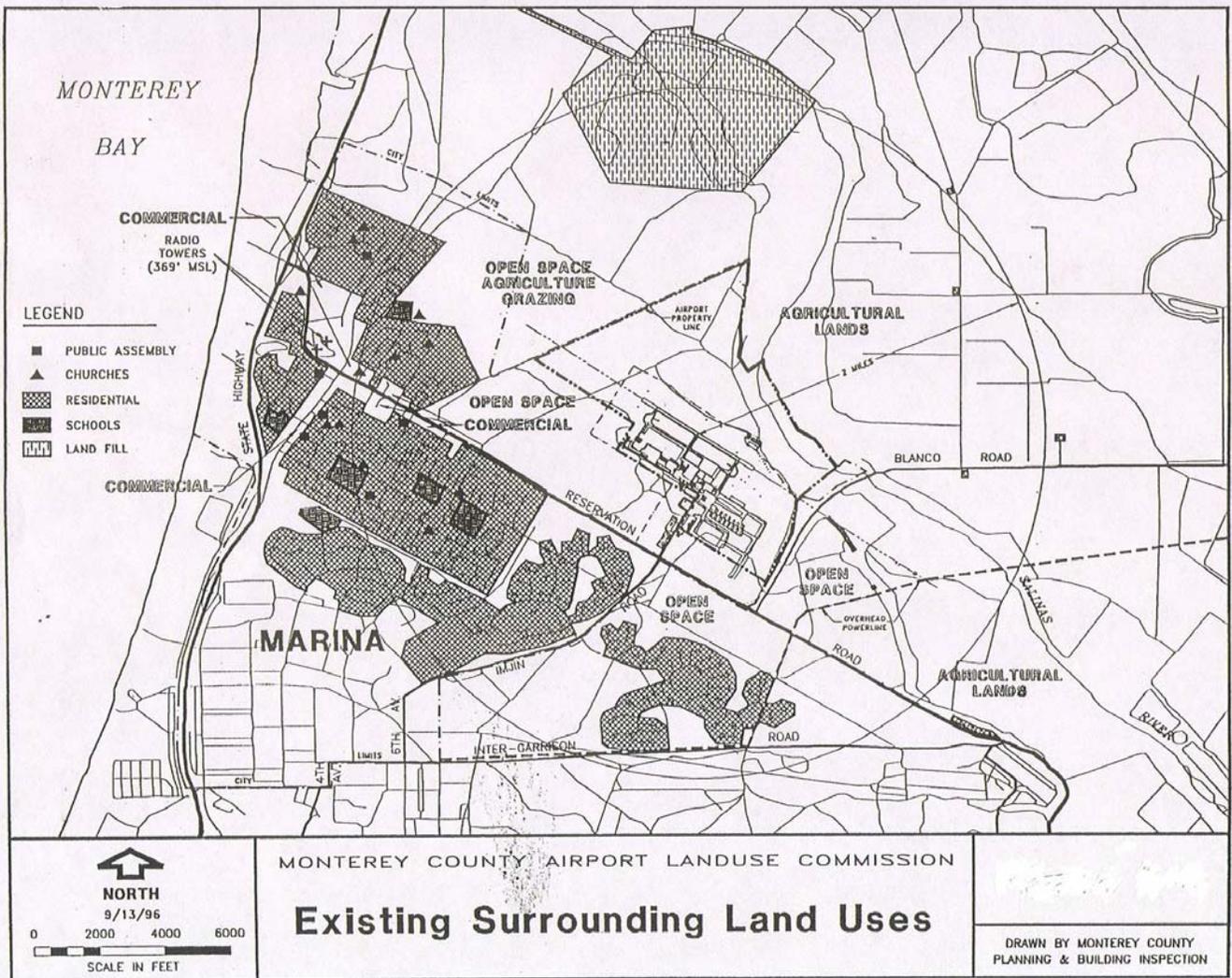
<sup>2</sup> Phase II: General Aviation Feasibility Airport Master Plan Study for Fritzsche Field, Marina, CA; November 8, 1993; prepared for Fort Ord Economic Development Authority by P & D Aviation

Figure 2-2  
Airport Land Use Plan



Source: Marina Municipal Airport Comprehensive Land Use Plan Adopted November 18, 1996

**Figure 2-3  
Surrounding Land Use**



Source: Marina: Municipal Airport Comprehensive Land Use Plan Adopted November 18, 1996

Land although it is within Marina's Sphere of Influence. The Monterey County General Plan designates the property as Permanent Grazing, 40 acres/unit with an Urban Reserve Overlay. The Marina General Plan calls for the area to be developed as a residential subdivision with associated commercial uses.

3. As part of the Fort Ord Base conversion process, the University of California has accepted land adjacent to the airport to develop a Technology Center. The property is located in the vicinity of the Blanco Road/Reservation Road intersection and is "envisioned to be a multi-institutional center for science, technology, education, and policy to be built on a total of

approximately 970 acre<sup>3</sup>". The northern portion of this site lies in the Runway Protection and Approach Protection Zones. The Master Plan Study prepared for the project proposes Outdoor Recreation/Playfields for this area.<sup>4</sup>

## **AIRPORT INFRASTRUCTURE**

The 1993 Airport Master Plan proposes a three stage capital improvement program for the airport.

**Stage One** (1995-1999) consists of the basic improvements that are necessary to operate the airfield in a safe and efficient manner. These include security lighting and fencing, approach slope indicators, and the replacement of fuel storage and distribution facilities.

**Stage Two** (2000-2004) proposes an expansion of the existing runway from 3,000' X 75' to 5,240' X 100', associated taxiway and lighting improvements, the installation of an instrument landing system using either conventional or satellite based (GPS) technology, and expanded renovation of existing structures and utilities.

**Stage Three** (2005-2009) proposes construction of an access road to the north side of the airport and development of utilities and drainage systems in that area. These developments would serve the "non-aviation revenue producing" uses proposed for that area.

Figure 2-4 contains the "Airport Layout Plan" which shows both the existing and the ultimate airport configuration. The policies in this plan are based on the implementation of the proposed airport improvements through stage three.

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<sup>3</sup> Draft Environmental Assessment/Environmental Impact Report: City of Marina, California, Airport Plans Permits, U.C. Technology Center, Airport Area General Plan and Zoning Amendments and Redevelopment Plan;

<sup>4</sup> Sedway Cooke Associates, Master Plan Study for the University of California Monterey Bay Education, Science and Technology Center, March 1995



## AIRCRAFT OPERATIONS

The Master Plan foresees 39,000 aircraft operations<sup>5</sup> during the opening year of 1995, climbing to 61,000 in the year 2010. This compares to annual military operations (primarily helicopters) of 156,000 to 219,000 in the years just prior to the closing of Fritchze Field. It is expected that the phase two capital improvements planned for the years 2000-2004 (runway expansion and instrument landing system) will not only increase the number of aircraft operation but also change the mix of aircraft using the field. Table 2-2 shows the forecasted number of aircraft operation broken down by aircraft type. It should be noted that the AMBAG Regional Airport System Plan (2005), forecasts a lower number of aircraft operations than the airport master plan. Table 2-2 includes the AMBAG forecast. Section 21675 (a) of the California Public Utility Code requires Comprehensive Land Use Plans to be based on airport master plans, yet this CLUP uses the more recent 2005 AMBAG forecasts when formulating compatibility policies.

## FLIGHT TRACKS

In addition to showing projected CNEL noise contours, Figure 4-2 shows the expected flight tracks for aircraft using the airport. Because of prevailing winds, runway 29 will be the active runway for the great majority of operations. The traffic pattern for both runways is located north of the airport which should limit noise and safety impacts south of the airport where the more developed areas of Fort Ord and the City of Marina are located. A 45 degree departure track from-runway 29 is called for in the airport Master Plan in order to limit noise impacts to developed areas of Marina. The 45 degree track does overfly portions of the Armstrong Ranch area. Noise modeling assumptions (developed in March 2006 in consultation with the Airport Manager) include 90% flow to the west, nil operations between 10 PM and 7AM, all turbine powered aircraft and 20% of piston aircraft fly straight in and out arrivals and departures.

| <b>Table 2-1<br/>MARINA AIRPORT SPECIFICATIONS</b> |                       |   |
|--|-----------------------|---|
|  | <b>1995</b>           | <b>Future</b>   |
| Runway Length                                      | 3,000'                | 5,240'  |
| Runway Width                                       | 75'                   | 100'  |
| Flight Pattern <sup>1</sup>                        | North Side of Airport | North Side of Airport   |
| Runway Approach Type <sup>2</sup>                  | Visual                | Rwy. 29: Precision Instrument<br>Rwy. 11: Non-Prec Instrument |
| Airport Reference Code (ARC) <sup>3</sup>          | B-I                   | B-II  |

*Source: Airport Master Plan Study for Fritchze Field (11/8/93)*

Notes:

<sup>5</sup> An aircraft operation is one take-off or landing.

1. Instrument arrivals and departures are straight-in and straight-out from runways.
2. Nonprecision instrument runway means a runway having an instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation for which a straight-in non precision instrument approach has been planned or approved. Precision instrument runway means a runway having an instrument approach procedure with both horizontal and vertical guidance for a runway where a precision instrument approach has been planned or approved.
3. Airport Reference Code B-1 designates a runway designed to accommodate aircraft with approach speeds between 91 and 121 knots and a wingspan of less than 49 feet. Airport Reference Code B-II designates a runway designed to accommodate aircraft with approach speeds between 91 and 121 knots and a wingspan between 49 and 79 feet. The Master Plan indicates that the airport will serve aircraft less than 12,500 pounds gross take-off weight.

**Table 2-2**  
**General Aviation Operations Forecast at Marina Municipal Airport**

| <b>Marina Municipal Airport Master Plan:<br/>General Aviation Forecast (Annual Operations)</b> |               |               |               |               |
|--|---------------|---------------|---------------|---------------|
|  | 1995          | 2000          | 2005          | 2010          |
| SE Propeller   | 29,200        | 33,000        | 34,000        | 35,000        |
| ME Propeller   | 7,800         | 11,000        | 14,000        | 17,000        |
| Turbo Prop   | 1,000         | 1,500         | 2,500         | 3,600         |
| Turbo Jet  | 0             | 0             | 2,000         | 2,400         |
| Helicopter   | 1,000         | 2,000         | 2,500         | 3,000         |
| <b>TOTAL</b>   | <b>39,000</b> | <b>47,500</b> | <b>55,000</b> | <b>61,000</b> |

Source: Marina Municipal Airport Master Plan, 1993

| <b>AMBAG Regional Airport System Plan (2005)<br/>General Aviation Forecast for Marina Airport</b> |               |               |               |               |               |
|---|---------------|---------------|---------------|---------------|---------------|
|   | 2005          | 2010          | 2015          | 2020          | 2025          |
| Based Aircraft  | 74            | 90            | 90            | 98            | 108           |
| Air Taxi  | 100           | 200           | 300           | 400           | 500           |
| Local   | 12,700        | 13,900        | 15,500        | 16,930        | 19,130        |
| Itinerant   | 19,000        | 22,800        | 26,500        | 30,200        | 35,450        |
| <b>TOTAL</b>  | <b>31,800</b> | <b>36,900</b> | <b>42,300</b> | <b>47,530</b> | <b>55,080</b> |

Source: AMBAG Regional Forecasts, 2005

Note: Numbers represent forecast take-offs and landings

## **Chapter Three - Compatibility Issues**

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There are four types of compatibility issues associated with land uses around airports, as follows:

### **Noise**

Noise often is the most common complaint regarding airports. Its impact can range from slight annoyance to severe interference with everyday activities.

### **Safety**

The risk of an aircraft accident is greater in the vicinity of an airport than in other areas. Because of this risk, it is important that land uses surrounding an airport be restricted to ensure that risks are limited for both humans and structures.

### **Flight Hazards**

Flight hazards consist of land uses that have the potential to interfere with aircraft in flight.

### **Overflight Impacts**

Overflight impacts are noise and safety impacts occurring outside precisely defined noise and safety zones. Some people are unaffected by overflight impacts while others may find that the impacts cause extreme annoyance or even fear. Because of the varying effect on different people, overflight impacts are difficult to measure.

This chapter examines each of these impacts in detail and describes the specific comparability issues that exist at the Marina Municipal Airport.

## **1. NOISE**

Aircraft noise often is the most pervasive and noticeable impact of airport activity because of its constant nature. As long as an airport is in operation, there will be noise impacts. Airport noise impacts are measured using the Community Noise Equivalent Level (CNEL) method. This method calculates the average noise generated by aircraft over a 24 hour period, giving extra weighting to noise occurring during the evening and night hours. CNEL levels are based on existing and/or forecast aircraft operations and are usually depicted in the form of contours around the subject airport.

Noise impacts on humans vary widely, however several studies have been conducted which identify generally accepted noise compatibility levels for humans. Table 3-1 indicates the effects of noise on people and Table 4-1 contains guidelines indicating which types of uses are considered acceptable at each CNEL noise level. Almost all compatibility standards set CNEL 65dB as the maximum level for residential areas. The California Airport Land Use Planning handbook recommends a limit of CNEL 55dB for rural areas, 60dB for suburban areas, and 65dB for urban areas. The Marina General Plan sets a limit of CNEL 60dB for single-family residential uses within the City and 65 dB for multi-family uses.

**Table 3-1  
Summary of Effects of Noise on People  
Residential Land Uses**

**Effects<sup>1</sup>**

| Day-Night Average Sound Level (Decibels) | Hearing Loss (Qualitative Description) | Annoyance <sup>2</sup> (Percentage of Population Highly Annoyed) <sup>3</sup> | Average Community Reaction <sup>4</sup> | General Community Altitude Towards Area  |
|--|--|---|---|--|
| 75 and above                             | May begin to occur                     | 37%   | Very severe                             | Noise is likely to be the most important of all adverse aspects of the community environment |
| 70                                       | Will not likely occur                  | 22%   | Severe                                  | Noise is one of the most important adverse aspects of the community environment.             |
| 65                                       | Will not occur                         | 12%   | Significant                             | Noise is one of the most important adverse aspects of the community environment.             |
| 60                                       | Will not occur                         | 7%  | Moderate to Slight                      | Noise may be considered an adverse aspect of the community environment                       |
| 55                                       | Will not occur                         | 3%  |   | Noise considered no more important than various other environmental factors.                 |

1. All data is drawn from National Academy of Science 1977 report Guidelines for Preparing Environmental Impact Statements on Noise Report of Working Group 69 on Evaluation of Environmental Impact of Noise.

2. A summary measure of the general adverse reaction of people to living in noise environments that cause speech interference; sleep disturbance; desire for tranquil environment; and the inability to use the telephone, radio, or television satisfactorily.

3. The percentage of people reporting annoyance to lesser extents is higher in each case. An unknown small percentage of people will report being "highly annoyed" even in the quietest surroundings. One reason is the difficulty all people have in integrating annoyance over a very long time. USAF Update with 400 points (Finegold et al. 1992)

4. Altitudes or other non-acoustic factors can modify this. Noise at low levels can still be an important problem, particularly when it intrudes into a quiet environment.

NOTE: Research implicates noise as a factor producing stress-related health effect such as heart disease, high blood pressure and stroke, ulcers and other digestive disorders. The relationships between noise and these effects, however, have not as yet been conclusively demonstrated. (Thompson 1981; Thompson et al. 1989; CHABA 1981; CHABA 1982; Hattis et al. 1980; and U.S. EPA 1981)

Source: Federal Interagency Committee on Noise (1992)

## **Noise Impacts at the Marina Municipal Airport**

Figure 4-2 shows the projected CNEL noise contours for the Marina Airport for the year 2025. This figure indicates that the areas with the greatest noise impact (CNEL 60 and 65dB +) are located entirely on the airport property within the runway environment and that a small portion of the less significant CNEL 55dB contour extends off the airport property to the west. There are no noise impacts outside the airport boundary. The land to the east is particularly compatible since that area is expected to remain in agricultural use for the foreseeable future. The land to the west of the airport, including portions of the Armstrong Ranch property are located mostly outside of the 55 contour, except for the small portion to the west that is between the 55dB and 65dB CNEL contours. Land to the west, although currently used as grazing land, the Marina General Plan designates the ranch area as being developed for residential and neighborhood commercial use. Portions of the Armstrong Ranch near the airport is currently designated single-family residential by the Marina general Plan. Policy 2.1.2 in the next chapter sets a standard for single-family residential development around the Marina Airport at CNEL 60dB for multi-family development.

*(Note: The following revisions update the 1993 plan to this 2006 plan by incorporating the January 2002 Safety Areas from the California Airport Land Use Planning Handbook.)*

### **2. SAFETY**

Ensuring the safety of persons and/or structures on the ground is a critical component of all comprehensive land use plans. While certainly not as obvious as noise impacts, the safety compatibility issues of an airport are no less important. To enhance safety, land surrounding an airport is classified into different zones, each relating to potential different levels of risk. Land Use policies addressing that potential risk are then developed for each zone.

The establishment of safety compatibility zones surrounding an airport is based primarily on the type (length) of runway and the location of flight tracks. The California Airport Planning Handbook contains the results of a national study that shows which areas in the vicinity of airports have in the past had the greatest concentrations of aircraft accidents. These studies have been used in establishing revised safety compatibility policies and zones.

The California Airport Land Use Planning Handbook (January 2002) establishes six safety compatibility zones for General Aviation airports. Locations and dimensions for these zones are given for short (less than 4,000 feet), medium (4,000-5,999 feet), and large (over 6,000 feet) runways. The plan for a medium length single-sided traffic pattern, which corresponds to the plan for Marina Municipal Airport, is illustrated below. The safety zones illustrated below are applicable to the western end of the airport runway. Because the eastern end of the runway has a precision approach, the safety zones are longer and extend to 10,000 feet beyond the runway end.

The zones, indicated by number in the plan, are listed below, together with an indication of risk factors and basic land use compatibility qualities. They are taken from Table 9B Basic Safety Compatibility Qualities, in the California Airport Land Use Planning Handbook (January 2002).

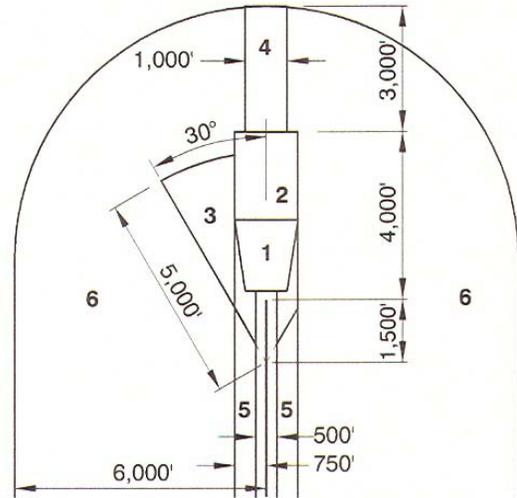
**General Aviation Runway with  
Single-Sided Traffic Pattern**

**Assumptions:**

- No traffic pattern on right
- Length 4,000 to 5,999 feet
- Approach visibility minimums  $\geq 3/4$  mile and  $<$  mile
- Zone 1 = 1,000' x 1,510' x 1,700'

**Zones:**

1. Runway Protection Zone
2. Inner Approach/Departure Zone
3. Inner Turning Zone
4. Outer Approach/Departure Zone
5. Sideline Zone
6. Traffic Pattern Zone



Source: California Airport Land Use Planning Handbook (Page 9-39) January 2002.

**Table 3-2  
Basic Safety Zone Compatibility Qualities**

|   |  |
|---|--|
| <b>Zone 1: Runway Protection Zone</b>   |  |
| <i>Risk Factors / Runway Proximity</i>  | <i>Basic Compatibility Qualities</i>   |
| <ul style="list-style-type: none"> <li>➤ Very high risk</li> <li>➤ Runway protection zone as defined by FAA criteria</li> <li>➤ For military airports, clear zones as defined by AICUZ criteria</li> </ul>  | <ul style="list-style-type: none"> <li>➤ Airport ownership of property encouraged</li> <li>➤ Prohibit all new structures</li> <li>➤ Prohibit residential land uses</li> <li>➤ Avoid nonresidential uses except if very low intensity in character and confined to the sides and outer end of the area</li> </ul>   |
| <hr/>   |  |
| <b>Zone 2: Inner Approach/Departure Zone</b>  |  |
| <i>Risk Factors / Runway Proximity</i>  | <i>Basic Compatibility Qualities</i>   |
| <ul style="list-style-type: none"> <li>➤ Substantial risk: RPZs together with inner safety zones encompass 30% to 50% of near-airport aircraft accident sites (air carrier and general aviation)</li> <li>➤ Zone extends beyond and, if RPZ is narrow, along sides of RPZ</li> <li>➤ Encompasses areas overflown at low altitudes — typically only 200 to 400 feet above runway elevation</li> </ul>  | <ul style="list-style-type: none"> <li>➤ Prohibit residential uses except on large, agricultural parcels</li> <li>➤ Limit nonresidential uses to activities which attract few people (uses such as shopping centers, most eating establishments, theaters, meeting halls, multi-story office buildings, and labor-intensive manufacturing plants unacceptable)</li> <li>➤ Prohibit children's schools, day care centers, hospitals, nursing homes</li> <li>➤ Prohibit hazardous uses (e.g. aboveground bulk fuel storage)</li> </ul>                                 |
| <hr/>   |  |
| <b>Zone 3: Inner Turning Zone</b>   |  |
| <i>Risk Factors / Runway Proximity</i>  | <i>Basic Compatibility Qualities</i>   |
| <ul style="list-style-type: none"> <li>➤ Zone primarily applicable to general aviation airports</li> <li>➤ Encompasses locations where aircraft are typically turning from the base to final approach legs of the standard traffic pattern and are descending from traffic pattern altitude</li> <li>➤ Zone also includes the area where departing aircraft normally complete the transition from takeoff power and flap settings to a climb mode and have begun to turn to their en route heading</li> </ul> | <ul style="list-style-type: none"> <li>➤ Limit residential uses to very low densities (if not deemed unacceptable because of noise)</li> <li>➤ Avoid nonresidential uses having moderate or higher usage intensities (e.g., major shopping centers, fast food restaurants, theaters, meeting halls, buildings with more than three aboveground habitable floors are generally unacceptable)</li> <li>➤ Prohibit children's schools, large day care centers, hospitals, nursing homes</li> <li>➤ Avoid hazardous uses (e.g. aboveground bulk fuel storage)</li> </ul> |

*Continued Next Page*

#### **Zone 4: Outer Approach/Departure Zone**

##### *Risk Factors / Runway Proximity*

- Situated along extended runway centerline beyond Zone 3
- Approaching aircraft usually at less than traffic pattern altitude
- Particularly applicable for busy general aviation runways (because of elongated traffic pattern), runways with straight-in instrument approach procedures, and other runways where straight-in or straight-out flight paths are common
- Zone can be reduced in size or eliminated for runways with very-low activity levels

##### *Basic Compatibility Qualities*

- In undeveloped areas, limit residential uses to very low densities (if not deemed unacceptable because of noise); if alternative uses are impractical, allow higher densities as infill in urban areas
- Limit nonresidential uses as in Zone 3
- Prohibit children's schools, large day care centers, hospitals, nursing homes

#### **Zone 5: Sideline Zone**

##### *Risk Factors / Runway Proximity*

- Encompasses close-in area lateral to runways
- Area not normally overflowed; primary risk is with aircraft (especially twins) losing directional control on takeoff
- Area is on airport property at most airports

##### *Basic Compatibility Qualities*

- Avoid residential uses unless airport related (noise usually also a factor)
- Allow all common aviation-related activities provided that height-limit criteria are met
- Limit other nonresidential uses similarly to Zone 3, but with slightly higher usage intensities
- Prohibit children's schools, large day care centers, hospitals, nursing homes

#### **Zone 6: Traffic Pattern Zone**

##### *Risk Factors / Runway Proximity*

- Generally low likelihood of accident occurrence at most airports; risk concern primarily is with uses for which potential consequences are severe
- Zone includes all other portions of regular traffic patterns and pattern entry routes

##### *Basic Compatibility Qualities*

- Allow residential uses
- Allow most nonresidential uses; prohibit outdoor stadiums and similar uses with very high intensities
- Avoid children's schools, large day care centers, hospitals, nursing homes

#### **Definitions**

As used in this table, the follow meanings are intended:

- *Allow*: Use is acceptable
- *Limit*: Use is acceptable only if density/intensity restrictions are met
- *Avoid*: Use generally should not be permitted unless no feasible alternative is available
- *Prohibit*: Use should not be permitted under any circumstances
- *Children's Schools*: Through grade 12
- *Large Day Care Centers*: Commercial facilities as defined in accordance with state law; for the purposes here, family day care homes and noncommercial facilities ancillary to a place of business are generally allowed.
- *Aboveground Bulk Storage of Fuel*: Tank size greater than 6,000 gallons (this suggested criterion is based on Uniform Fire Code criteria which are more stringent for larger tank sizes)

Source: *California Airport Land Use Planning Handbook (Pages 9-45 & 45) January 2002.*

**Table 3-3  
Safety Zone Compatibility Guidelines**

| Current Setting   | MAXIMUM RESIDENTIAL DENSITY             |   |   |   |                         |                                   |
|---|---|---|---|---|-------------------------|-----------------------------------|
|   | Safety Compatibility Zones <sup>a</sup> |   |   |   |                         |                                   |
|   | (1)<br>Runway<br>Protection<br>Zone     | (2)<br>Inner<br>Approach/<br>Departure Zone   | (3)<br>Inner<br>Turning<br>Zone   | (4)<br>Outer<br>Approach/<br>Departure Zone | (5)<br>Sideline<br>Zone | (6)<br>Traffic<br>Pattern<br>Zone |
| <b>Average number of dwelling units per gross acre</b>  |   |   |   |   |                         |                                   |
| Rural Farmland /<br>Open Space<br>(Minimal Development)   | 0                                       | Maintain current zoning if less than<br>density criteria for rural / suburban setting |   |   |                         | No limit                          |
| Rural / Suburban<br>(Mostly to Partially<br>Undeveloped)  | 0                                       | 1 d.u. per<br>10 – 20 ac.   | 1 d.u. per<br>2 – 5 ac.   | 1 d.u. per<br>2 – 5 ac.                     | 1 d.u. per<br>1 – 2 ac. | No limit                          |
| Urban<br>(Heavily Developed)  | 0                                       | 0   | Allow infill at up to average<br>of surrounding residential area <sup>b</sup> |   |                         | No limit                          |
| <sup>a</sup> Clustering to preserve open land encouraged in all zones.<br><sup>b</sup> See Chapter 3 for discussion of infill development criteria; infill is appropriate only if nonresidential uses are not feasible.   |   |   |   |   |                         |                                   |
| Current Setting   | MAXIMUM NONRESIDENTIAL INTENSITY        |   |   |   |                         |                                   |
|   | Safety Compatibility Zones              |   |   |   |                         |                                   |
|   | (1)<br>Runway<br>Protection<br>Zone     | (2)<br>Inner<br>Approach/<br>Departure Zone   | (3)<br>Inner<br>Turning<br>Zone   | (4)<br>Outer<br>Approach/<br>Departure Zone | (5)<br>Sideline<br>Zone | (6)<br>Traffic<br>Pattern<br>Zone |
| <b>Average number of people per gross acre<sup>a</sup></b>  |   |   |   |   |                         |                                   |
| Rural Farmland /<br>Open Space<br>(Minimal Development)   | 0 <sup>b</sup>                          | 10 – 25   | 60 – 80   | 60 – 80                                     | 80 – 100                | 150                               |
| Rural / Suburban<br>(Mostly to Partially<br>Undeveloped)  | 0 <sup>b</sup>                          | 25 – 40   | 60 – 80   | 60 – 80                                     | 80 – 100                | 150                               |
| Urban<br>(Heavily Developed)  | 0 <sup>b</sup>                          | 40 – 60   | 80 – 100  | 80 – 100                                    | 100 – 150               | No limit <sup>c</sup>             |
| <b>Multipliers for above numbers<sup>d</sup></b>  |   |   |   |   |                         |                                   |
| Maximum Number of<br>People per Single Acre   | x 1.0                                   | x 2.0   | x 2.0   | x 3.0                                       | x 2.0                   | x 3.0                             |
| Bonus for Special Risk-<br>Reduction Bldg. Design   | x 1.0                                   | x 1.5   | x 2.0   | x 2.0                                       | x 2.0                   | x 2.0                             |
| <sup>a</sup> Also see Table 9B for guidelines regarding uses which should be prohibited regardless of usage intensity<br><sup>b</sup> Exceptions can be permitted for agricultural activities, roads, and automobile parking provided that FAA criteria are satisfied.<br><sup>c</sup> Large stadiums and similar uses should be prohibited.<br><sup>d</sup> Multipliers are cumulative (e.g., maximum intensity per single acre in inner safety zone is 2.0 times the average intensity for the site, but with risk-reduction building design is 2.0 x 1.5 = 3.0 times the average intensity). |   |   |   |   |                         |                                   |

Source: California Airport Land Use Planning Handbook (Page 9-47) January 2002.

### **Safety Issues at the Marina Airport**

As is indicated in Figure 2-3, the Marina Municipal Airport is currently surrounded by open space and/or agricultural land. This makes for a high degree of safety compatibility. The Runway Protection Zone at the west end of the planned extended runway is owned by the City of Marina and is entirely on airport property as land designated for habitat protection, and is therefore protected from development. The Inner Approach/Departure Zone (2) to the west overlies current agricultural land which is part of the Armstrong Ranch and will restrict the future development of this portion of the property. The Western Inner Turning Zone is partially on airport property designated for future non-aviation revenue-producing uses and partially on current agricultural property. Future uses of this area of land will need to be limited. The Outer Approach/Departure Zone is almost entirely within the central portion of the Marina Station (Armstrong Ranch) proposed development. The Sideline Zone is entirely on airport property.

The Runway Protection Zone (RPZ) to the east of the runway extends off the airport property over Blanco Road to the east. The potential hazard to vehicles on the road is minimal because, at that location, Blanco Road is in a depression about 50 feet below adjacent terrain. Further to the east, the RPZ is partially protected by approach easement. The remaining land in the eastern Runway Protection and Approach/Departure zones is primarily agricultural although several existing structures are located in this area, as is the northern portion of the U.C. Technology Center property.

The majority of the land under the Traffic Pattern Zone (TPZ) is currently undeveloped; however, the area is identified as “non-aviation revenue producing” in the Airport Master Plan. Portions of the Armstrong Ranch Property also lie in the TPZ.

This Comprehensive Land Use Plan (CLUP) addresses safety hazards primarily by controlling land use and limiting the population density in specific zones. Chapter 4, section 2.2 of this CLUP specifies the maximum allowable density in each zone as well as the allowable and prohibited land uses. Residential uses are not permitted in the Runway Protection Zone (1) and the Inner Approach/Departure Zone (2). They are allowed at very limited densities in the Inner Turning Zone (3) and the Outer Approach/Departure Zone (4). Residential uses are allowed in the Traffic Pattern Zone. Hospitals, schools, daycare centers, and other uses whose occupants have limited mobility are not permitted in any of the first five safety zones and should be avoided in the TPZ.

### **3. FLIGHT HAZARDS**

Flight hazards consist of structures, activities, and uses occurring on the ground that may cause hazards to aircraft in flight. Federal Aviation Regulations, Part 77 (Objects Affecting Navigable Airspace) describes a series of “Imaginary Surfaces” which set standards for the maximum height of objects around airports and require that the FAA be notified of any proposed construction that exceeds those standards. Policies in this CLUP prevent the construction of new structures that penetrate the FAR part 77 surfaces. All structures are prohibited in the Runway Protection Zone. In addition, policy 1.3.5 requires ALUC review of any proposal for a structure over 35 feet in the Approach/Departure and Turning Zones, and over 45 feet in the Traffic Pattern Zone. Figure 4-3 shows the FAR part 77 surfaces for the Marina Airport.

Other flight hazard issues include activities that have the potential to create interference to aircraft such as the creation of glare, smoke, radio emissions or bird and wildlife hazards.

Birds are the most common wildlife hazard near airports. Both migratory and nonmigratory species may be of concern. Although the risk of bird strikes is most serious along the corridors required for takeoffs and landings, the concern extends to elsewhere in the airport vicinity. Any land uses which can attract birds should be avoided, but those which are artificial attractors are particularly inappropriate because they generally need not be located near airports. Sanitary landfills are a primary example of the latter type of activity. The FAA recommends that such uses be kept at least 10,000 feet from any runway used by turbine-powered aircraft and 5,000 feet from a runway used primarily by piston powered aircraft.

Other land uses that may become artificial attractors include:

- Golf courses with water hazards;
- Drainage detention and retention basins;
- Wetlands created as mitigation measures;
- Landscaping, particularly water features;
- Wildlife refuges; and
- Agriculture, especially cereal grains

Wildlife other than birds can also be a concern, depending upon an airport's geographic setting and surrounding land uses. Deer are the most common problem.

### **Flight Hazards at the Marina Airport**

The area in the immediate vicinity of the Marina Airport is generally free of flight hazards although some potential hazards can be found within 2 miles of the airport.

- **Ground Hazards**

The primary potential ground hazard is the Marina Landfill which is located approximately 7,000 feet to the northwest of the airport runway. Landfills usually attract large numbers of birds which have the potential to be a significant flight hazard. There is no evidence that a hazard exists at the present level of airport operation. However, both the airport operator (City of Marina) and the landfill operator (Monterey Regional Waste Management District) have recognized that airport expansion may lead to increased hazard potential. Consequently, these parties have entered into a "Memorandum of Agreement", dated August 31, 1995, requiring a "Bird Hazard Study" before the airport runway is expanded. Policies in this CLUP require the implementation of any necessary mitigation measures that may be identified by the study.

Policies also prohibit the establishment of new uses that have a potential to create a hazard to aircraft in flight. This potentially includes the establishment of new landfills and other uses that would create glare, smoke, radio emissions, or other uses that may interfere with aircraft operation.

- **Height Hazards**

There are two existing radio towers with a height of 369 feet above mean sea level (MSL) (349' AGL) located approximately 7,500 feet to the west of the airport runway. The FAR part 77 horizontal surface<sup>6</sup> elevation is 285 feet MSL which means that the towers penetrate the surface by 84 feet. These towers have the potential to present a hazard to low flying aircraft arriving or

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<sup>6</sup> The "Horizontal Surface" is an imaginary plane located 150' above the elevation of the airport runway and extending in a 10,000-foot arc from the end of the runway. Appendix C contains the full text of FAR part 77.

departing the airport, and their presence needs to be taken into account when establishing a non-precision instrument approach to the airport. Both of these towers are lit with aircraft warning lights. On the airport itself, approximately 2,000 feet south of the runway, is a 281 foot high (MSL) water tower, which is just 4 feet below the elevation of the horizontal surface.

#### **4. OVERFLIGHT IMPACTS**

Overflight impacts consist of the potential annoyance that aircraft create even when outside areas of identified noise contours or safety zones. These usually occur under flight tracks when aircraft transit to and from the airport. Overflight impacts are somewhat subjective because the level of annoyance varies significantly with each person.

##### **Overflight Impacts at the Marina Airport**

The Master Plan for the Marina Airport identifies a traffic pattern that is exclusively on the north side of the airport. This restriction should eliminate most overflight impacts to the developed portions of the City. Land to the north of the airport is primarily used as agricultural or grazing land although it does include portions of the proposed Armstrong Ranch. Policies in this CLUP require that buyers of new developments be notified of potential aircraft impacts.

## **CHAPTER 4 – PLAN POLICIES**

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### **1. GENERAL POLICIES**

#### **1.1 ALUC Review Area**

- 1.1.1 The ALUC Review Area consists of all the land, which may be adversely impacted by present or future aircraft operations at the Marina Municipal Airport. The boundaries of the review area are essentially those areas within the designated six safety zones as indicated in Figure 4-1. This area lies within the jurisdictions of the City of Marina and Monterey County.

#### **1.2 Types of Impacts Addressed**

- 1.2.1 The Monterey County Airport Land Use Commission and the Comprehensive Land Use Plan for the Marina Airport are concerned only with the potential impacts related to aircraft noise, land use safety, flight hazards to aircraft, and overflight impacts. The ALUC has no control over airport operations.

#### **1.3 Review Criteria**

- 1.3.1 Pursuant to Public Utility Code section 2167(a) the Commission shall review the General Plans, Area Plans, and Specific Plans for the County of Monterey and the City of Marina to determine if such plans are consistent with the policies of this comprehensive land use plan. Such review shall take place within 180 days of the adoption of this comprehensive land use plan. In addition, the Commission reviewed the final Fort Ord Base Reuse Plan to determine its consistency with the comprehensive land use plan.
- 1.3.2 Until such time as the Airport Land Use Commission has determined that the General Plans, Area Plans, and Specific Plans, of the County and the City are consistent; or until the County or the City has overruled the Commission's determination, all discretionary permits shall be referred to the Commission for a consistency determination, pursuant to Public Utility Code section 21676.5.
- 1.3.3 The Commission shall review all subsequent amendments to the General Plans, Area Plans, and Specific Plans, and all adoptions of zoning and building regulations, that may affect land use in the airport planning area. The Commission shall determine if the amendments and/or adoptions are consistent or inconsistent with this comprehensive land use plan. [Public Utility Code section 21676(b)]
- 1.3.4 The Commission shall review any modification to the Marina Airport Master Plan to determine consistency with this comprehensive land use plan. [Public Utility Code section 21676(c)]



### **1.3 Review Criteria Revisions (Section 1.3.5)**

1.3.5. In addition to the referrals required by policy 1.3.3 the ALUC shall review all the following actions within the Airport Planning Area:

For projects within the Runway Protection and Sideline Zones:

1. All requests for change of use or development.

For Projects within the Inner and Outer Approach/Departure and Inner Turning Zones:

1. Proposals for residential subdivisions or Planned Unit Developments consisting of 5 or more units;
2. Proposals for transient lodging facilities consisting of more than 10 units;
3. Proposals for commercial development that will result in a density of more than 50 persons per acre;
4. All requests for structures over 35 feet in height within the airport planning area;
5. Any proposed land use action that may involve a question of compatibility with airport activities.

For Projects within the Traffic Pattern Zone:

1. Proposals for residential subdivisions or Planned Unit Developments consisting of 30 or more units;
2. Proposals for transient lodging facilities consisting of more than 100 units;
3. Proposals for commercial development that will result in a density of more than 150 persons per acre;
4. All requests for structures over 45 feet in height;
5. Any proposed land use action that may involve a question of compatibility with airport activities.

When reviewing the above proposals the ALUC should determine the project's consistency with the policies of the Comprehensive Land Use Plan and also, if necessary, provide recommendations for changes in the project that would enhance the project's compatibility with the airport. Such recommendations shall be based on the guidelines found in the California Airport Land Use Planning Handbook (January 2002).

## **1.4 Review Process**

- 1.4.1 The proposed actions referred to in section 1.3 shall be referred to the Commission at the earliest possible time in order that the Commission's findings may be considered by the local agency prior to finalizing the proposed action.
- 1.4.2 When reviewing a proposed land use action, the ALUC may find a proposal either, 1) consistent with the comprehensive land use plan, or 2) inconsistent with the comprehensive land use plan. If the Commission finds a proposal to be inconsistent it may state under which conditions the proposal would be consistent.  
In the interest of promoting the public health and safety, the ALUC may recommend additional changes for projects that come before the Commission and have been deemed consistent with this comprehensive land use plan.
- 1.4.3 The Commission must take action on a request for a consistency determination within 45 days of the referral. If the determination is not made within 45 days, the proposal shall be deemed consistent with the comprehensive land use plan.
- 1.4.4 The Airport Land Use Commission may, at the request of the local jurisdiction or interested party, provide an interpretation of any of the policies found in this comprehensive land use plan.

## **2. COMPATIBILITY POLICIES**

### **2.1 Noise Compatibility Policies**

- 2.1.1 Noise impacts shall be evaluated using the noise contours depicted in Figure 4-2 in this comprehensive land use plan. These contours show the expected noise impacts from the airport at 55,080 annual operations (AMBAG Forecast), a level expected to be reached in the year 2025. In the future the Commission shall review updated noise contours when they become available, and if appropriate, use the updated contours when evaluating noise impacts.
- 2.1.2 The Noise Compatibility Polices, as shown in Table 4-1 shall be used to determine if a specific use is compatible.

### **2.2 Safety Compatibility Policies Revisions**

- 2.2.1 The location of the Runway Protection Zone, Approach/Departure Zones, Inner Turning Zone, Traffic Pattern Zone, and the Airport Planning Area are shown in Figure 4-1. The location and dimensions of the zones has been determined using the California Airport Land Use Handbook (January 2002).

**Table 4-1  
Noise Compatibility Policies for Marina Municipal Airport**

| LAND USES  | CNEL LEVEL (in decibels) |       |       |     |
|--|--------------------------|-------|-------|-----|
|  | 55-60                    | 60-65 | 65-70 | 70+ |
| single family, mobile home parks, nursing homes                        | Y                        | N     | N     | N   |
| multi-family residential   | Y                        | C     | N     | N   |
| hotels, motels, bed & breakfasts                                       | Y                        | C     | C     | N   |
| schools and daycare facilities   | Y                        | N     | N     | N   |
| hospitals  | Y                        | C     | C     | N   |
| churches, libraries, indoor auditoriums                                | Y                        | C     | C     | N   |
| parking lots, cemeteries   | Y                        | Y     | Y     | Y   |
| professional and business offices, research facilities                 | Y                        | Y     | C     | N   |
| retail stores and shopping centers, indoor restaurants, movie theaters | Y                        | Y     | C     | N   |
| outdoor restaurants  | Y                        | N     | N     | N   |
| service businesses   | Y                        | Y     | C     | C   |
| manufacturing, warehousing, wholesale trade                            | Y                        | Y     | Y     | Y   |
| cropland and grazing   | Y                        | Y     | Y     | Y   |
| golf courses and stables   | Y                        | Y     | Y     | Y   |
| neighborhood parks, playgrounds, and zoos                              | Y                        | Y     | N     | N   |
| outdoor arenas   | Y                        | N     | N     | N   |

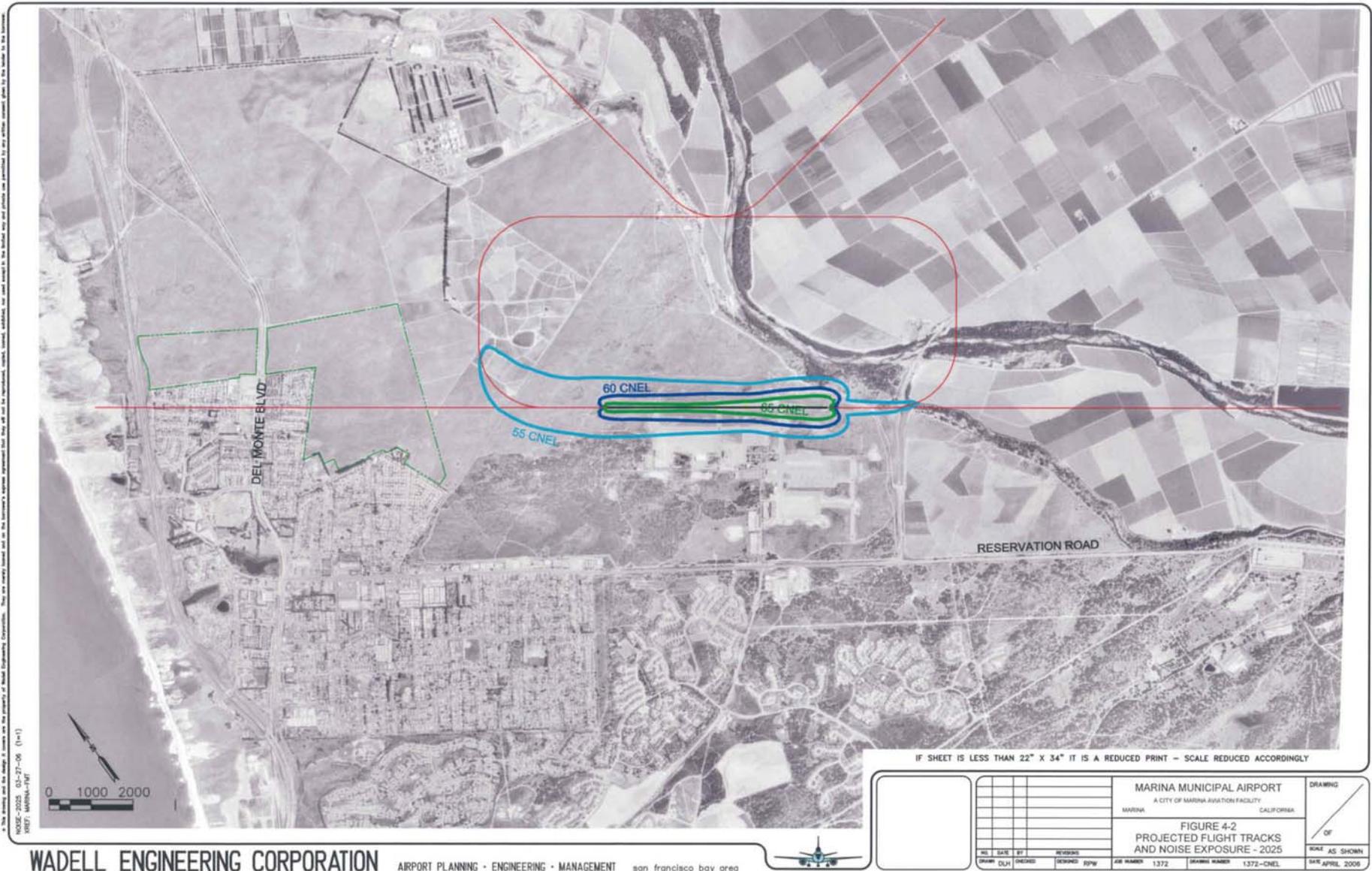
Y= Permitted Use

N= Not Permitted

C= Conditionally permitted provided measures to achieve an interior noise level of CNEL 45 dB are incorporated into the design and construction of all portions of the structure where people may be located.

Source: Marina Municipal Airport Comprehensive Land Use Plan Adopted November 11, 1996

**Figure 4-2  
Projected Flight Tracks and Noise Exposure – 2025**



Source: Wadell Engineering Corporation

- 2.2.2 The Land Use Compatibility Policies, as shown in Table 4-2, shall be used to determine if a specific use is compatible.
- 2.2.3 The primary method of limiting risk to persons on the ground is to limit the number of persons allowed in a given area and control type of use. For this reason, each zone is assigned prohibited and allowable uses and maximum allowable density in Table 4-2. The density limits shown in the table may be adjusted pursuant to policy 2.2.6.
- 2.2.4 Uses whose primary occupants are persons of impaired mobility shall not be allowed in the Inner & Outer Approach/Departure Zones, the Inner Turning Zone, and the Sideline Zone. Such uses include, but are not limited to, hospitals, schools, daycare centers, and nursing homes. Such uses should also be avoided in the Traffic Pattern Zone.
- 2.2.5 Unless directly related to the operation of aircraft, the above ground storage of large quantities of flammable materials or other hazardous materials shall not be permitted in the Runway Protection Zone, the Inner and Outer Approach/Departure Zones, the Inner Turning Zone, the Sideline Zone, or the Traffic Pattern Zone.
- 2.2.6 Potential aircraft accidents can often be avoided if large areas of open space are preserved around airports in order to allow for emergency landings. Open space can generally be defined as an area measuring at least 75 by 300 feet that is free of obstructions such as trees, power lines, and fences.

In order to preserve as much open space as possible in the environs of the Marina Airport, the following design criteria shall be applied to all new development projects:

Development should be clustered, and contiguous landscaped and parking areas should be provided. The population and housing unit densities for individual projects in the Traffic Pattern and Outer Approach/Departure Zones, as required by policy 2.2.3, may be increased if it can be demonstrated that such an increase results in the provision of substantial open space. In no case shall the density increase be more than 25% above the normally allowable density. If a density increase is allowed in the Outer Approach/Departure Zone, the open space provided must be located along the extended airport runway centerline. Before allowing such an increase the local jurisdiction shall refer the proposal to the ALUC for review and recommendations.

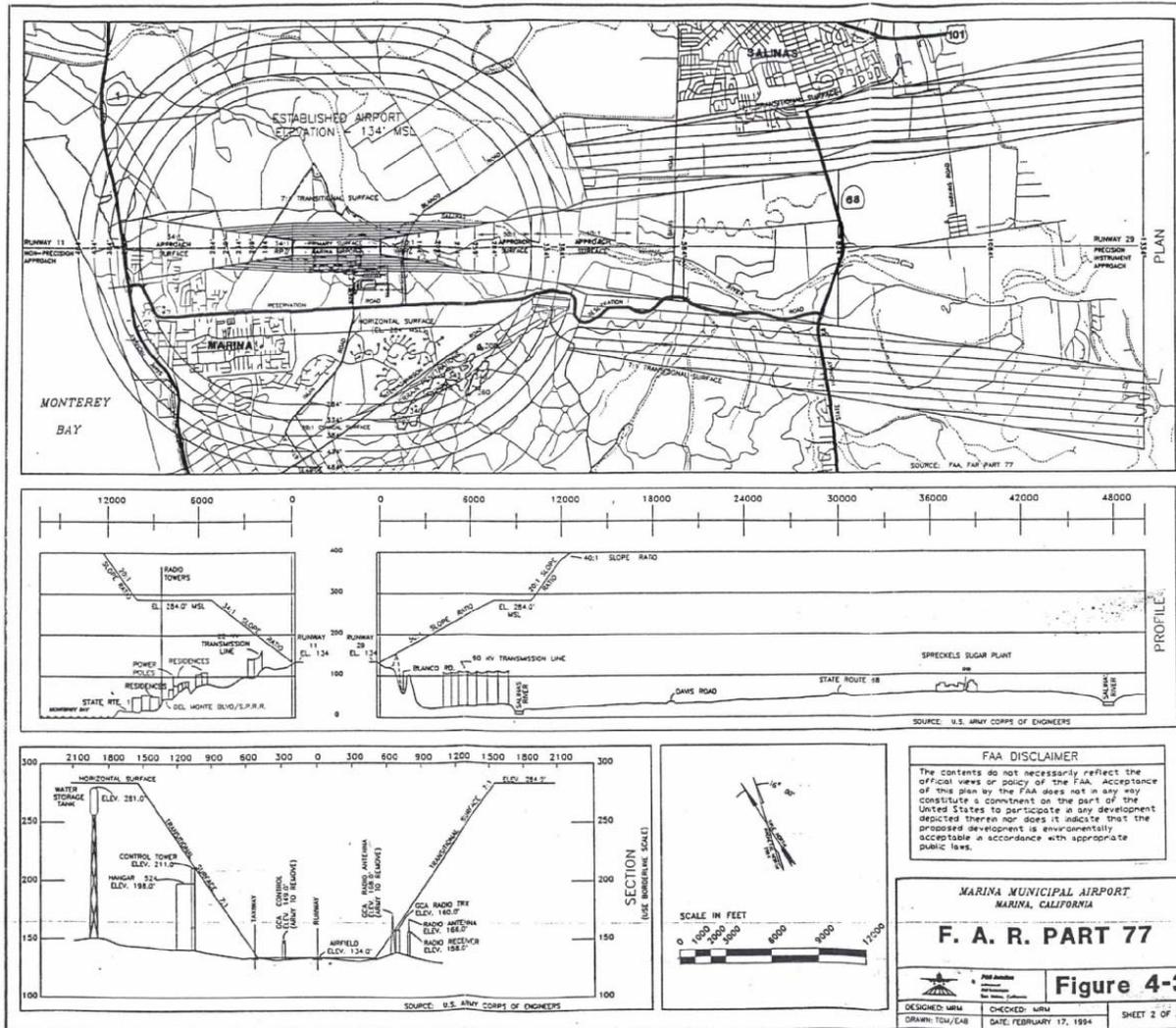
- 2.2.7. The Airport shall maintain control of land in the Runway Protection Zone. This control should take the form of outright ownership. Lease, acceptance of an easement, or any other workable method that would allow the Airport Operator to

enforce the policies of this plan in the Runway Protection Zone, may be acceptable if ownership is not possible.

### **2.3 Flight Hazard Policies**

- 2.3.1 A structure or object that penetrates the Federal Aviation Regulations part 77 surfaces is an incompatible land use. Figure 4-3 illustrates the FAR Part 77 surfaces. Any proposed development that may interfere with these surfaces is required to submit Form 7460 to the FAA for airspace review.
- 2.3.2 New uses which may cause a hazard to aircraft in flight are not permitted within the airport planning area. Such uses include electrical interference, high intensity lighting, bird attractions, and activities that may produce smoke, dust, or glare.
- 2.3.3 Any land use permits granted for the expansion of the Marina Landfill shall include conditions to ensure that appropriate measure are taken to limit bird attraction to the site.
- 2.3.4 Prior to any expansion of the airport runway, a “Bird Hazard Study” shall be prepared pursuant to the “Memorandum of Agreement” between the City of Marina and the Monterey Regional Water Management District, which became effective on August 31, 1995. If that study concludes that additional measure are necessary to reduce bird strike hazards, such measure shall be incorporated into the conditions of any land use permit approvals for the runway extension.
- 2.3.5 All new exterior lighting within the Airport Planning Area shall be designed so as to create no glare or interference with aircraft in flight. Such lighting shall be constructed and located so that only the intended area is illuminated and off-sight glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots.

**Figure 4-3  
FAR Part 77 Imaginary Surfaces**



Source: Marina: Municipal Airport Comprehensive Land Use Plan Adopted November 18, 1996

**Table 4-2  
Safety Compatibility Policies for Marina Municipal Airport**

| SAFETY ZONE   | CHARACTERISTICS  | MAXIMUM ALLOWABLE DENSITIES  |                              | NORMALLY ALLOWABLE USES   | PROHIBITED USES  | DEVELOPMENT CONDITIONS   |
|---|--|------------------------------|------------------------------|---|--|--|
|   |  | RESIDENTIAL                  | NON-RESIDENTIAL              |   |  |  |
| <b><u>ZONE 1</u></b><br>RUNWAY PROTECTION ZONE                      | VERY HIGH RISK, FREQUENT OVERFLIGHT, LOW FLYING, HIGH NOISE                        | NONE                         | NONE                         | OPEN SPACE<br>AGRICULTURE<br>HABITAT PROTECTION                                 | ALL RESIDENTIAL<br>NEW STRUCTURES,<br>ASSEMBLY OF PEOPLE, HAZARDS                      | NO STRUCTURES AND NO OCCUPANCY   |
| <b><u>ZONE 2</u></b><br>INNER APPROACH/ DEPARTURE ZONE              | SUBSTANTIAL RISK<br>FREQUENT OVERFLIGHT<br>CLIMBING, TURNING & DESCENDING AIRCRAFT | 1 DU PER 40 ACRES GROSS      | 10 PERSONS PER ACRE GROSS    | ALL ZONE 1 USES AND INDUSTRIAL, OTHER NON-RESIDENTIAL USES WITH LIMITED DENSITY | MOST RESIDENTIAL<br>DAYCARE, SCHOOLS<br>HOSPITALS,<br>NURSINGHOMES<br>SHOPPING CENTERS | DEVELOP FAR FROM RUNWAY CENTERLINE, CLUSTER FOR OPEN SPACE, AVIGATION EASEMENT |
| <b><u>ZONES 3 &amp; 4</u></b><br>INNER TURN & OUTER APP.& DEP. ZONE | MODERATE RISK<br>FREQUENT OVERFLIGHT<br>CLIMB & DESCEND TURNING AIRCRAFT           | 1 DU PER 5 ACRES GROSS       | 50 PERSONS PER ACRE GROSS    | ALL ZONE 2 USES AND VERY LOW DENSITY RESIDENTIAL USES                           | SAME AS ZONE 2   | SAME AS ZONE 2   |
| <b><u>ZONE 5</u></b><br>SIDELINE ZONE                               | RISK FROM AIRCRAFT LOSING CONTROL ON TAKEOFF                                       | NONE                         | 50 PERSONS PER ACRE GROSS    | AIRPORT RELATED USES  | RESIDENTIAL USES<br>SCHOOLS,<br>HOSPITALS, NURSING HOMES                               | HEIGHT LIMIT CRITERIA  |
| <b><u>ZONE 6</u></b><br>TRAFFIC PATTERN ZONE                        | LOWER RISK<br>FREQUENT OVERFLIGHT BY AIRCRAFT AT 1000' AGL                         | AS PERMITTED BY LOCAL ZONING | 150 PERSONS PER ACRE GROSS   | MOST NON-RESIDENTIAL AND RESIDENTIAL USES                                       | SCHOOLS, DAYCARE,<br>HOSPITALS,<br>NURSING,<br>STADIUMS,<br>HIGHT DENSITIES            | CLUSTER DEVELOPMENT FOR OPEN SPACE, AVIGATION EASEMENT                         |
| OVERFLIGHT AREAS  | LOW RISK<br>OVERFLIGHT BY AIRCRAFT USING AIRPORT                                   | AS PERMITTED BY LOCAL ZONING | AS PERMITTED BY LOCAL ZONING | ALL USES PERMITTED BY LOCAL ZONING  | NOT APPLICABLE   | AVIGATION EASEMENT AND BUYER NOTIFICATION                                      |

<sup>1</sup> No new residential lots shall be created in Safety Zones 1, 2, 3, and 5.

<sup>2</sup> Densities may be adjusted pursuant to policy 2.2.6.

Prepared by Wadell Engineering Corporation

## 2.4 Overflight Policies

- 2.4.1 All new uses within the airport planning area shall provide an avigation easement to the City of Marina or the current owner of the airport. The text of the easement shall be mutually agreeable to the Airport Land Use Commission, the City of Marina (or current airport owner), and the land owner. The language of the easement may differ depending on which safety zone the affected property is located.
- 2.4.2 Local jurisdictions shall establish a method of notifying buyers of new developments within the airport planning area of potential airport impacts. The notification may take the form of avigation easements, deed noticing, or real estate disclosures. A copy of the method(s) to be used for such notification shall be forwarded to the Airport Land Use Commission.
- 2.4.3 Local jurisdictions are encouraged to provide for the same type of notice required in policy 2.4.2 for existing uses.

## 2.5 Open Space Guidelines

The California Airport Land Use Handbook recommends the following guidelines for open space in safety zones.

1. Runway Protection Zones – Maintain all undeveloped land clear of objects in accordance with FAA Standards.
2. Inner Approach/Departure Zones – Seek to preserve 25% to 30% of the overall zone as usable open land. Particular emphasis should be given to preserving as much open land as possible in locations close to the extended runway centerline.
3. Inner Turning Zone- At least 15% to 20% of the zone should remain as open land.
4. Outer Approach/Departure Zones – Maintain approximately 15% to 20% open land within the overall zone, again with emphasis on areas along the extended runway centerline.
5. Sideline Zone – Adjacent to the runway ends and runway protection zones, 25% to 30% usable open land is a desirable objective.
6. Traffic Pattern Zone – Elsewhere within the airport environment, approximately 10% usable open land or an open area approximately every  $\frac{1}{4}$  to  $\frac{1}{2}$  mile should be provided.

Open land areas need to meet minimum size criteria to be of value. Therefore, the above guidelines are practical when applied with respect to land use patterns proposed in general plans, specific plans, or large developments (generally 20 acres or more), not to individual smaller parcels.





## **APPENDICES**

- A. State Laws Related to Airport Land use Planning**
- B. Federal Aviation Regulations Part 77**
- C. Methods for Determining Concentrations of People**
- D. Sample Implementation Documents**
- E. General Plan Consistency Checklist**
- F. Monterey County Airport Approaches Zoning**





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**AERONAUTICS LAW**  
**PUBLIC UTILITIES CODE**  
**Division 9—Aviation**  
**Part 1—State Aeronautics Act**  
**Chapter 4—Airports and Air Navigation Facilities**

**Article 3.5**  
**AIRPORT LAND USE COMMISSION**

(As of December 2000)

**21670. Creation; Membership; Selection**

- (a) The Legislature hereby finds and declares that:
- (1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.
  - (2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.
- (b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors for the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:
- (1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (2) and (3) shall each be increased by one.
  - (2) Two representing the county, appointed by the board of supervisors.
  - (3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.
  - (4) One representing the general public, appointed by the other six members of the commission.
- (c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

- (d) Each member shall promptly appoint a single proxy to represent the member in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.
- (e) A person having an "expertise in aviation" means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.
- (f) It is the intent of the Legislature to clarify that, for the purposes of this article, special districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

### **21670.1. Action by Designated Body Instead of Commission**

- (a) Notwithstanding any provisions of this article, if the board of supervisors and the city selection committee of mayors in any county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.
- (b) A body designated pursuant to subdivision (a) which does not include among its membership at least two members having an expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that the body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.
- (c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.
- (2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1) of this subdivision, that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:
  - (A) Adopt processes for the preparation, adoption, and amendment of the comprehensive airport land use plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.
  - (B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the comprehensive airport land use plans.
  - (C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the comprehensive airport land use plans.

- (D) Adopt processes for the amendment of general and specific plans to be consistent with the comprehensive airport land use plans.
  - (E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each comprehensive airport land use plan.
- (3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:
- (A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.
  - (B) Rely on the height, use, noise, safety, and density criteria that are compatible with air port operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.
  - (C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.
- (4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and a plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.
- (d) A commission need not be formed in a county that has contracted for the preparation of comprehensive airport land use plans with the Division of Aeronautics under the California Aid to Airport Program (Title 21 (commencing with Section 4050) of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the plans:
- (1) Agree to adopt and implement the comprehensive airport plans that have been developed under contract.
  - (2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations as part of the general and specific plans for the county and for each affected city.
  - (3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.
- (e) (1) A commission need not be formed in a county if all of the following conditions are met:
- (A) The county has only one public use airport that is owned by a city.
  - (B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.
  - (ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit elements specified in

paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

#### **21670.2. Applicability to Counties Having over 4 Million Population**

- (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on such an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.
- (b) By January 1, 1992, the county regional planning commission shall adopt the comprehensive land use plans required pursuant to Section 21675.
- (c) Sections 21675.1, 21675.2, and 21679.5 do not apply to the County of Los Angeles until January 1, 1992. If the comprehensive land use plans required pursuant to Section 21675 are not adopted by the county regional planning commission by January 1, 1992, Sections 21675.1 and 21675.2 shall apply to the County of Los Angeles until the plans are adopted.

#### **21670.4. Intercounty Airports**

- (a) As used in this section, "intercounty airport" means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety zones, or side-line safety zones, as defined by an existing airport land use commission in its comprehensive land use plan in accordance with Section 21675.
- (b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.
- (c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county's two delegations, for any intercounty airport, may either:
  - (1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:
    - (A) One representing the cities in each of the counties, appointed by that county's city selection committee.
    - (B) One representing each of the counties, appointed by the board of supervisors of each county.
    - (C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.
    - (D) One representing the general public, appointed by the other six members of the commission.
  - (2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport's land use commission.

**21671. Airports Owned by a City, District, or County;  
Appointment of Certain Members by Cities and Counties**

In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the city selection committee of mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

**21671.5. Term of Office; Removal of Members; Vacancies;  
Compensation; Staff Assistance; Meetings**

- (a) Except for the terms of office of the members of the first commission, the term of office for each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members if four years. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing him or her. The expiration date of the term of office of each member shall be the first Monday in May in the year in which his or her term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.
- (b) Compensation, if any, shall be determined by the board of supervisors.
- (c) Staff assistance, including the mailing of notices and the keeping of minutes, and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary expenses of the commission shall be a county charge.
- (d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.
- (e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.
- (f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission which has not adopted the comprehensive land use plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.
- (g) In any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the land use plans are complete by that date, may continue charging fees after June 30, 1992. If the land use plans are not complete by June 30, 1992,

the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

### **21672. Rules and Regulations**

Each commission shall adopt rules and regulations with respect to the temporary disqualification of its members from participating in the review or adoption of a proposal because of conflict of interest and with respect to appointment of substitute members in such cases.

### **21673. Initiation of Proceedings for Creation by Owner of Airport**

In any county not having a commission or a body designated to carry out the responsibilities of a commission, any owner of a public airport may initiate proceedings for the creation of a commission by presenting a request to the board of supervisors that a commission be created and showing the need therefor to the satisfaction of the board of supervisors.

### **21674. Powers and Duties**

The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

- (a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.
- (b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.
- (c) To prepare and adopt an airport land use plan pursuant to Section 21675.
- (d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.
- (e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.
- (f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

#### **21674.5. Training of Airport Land Use Commission's Staff**

- (a) The Department of Transportation shall develop and implement a program or programs to assist in the training and development of the staff of airport land use commissions, after consulting with airport land use commissions, cities, counties, and other appropriate public entities.
- (b) The training and development program or programs are intended to assist the staff of airport land use commissions in addressing high priority needs, and may include, but need not be limited to, the following:

- (1) The establishment of a process for the development and adoption of comprehensive land use plans.
  - (2) The development of criteria for determining airport land use planning boundaries.
  - (3) The identification of essential elements which should be included in the comprehensive plans.
  - (4) Appropriate criteria and procedures for reviewing proposed developments and determining whether proposed developments are compatible with the airport use.
  - (5) Any other organizational, operational, procedural, or technical responsibilities and functions which the department determines to be appropriate to provide the commission staff and for which it determines there is a need for staff training and development.
- (c) The department may provide training and development programs for airport land commission staff pursuant to this section by any means it deems appropriate. Those programs may be presented in any of the following ways:
- (1) By offering formal courses or training programs.
  - (2) By sponsoring or assisting in the organization and sponsorship of conferences, seminars, or other similar events.
  - (3) By producing and making available written information.
  - (4) Any other feasible method of providing information and assisting in the training and development of airport land use commission staff.

#### **21674.7. Airport Land Use Planning Handbook**

An airport land use commission that formulates, adopts or amends a comprehensive airport land use plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

#### **21675. Land Use Plan**

- (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.
- (b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all the purpose specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

- (c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.
- (d) The commission shall submit to the Division of Aeronautics of the department one copy of the plan and each amendment to the plan.
- (e) If a comprehensive land use plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

### **21675.1. Adoption of Land Use Plan**

- (a) By June 30, 1991, each commission shall adopt the comprehensive land use plan required pursuant to Section 21675, except that any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, shall adopt that plan on or before June 30, 1992.
- (b) Until a commission adopts a comprehensive land use plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give the public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land which will be included or reasonably could be included within the plan. If the commission has not designated a study area for the plan, then "vicinity" means land within two miles of the boundary of a public airport.
- (c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:
  - (1) The commission is making substantial progress toward the completion of the plan.
  - (2) There is a reasonable probability that the action, regulation, or permit will be consistent with the plan being prepared by the commission.
  - (3) There is little or no probability of substantial detriment to or interference with the future adopted plan if the action, regulation, or permit is ultimately inconsistent with the plan.
- (d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.
- (e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the plan.
- (f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the city's or county's decision to proceed with the action, regulation, or permit.
- (g) A commission may adopt rules and regulations which exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

- (1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.
- (2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

### **21675.2. Approval or Disapproval of Actions, Regulations, or Permits**

- (a) If a commission fails to act to approve or disapprove any actions, regulations, or permits within 60 days of receiving the request pursuant to Section 21675.1, the applicant or his or her representative may file an action pursuant to Section 1094.5 of the Code of Civil Procedure to compel the commission to act, and the court shall give the proceedings preference over all other actions or proceedings, except previously filed pending matters of the same character.
- (b) The action, regulation, or permit shall be deemed approved only if the public notice required by this subdivision has occurred. If the applicant has provided seven days advance notice to the commission of the intent to provide public notice pursuant to this subdivision, then, not earlier than the date of the expiration the time limit established by Section 21675.1, an applicant may provide the required public notice. If the applicant chooses to provide public notice, that notice shall include a description of the proposed action, regulation, or permit substantially similar to the descriptions which are commonly used in public notices by the commission, the name and address of the commission, and a statement that the action, regulation, or permit shall be deemed approved if the commission has not acted within 60 days. If the applicant has provided the public notice specified in this subdivision, the time limit for action by the commission shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the commission shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.
- (c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65946, inclusive, of the Government Code, may constitute grounds for disapproval of actions, regulations, or permits.
- (d) Nothing in this section diminishes the commission's legal responsibility to provide, where applicable, public notice and hearing before acting on an action, regulation, or permit.

### **21676. Review of Local General Plans**

- (a) Each local agency whose general plan includes areas covered by an airport land use commission plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the commission's plan. If the plan or plans are inconsistent with the commission's plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its plans. The local agency may overrule the commission after such a hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.
- (b) Prior to the amendment of a general plan or specific plan, or the addition or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the com-

mission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

- (c) Each public agency owning any airport within the boundaries of an airport land use commission plan shall, prior to modification of its airport master plan, refer such proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.
- (d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the commission's plan.

#### **21676.5. Review of Local Plans**

- (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670, the commission may require the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the commission plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may overrule the commission after hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670.
- (b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that the individual projects shall be reviewed by the commission.

#### **21677. Marin County Override Provisions**

Notwithstanding Section 21676, any public agency in the County of Marin may overrule the Marin County Airport Land Use Commission by a majority vote of its governing body.

#### **21678. Airport Owner's Immunity**

With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676 or 21676.5 overrides a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation.

**21679. Court Review**

- (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, which directly affects the use of land within one mile of the boundary of a public airport within the county.
- (b) The court may issue an injunction which postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency which took the action does one of the following:
  - (1) In the case of an action which is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.
  - (2) In the case of an action which is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.
  - (3) Rescinds the action.
  - (4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2) of this subdivision, whichever is applicable.
- (c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency which took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use plan as provided in Section 21675.
- (d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.
- (e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.
- (f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

**21679.5. Deferral of Court Review**

- (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan.
- (b) If a commission has been prevented from adopting the comprehensive land use plan by June 30, 1991, or if the adopted plan could not become effective, because of a lawsuit involving the adoption of the plan, the June 30, 1991 date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

- (c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body does not adopt an airport land use plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.
- (d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

**AERONAUTICS LAW**  
**PUBLIC UTILITIES CODE**  
**Division 9, Part 1**  
**Chapter 3—Regulation of Aeronautics**  
**(excerpts)**

**21402. Ownership; Prohibited Use of Airspace**

The ownership of the space above the land and waters of this State is vested in the several owners of the surface beneath, subject to the right of flight described in Section 21403. No use shall be made of such airspace which would interfere with such right of flight; provided, that any use of property in conformity with an original zone of approach of an airport shall not be rendered unlawful by reason of a change in such zone of approach.

**21403. Lawful Flight; Unauthorized and Forced Landings; Damages; Use of Highways; Burden of Proof; Within Airport Approach Zone**

- (a) Flight in aircraft over the land and waters of this state is lawful, unless at altitudes below those prescribed by federal authority, or unless conducted so as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the land or waters of another, without his or her consent, is unlawful except in the case of a forced landing or pursuant to Section 21662.1. The owner, lessee, or operator of the aircraft is liable, as provided by law, for damages caused by a forced landing.
- (b) The landing, takeoff, or taxiing of an aircraft on a public freeway, highway, road, or street is unlawful except in the following cases:
  - (1) A forced landing.
  - (2) A landing during a natural disaster or other public emergency if the landing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road, or street.
  - (3) When the landing, takeoff, or taxiing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road or street.

The prosecution bears the burden of proving that none of the exceptions apply to the act which is alleged to be unlawful.

- (c) The right of flight in aircraft includes the right of safe access to public airports, which includes the right of flight within the zone of approach of any public airport without restriction or hazard. The zone of approach of an airport shall conform to the specifications of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation.

**AERONAUTICS LAW****PUBLIC UTILITIES CODE****Division 9, Part 1****Chapter 4—Airports and Air Navigation Facilities****Article 2.7****REGULATION OF OBSTRUCTIONS****(excerpts)****21655. Proposed Site for Construction of State Building Within Two Miles of Airport; Investigation and Report; Expenditure of State Funds**

Notwithstanding any other provision of law, if the proposed site of any state building or other enclosure is within two miles, measured by air line, of that point on an airport runway, or runway proposed by an airport master plan, which is nearest the site, the state agency or office which proposes to construct the building or other enclosure shall, before acquiring title to property for the new state building or other enclosure site or for an addition to a present site, notify the Department of Transportation, in writing, of the proposed acquisition. The department shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the state agency or office which proposes to construct the building or other enclosure a written report of the investigation and its recommendations concerning acquisition of the site.

If the report of the department does not favor acquisition of the site, no state funds shall be expended for the acquisition of the new state building or other enclosure site, or the expansion of the present site, or for the construction of the state building or other enclosure, provided that the provisions of this section shall not affect title to real property once it is acquired.

**21658. Construction of Utility Pole or Line in Vicinity of Aircraft Landing Area**

No public utility shall construct any pole, pole line, distribution or transmission tower, or tower line, or substation structure in the vicinity of the exterior boundary of an aircraft landing area of any airport open to public use, in a location with respect to the airport and at a height so as to constitute an obstruction to air navigation, as an obstruction is defined in accordance with Part 77 of the Federal Aviation Regulations, Federal Aviation Administration, or any corresponding rules or regulations of the Federal Aviation Administration, unless the Federal Aviation Administration has determined that the pole, line, tower, or structure does not constitute a hazard to air navigation. This section shall not apply to existing poles, lines, towers, or structures or to the repair, replacement, or reconstruction thereof if the original height is not materially exceeded and this section shall not apply unless just compensation shall have first been paid to the public utility by the owner of any airport for any property or property rights which would be taken or damaged hereby.

**21659. Obstructions Near Airports Prohibited**

- (a) No person shall construct or alter any structure or permit any natural growth to grow at a height which exceeds the obstruction standards set forth in the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of Federal Regulations,

Part 77, Subpart C, unless a permit allowing the construction, alteration, or growth is issued by the department.

- (b) The permit is not required if the Federal Aviation Administration has determined that the construction, alteration, or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. Subdivision (a) does not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility.
- (c) Section 21658 is applicable to subdivision (b).

**AERONAUTICS LAW**  
**PUBLIC UTILITIES CODE**  
**Division 9, Part 1, Chapter 4**

**Article 3**  
**REGULATION OF AIRPORTS**  
**(excerpts)**

**21661.5. Approval of Construction Plans; Submission of Plan to Airport Land Use Commission**

No political subdivision, any of its officers or employees, or any person may submit any application for the construction of a new airport to any local, regional, state, or federal agency unless the plan for such construction is first approved by the board of supervisors of the county, or the city council of the city, in which the airport is to be located and unless the plan is submitted to the appropriate commission exercising powers pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9, and acted upon by such commission in accordance with the provisions of such article.

**21664.5. Approval of Sites; Amended Airport Permits; Airport Expansion Defined**

An amended airport permit shall be required for every expansion of an existing airport. An applicant for an amended airport permit shall comply with each requirement of this article pertaining to permits for new airports. The department may by regulation provide for exemptions from the operation of the section pursuant to Section 21661, except that no exemption shall be made limiting the applicability of subdivision (e) of Section 21666, pertaining to environmental considerations, including the requirement for public hearings in connection therewith.

As used in this section, "airport expansion" includes any of the following:

- (a) The acquisition of clear zones or of any interest in land for the purpose of any other expansion as set forth in this section.
- (b) The construction of a new runway.
- (c) The extension or realignment of an existing runway.
- (d) Any other expansion of the airport's physical facilities for the purpose of accomplishing or which are related to the purpose of subdivision (a), (b), or (c).

This section shall not apply to any expansion of an existing airport if the expansion commenced on or prior to the effective date of this section and the expansion met the approval on or prior to such effective date of each governmental agency which by law required such approval.

**PLANNING AND ZONING LAW**

**GOVERNMENT CODE  
Title 7—Planning and Land Use  
Division 1—Planning and Zoning  
Chapter 3—Local Planning**

**Article 5  
AUTHORITY FOR AND SCOPE OF GENERAL PLANS  
(excerpts)**

**65302.3. General and Applicable Specific Plans; Consistency with  
Airport Land Use Plans; Amendment; Nonconcurrency Findings**

- (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.
- (b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.
- (c) If the legislative body does not concur with any of the provisions of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

**PLANNING AND ZONING LAW****GOVERNMENT CODE****Title 7, Division 1****Chapter 4.5—Review and Approval of Development Projects****Article 3****APPLICATION FOR DEVELOPMENT PROJECTS****(excerpts)**

Note: The following government code sections are referenced in Section 21675.2(c) of the ALUC statutes.

**65943. Completeness of Application; Determination; Time;  
Specification of Parts not Complete and Manner of Completion**

- (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.
- (b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for the purposes of this chapter.
- (c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency of the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

- (d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.
- (e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to pro-

vide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

**65943.5.**

- (a) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving a permit application to a board, office, or department within the California Environmental Protection Agency shall be made to the Secretary for Environmental Protection.
- (b) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving an application for the issuance of an environmental permit from an environmental agency shall be made to the Secretary for Environmental Protection under either of the following circumstances:
  - (1) The environmental agency has not adopted an appeals process pursuant to subdivision (c) of Section 65943.
  - (2) The environmental agency declines to accept an appeal for a decision pursuant to subdivision (c) of Section 65943.
- (c) For purposes of subdivision (b), "environmental permit" has the same meaning as defined in Section 72012 of the Public Resources Code, and "environmental agency" has the same meaning as defined in Section 71011 of the Public Resources Code, except that "environmental agency" does not include the agencies described in subdivisions (c) and (h) of Section 71011 of the Public Resources Code.

**65944. Acceptance of Application as Complete; Requests for Additional Information; Restrictions; Clarification, Amplification, Correction, etc; Prior to Notice of Necessary Information**

- (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.
- (b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.
- (c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

**65945. Notice of Proposal to Adopt or Amend Certain Plans or Ordinances by City or County, Fee; Subscription to Periodically Updated Notice as Alternative, Fee**

- (a) At the time of filing an application for a development permit with a city or county, the city or county

shall inform the applicant that he or she may make a written request to retrieve notice from the city or county of a proposal to adopt or amend any of the following plans or ordinances:

- (1) A general plan.
- (2) A specific plan.
- (3) A zoning ordinance.
- (4) An ordinance affecting building permits or grading permits.

The applicant shall specify, in the written request, the types of proposed action for which notice is requested. Prior to taking any of those actions, the city or county shall give notice to any applicant who has requested notice of the type of action proposed and whose development project is pending before the city or county if the city or county determines that the proposal is reasonably related to the applicant's request for the development permit. Notice shall be given only for those types of actions which the applicant specifies in the request for notification.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this subdivision, the fee shall be collected as part of the application fee charged for the development permit.

- (b) As an alternative to the notification procedure prescribed by subdivision (a), a city or county may inform the applicant at the time of filing an application for a development permit that he or she may subscribe to a periodically updated notice or set of notices from the city or county which lists pending proposals to adopt or amend any of the plans or ordinances specified in subdivision (a), together with the status of the proposal and the date of any hearings thereon which have been set.

Only those proposals which are general, as opposed to parcel-specific in nature, and which the city or county determines are reasonably related to requests for development permits, need be listed in the notice. No proposals shall be required to be listed until such time as the first public hearing thereon has been set. The notice shall be updated and mailed at least once every six weeks; except that a notice need not be updated and mailed until a change in its contents is required.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice, including the costs of updating the notice, for the length of time the applicant requests to be sent the notice or notices.

### **65945.3. Notice of Proposal to Adopt or Amend Rules or Regulations Affecting Issuance of Permits by Local Agency other than City or County; Fee**

At the time of filing an application for a development permit with a local agency, other than a city or county, the local agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a rule or regulation affecting the issuance of development permits.

Prior to adopting or amending any such rule or regulation, the local agency shall give notice to any applicant who has requested such notice and whose development project is pending before the agency if the local agency determines that the proposal is reasonably related to the applicant's request for the development permit.

The local agency may charge the applicant for a development permit, to whom notice is provided pursuant to this section, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

**65945.5. Notice of Proposal to Adopt or Amend Regulation Affecting Issuance of Permits and Which Implements Statutory Provision by State Agency**

At the time of filing an application for a development permit with a state agency, the state agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a regulation affecting the issuance of development permits and which implements a statutory provision.

Prior to adopting or amending any such regulation, the state agency shall give notice to any applicant who has requested such notice and whose development project is pending before the state agency if the state agency determines that the proposal is reasonably related to the applicant's request for the development permit.

**65945.7. Actions, Inactions, or Recommendations Regarding Ordinances, Rules or Regulations; Invalidity or Setting Aside Ground of Error Only if Prejudicial**

No action, inaction, or recommendation regarding any ordinance, rule, or regulation subject to this Section 65945, 65945.3, or 65945.5 by any legislative body, administrative body, or the officials of any state or local agency shall be held void or invalid or be set aside by any court on the ground of any error, irregularity, informality, neglect, or omission (hereinafter called "error") as to any matter pertaining to notices, records, determinations, publications, or any matters of procedure whatever, unless after an examination of the entire case, including evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error that party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

**65946. [Replaced by AB2351 Statutes of 1993]**

**PLANNING AND ZONING LAW****GOVERNMENT CODE****Title 7, Division 1****Chapter 9.3—Mediation and Resolution of Land Use Disputes  
(excerpts)****66030.**

- (a) The Legislature finds and declares all of the following:
- (1) Current law provides that aggrieved agencies, project proponents, and affected residents may bring suit against the land use decisions of state and local governmental agencies. In practical terms, nearly anyone can sue once a project has been approved.
  - (2) Contention often arises over projects involving local general plans and zoning, redevelopment plans, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), development impact fees, annexations and incorporations, and the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).
  - (3) When a public agency approves a development project that is not in accordance with the law, or when the prerogative to bring suit is abused, lawsuits can delay development, add uncertainty and cost to the development process, make housing more expensive, and damage California's competitiveness. This litigation begins in the superior court, and often progresses on appeal to the Court of Appeal and the Supreme Court, adding to the workload of the state's already overburdened judicial system.
- (b) It is, therefore, the intent of the Legislature to help litigants resolve their differences by establishing formal mediation processes for land use disputes. In establishing these mediation processes, it is not the intent of the Legislature to interfere with the ability of litigants to pursue remedies through the courts.

**66031.**

- (a) Notwithstanding any other provision of law, any action brought in the superior court relating to any of the following subjects may be subject to a mediation proceeding conducted pursuant to this chapter:
- (1) The approval or denial by a public agency of any development project.
  - (2) Any act or decision of a public agency made pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
  - (3) The failure of a public agency to meet the time limits specified in Chapter 4.5 (commencing with Section 65920), commonly known as the Permit Streamlining Act, or in the Subdivision Map Act (Division 2 (commencing with Section 66410)).
  - (4) Fees determined pursuant to Sections 53080 to 53082, inclusive, or Chapter 4.9 (commencing with Section 65995).
  - (5) Fees determined pursuant to Chapter 5 (commencing with Section 66000).
  - (6) The adequacy of a general plan or specific plan adopted pursuant to Chapter 3 (commencing with Section 65100).

- (7) The validity of any sphere of influence, urban service area, change of organization or reorganization, or any other decision made pursuant to the Cortese-Knox Local Government Reorganization Act (Division 3 (commencing with Section 56000) of Title 5).
  - (8) The adoption or amendment of a redevelopment plan pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).
  - (9) The validity of any zoning decision made pursuant to Chapter 4 (commencing with Section 65800).
  - (10) The validity of any decision made pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.
- (b) Within five days after the deadline for the respondent or defendant to file its reply to an action, the court may invite the parties to consider resolving their dispute by selecting a mutually acceptable person to serve as a mediator, or an organization or agency to provide a mediator.
  - (c) In selecting a person to serve as a mediator, or an organization or agency to provide a mediator, the parties shall consider the following:
    - (1) The council of governments having jurisdiction in the county where the dispute arose.
    - (2) Any subregional or countywide council of governments in the county where the dispute arose.
    - (3) The Office of Permit Assistance within the Trade and Commerce Agency, pursuant to its authority in Article 1 (commencing with Section 15399.50) of Chapter 11 of Part 6.7 of Division 3 of Title 2.
    - (4) Any other person with experience or training in mediation including those with experience in land use issues, or any other organization or agency which can provide a person with experience or training in mediation, including those with experience in land use issues.
  - (d) If the court invites the parties to consider mediation, the parties shall notify the court within 30 days if they have selected a mutually acceptable person to serve as a mediator. If the parties have not selected a mediator within 30 days, the action shall proceed. The court shall not draw any implication, favorable or otherwise, from the refusal by a party to accept the invitation by the court to consider mediation. Nothing in this section shall preclude the parties from using mediation at any other time while the action is pending.

**PLANNING AND ZONING LAW****GOVERNMENT CODE  
Title 7—Planning and Land Use  
Division 2—Subdivisions  
Chapter 3—Procedure****Article 3  
REVIEW OF TENTATIVE MAP BY OTHER AGENCIES  
(excerpts)****66455.9.**

Whenever there is consideration of an area within a development for a public school site, the advisory agency shall give the affected districts and the State Department of Education written notice of the proposed site. The written notice shall include the identification of any existing or proposed runways within the distance specified in Section 17215 of the Education Code. If the site is within the distance of an existing or proposed airport runway as described in Section 17215 of the Education Code, the department shall notify the State Department of Transportation as required by the section and the site shall be investigated by the State Department of Transportation required by Section 17215.

**EDUCATION CODE**  
**Title 1—General Education Code Provisions**  
**Division 1—General Education Code Provisions**  
**Part 10.5—School Facilities**  
**Chapter 1—School Sites**

**Article 1**  
**GENERAL PROVISIONS**  
**(excerpts)**

*Note: SB 161, Statutes of 1997, replaced Education Code Section 39005 with Section 17215; SB 967, Statutes of 1995, deleted Sections 39006 and 39007.*

**17215.**

- (a) In order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of school sites before acquiring title to property for a new schoolsite, the governing board of each school district, including any district governed by a city board of education, shall give the State Department of Education written notice of the proposed acquisition and shall submit any information required by the State Department of Education if the proposed site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.
- (b) Upon receipt of the notice required pursuant to subdivision (a), the State Department of Education shall notify the Department of Transportation in writing of the proposed acquisition. If the Department of Transportation is no longer in operation, the State Department of Education shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.
- (c) The Department of Transportation shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the State Department of Education a written report of its findings including recommendations concerning acquisition of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the proposed schoolsite. The Department of Transportation shall adopt regulations setting forth the criteria by which a proposed site will be evaluated pursuant to this section.
- (d) The State Department of Education shall, within 10 days of receiving the Department of Transportation's report, forward the report to the governing board of the school district. The governing board may not acquire title to the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition of the property for a schoolsite or an addition to a present schoolsite, the governing board may not acquire title to the property. If the report does favor the acquisition of the property for a schoolsite or an addition to a present schoolsite, the governing board shall hold a public hearing on the matter prior to acquiring the site.

- (e) If the Department of Transportation's recommendation does not favor acquisition of a proposed site, state funds or local funds may not be apportioned or expended for the acquisition of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.
- (f) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

**EDUCATION CODE**  
**Title 3—Postsecondary Education**  
**Division 7—Community Colleges**  
**Part 49—Community Colleges, Education Facilities**  
**Chapter 1—School Sites**

**Article 2**  
**SCHOOL SITES**  
*(excerpts)*

**81033. Investigation: Geologic and Soil Engineering Studies; Airport in Proximity**

- (c) To promote the safety of students, comprehensive community planning, and greater educational usefulness of community college sites, the governing board of each community college district, if the proposed site is within two miles, measured by air line, of that point on an airport runway, or a runway proposed by an airport master plan, which is nearest the site and excluding them if the property is not so located, before acquiring title to property for a new community college site or for an addition to a present site, shall give the board of governors notice in writing of the proposed acquisition and shall submit any information required by the board of governors.

Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport runway, or a runway proposed by an airport master plan, which is nearest the site, the board of governors shall notify the Division of Aeronautics of the Department of Transportation, in writing, of the proposed acquisition. The Division of Aeronautics shall make an investigation and report to the board of governors within 30 working days after receipt of the notice. If the Division of Aeronautics is no longer in operation, the board of governors shall, in lieu of notifying the Division of Aeronautics, notify the Federal Aviation Administration or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the authority or other agency such information or assistance as it may desire to give.

The board of governors shall investigate the proposed site and within 35 working days after receipt of the notice shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the board of governors has been received. If the report does not favor the acquisition of the property for a community college site or an addition to a present community college site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the board of governors' report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the community college district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.

- (d) If, with respect to a proposed site located within two miles of an operative airport runway, the report of the board of governors submitted to a community college district governing board under subdivision (c) does not favor the acquisition of the site on the sole or partial basis of the unfavorable recommendation of the Division of Aeronautics of the Department of Transportation, no state agency or officer shall grant, apportion, or allow to such community college district for expenditure in connection with that site, any state funds otherwise made available under any state law whatever for a community college site acquisition or college building construction, or for expansion of existing sites and buildings, and no funds of the community college district or of the county in which the district lies shall

be expended for such purposes; provided that provisions of this section shall not be applicable to sites acquired prior to January 1, 1966, nor any additions or extensions to such sites.

If the recommendations of the Division of Aeronautics is unfavorable, such recommendations shall not be overruled without the express approval of the board of governors and the State Allocation Board.

**PUBLIC RESOURCES CODE**  
**California Environmental Quality Act Statutes**  
**Chapter 2.6—General**

*(excerpts)*

**21096. Airport Planning**

- (a) If a lead agency prepares an environmental impact report for a project situated within airport comprehensive land use plan boundaries, or, if a comprehensive land use plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation, in compliance with Section 21674.5 of the Public Utilities Code and other documents, shall be utilized as technical resources to assist in the preparation of the environmental impact report as the report relates to airport-related safety hazards and noise problems.
- (b) A lead agency shall not adopt a negative declaration for a project described in subdivision (a) unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

**LEGISLATIVE HISTORY SUMMARY****PUBLIC UTILITIES CODE****Section 21670 et seq.****Airport Land Use Commission Statutes**

- 1967 Original ALUC statute enacted.
- Establishment of ALUCs required in each county containing a public airport served by a certified air carrier.
  - The purpose of ALUCs is indicated as being to make recommendations regarding height restrictions on buildings and the use of land surrounding airports.
- 1970 Assembly Bill 1856 (Badham) Chapter 1182, Statutes of 1970—Adds provisions which:
- Require ALUCs to prepare comprehensive land use plans.
  - Require such plans to include a long-range plan and to reflect the airport's forecast growth during the next 20 years.
  - Require ALUC review of airport construction plans (Section 21661.5).
  - Exempt Los Angeles County from the requirement of establishing an ALUC.
- 1971 The function of ALUCs is restated as being to require new construction to conform to Department of Aeronautics standards.
- 1973 ALUCs are permitted to establish compatibility plans for military airports.
- 1982 Assembly Bill 2920 (Rogers) Chapter 1041, Statutes of 1982—Adds major changes which:
- More clearly articulate the purpose of ALUCs.
  - Eliminate reference to "achieve by zoning."
  - Require consistency between local general and specific plans and airport land use commission plans; the requirements define the process for attaining consistency, they do not establish standards for consistency.
  - Eliminate the requirement for proposed individual development projects to be referred to an ALUC for review once local general/specific plans are consistent with the ALUC's plan.
  - Require that local agencies make findings of fact before overriding an ALUC decision.
  - Change the vote required for an override from 4/5 to 2/3.
- 1984 Assembly Bill 3551 (Mountjoy) Chapter 1117, Statutes of 1984—Amends the law to:
- Require ALUCs in all counties having an airport which serves the general public unless a county and its cities determine an ALUC is not needed.
  - Limit amendments to compatibility plans to once per year.
  - Allow individual projects to continue to be referred to the ALUC by agreement.
  - Extend immunity to airports if an ALUC action is overridden by a local agency not owning the airport.
  - Provide state funding eligibility for preparation of compatibility plans through the Regional Transportation Improvement Program process.
- 1987 Senate Bill 633 (Rogers) Chapter 1018, Statutes of 1987—Makes revisions which:
- Require that a designated body serving as an ALUC include two members having "expertise in aviation."
  - Allows an interested party to initiate court proceedings to postpone the effective date of a local land use action if a compatibility plan has not been adopted.
  - Delete sunset provisions contained in certain clauses of the law.
  - Allows reimbursement for ALUC costs in accordance with the Commission on State Mandates.

- 1989 Senate Bill 255 (Bergeson) Chapter 54, Statutes of 1989—
- Sets a requirement that comprehensive land use plans be completed by June 1991.
  - Establishes a method for compelling ALUCs to act on matters submitted for review.
  - Allows ALUCs to charge fees for review of projects.
  - Suspends any lawsuits that would stop development until the ALUC adopts its plan or until June 1, 1991.
- 1989 Senate Bill 235 (Alquist) Chapter 788, Statutes of 1989—Appropriates \$3,672,000 for the payment of claims to counties seeking reimbursement of costs incurred during fiscal years 1985–86 through 1989-90 pursuant to state-mandated requirement (Chapter 1117, Statutes of 1984) for creation of ALUCs in most counties. This statute was repealed in 1993.
- 1990 Assembly Bill 4164 (Mountjoy) Chapter 1008, Statutes of 1990—Adds Section 21674.5 requiring the Division of Aeronautics to develop and implement a training program for ALUC staffs.
- 1990 Assembly Bill 4265 (Clute) Chapter 563, Statutes of 1990—With the concurrence of the Division of Aeronautics, allows ALUCs to use an airport layout plan, rather than a long-range airport master plan, as the basis for preparation of a compatibility plan.
- 1990 Senate Bill 1288 (Beverly) Chapter 54, Statutes of 1990—Amends Section 21670.2 to give Los Angeles County additional time to prepare compatibility plans and meet other provisions of the ALUC statutes.
- 1991 Senate Bill 532 (Bergeson) Chapter 140, Statutes of 1991—
- Allows counties having half of their compatibility plans completed or under preparation by June 30, 1991, an additional year to complete the remainder.
  - Allows ALUCs to continue to charge fees under these circumstances.
  - Fees may be charged only until June 30, 1992, if plans are not completed by then.
- 1993 Senate Bill 443 (Committee on Budget and Fiscal Review) Chapter 59, Statutes of 1993—Amends Section 21670(b) to make the formation of ALUCs permissive rather than mandatory as of June 30, 1993. (Note: Section 21670.2 which assigns responsibility for coordinating the airport planning of public agencies in Los Angeles County is not affected by this amendment.)
- 1994 Assembly Bill 2831 (Mountjoy) Chapter 644, Statutes of 1994—Reinstates the language in Section 21670(b) mandating establishment of ALUCs, but also provides for an alternative airport land use planning process. Lists specific actions which a county and affected cities must take in order for such alternative process to receive Division of Aeronautics' approval. Requires that ALUCs be guided by information in the Airport Land Use Planning Handbook when formulating airport land use plans.
- 1994 Senate Bill 1453 (Rogers) Chapter 438, Statutes of 1994—Amends California Environmental Quality Act (CEQA) statutes as applied to preparation of environmental documents affecting projects in the vicinity of airports. Requires lead agencies to use the Airport Land Use Planning Handbook as a technical resource when assessing the airport-related noise and safety impacts of such projects.
- 1997 Assembly Bill 1130 (Oller) Chapter 81, Statutes of 1997—Added Section 21670.4 concerning airports whose planning boundary straddles a county line.
- 2000 Senate Bill 1350 (Rainey) Chapter 506, Statutes of 2000—Added Section 21670(f) clarifying that special districts are among the local agencies to which airport land use planning laws are intended to apply.

# Federal Aviation Regulations Part 77

## Objects Affecting Navigable Airspace

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### Subpart A GENERAL

Amdt. 77-11, Sept. 25, 1989.

#### 77.1 Scope.

This part:

- (a) Establishes standards for determining obstructions in navigable airspace;
- (b) Sets forth the requirements for notice to the Administrator of certain proposed construction or alteration;
- (c) Provides for aeronautical studies of obstructions to air navigation, to determine their effect on the safe and efficient use of airspace;
- (d) Provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and
- (e) Provides for establishing antenna farm areas.

#### 77.2 Definition of Terms.

For the purpose of this part:

“Airport available for public use” means an airport that is open to the general public with or without a prior request to use the airport.

“A seaplane base” is considered to be an airport only if its sea lanes are outlined by visual markers.

“Nonprecision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service military airport planning document.

“Precision instrument runway” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA approved airport layout plan; a military service approved military airport layout plan; any other FAA planning document, or military service military airport planning document.

“Utility runway” means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

“Visual runway” means a runway intended solely for the operation of aircraft using visual approach proce-

dures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

### **77.3 Standards.**

- (a) The standards established in this part for determining obstructions to air navigation are used by the Administrator in:
  - (1) Administering the Federal-aid Airport Program and the Surplus Airport Program;
  - (2) Transferring property of the United States under section 16 of the Federal Airport Act;
  - (3) Developing technical standards and guidance in the design and construction of airports; and
  - (4) Imposing requirements for public notice of the construction or alteration of any structure where notice will promote air safety.
- (b) The standards used by the Administrator in the establishment of flight procedures and aircraft operational limitations are not set forth in this part but are contained in other publications of the Administrator.

### **77.5 Kinds of Objects Affected.**

This part applies to:

- (a) Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used therein, and apparatus of a permanent or temporary character; and
- (b) Alteration of any permanent or temporary existing structure by a change in its height (including appurtenances), or lateral dimensions, including equipment or materials used therein.

## **Subpart B NOTICE OF CONSTRUCTION OR ALTERATION**

### **77.11 Scope.**

- (a) This subpart requires each person proposing any kind of construction or alteration described in § 77.13(a) to give adequate notice to the Administrator. It specifies the locations and dimensions of the construction or alteration for which notice is required and prescribes the form and manner of the notice. It also requires supplemental notices 48 hours before the start and upon the completion of certain construction or alteration that was the subject of a notice under § 77.13(a).
- (b) Notices received under this subpart provide a basis for:
  - (1) Evaluating the effect of the construction or alteration on operational procedures and proposed operational procedures;
  - (2) Determinations of the possible hazardous effect of the proposed construction or alteration on air navigation;

- (3) Recommendations for identifying the construction or alteration in accordance with the current Federal Aviation Administration Advisory Circular AC 70/7460-1 entitled "Obstruction Marking and Lighting," which is available without charge from the Department of Transportation, Distribution Unit, TAD 484.3, Washington, D.C. 20590.
- (4) Determining other appropriate measures to be applied for continued safety of air navigation; and
- (5) Charting and other notification to airmen of the 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 out ward 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) 5 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 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 the 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 (four copies) 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 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 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 117-1, Notice of Progress of Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area involved.

#### **77.19 Acknowledgment of Notice.**

- (a) The FAA acknowledges in writing the receipt of each notice submitted under §77.13(a).
- (b) If the construction or alteration proposed in a notice is one for which lighting or marking standards are prescribed in the FAA Advisory Circular AC 70/7460-1, entitled "Obstruction Marking and Lighting," the acknowledgment contains a statement to that effect and information on how the structure should be marked and lighted in accordance with the manual.
- (c) The acknowledgment states that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
  - (1) Would not exceed any standard of Subpart C and would not be a hazard to air navigation;
  - (2) Would exceed a standard of Subpart C but would not be a hazard to air navigation; or
  - (3) Would exceed a standard of Subpart C and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed the construction or alteration would be a hazard to air navigation.

### **Subpart C OBSTRUCTION STANDARDS**

#### **77.21 Scope.**

- (a) This subpart establishes standards for determining obstructions to air navigation. It applies to existing and proposed manmade objects, objects of natural growth, and terrain. The standards apply to the use of navigable airspace by aircraft and to existing air navigation facilities, such as an air navigation aid, airport, Federal airway, instrument approach or departure procedure, or approved off airway route.

Additionally, they apply to a planned facility or use, or a change in an existing facility or use, if a proposal therefor is on file with the Federal Aviation Administration or an appropriate military service on the date the notice required by § 77.13(a) is filed.

- (b) At those airports having defined runways with specially prepared hard surfaces, the primary surface for each such runway extends 200 feet beyond each end of the runway. At those airports having defined strips or pathways that are used regularly for the taking off and landing of aircraft and have been designated by appropriate authority as runways, but do not have specially prepared hard surfaces, each end of the primary surface for each such runway shall coincide with the corresponding end of the runway. At those airports, excluding seaplane bases, having a defined landing and takeoff area with no defined pathways for the landing and taking off of aircraft, a determination shall be made as to which portions of the landing and takeoff area are regularly used as landing and takeoff pathways. Those pathways so determined shall be considered runways and an appropriate primary surface as defined in § 77.25(c) will be considered as being longitudinally centered on each runway so determined, and each end of that primary surface shall coincide with the corresponding end of that runway.
- (c) The standards in this subpart apply to the effect of construction or alteration proposals upon an airport if, at the time of filing of the notice required by § 77.13(a), that airport is—
  - (1) 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; or
  - (2) A planned or proposed airport or 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; or,
  - (3) An airport that is operated by an armed force of the United States.

### **77.23 Standards for Determining Obstructions.**

- (a) 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 any of the following heights or surfaces:
  - (1) A height of 500 feet above ground level at the site of the object.
  - (2) A height that is 200 feet above ground level 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.
  - (3) 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 obstacle clearance.
  - (4) 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.
  - (5) 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 takeoff or landing area itself will be considered an obstruction.

- (b) Except for traverse ways on or near an airport with an operative ground traffic control service, furnished by an air traffic control tower or by the airport management and coordinated with the air traffic control service, the standards of paragraph (a) of this section apply to traverse ways used or to be used for the passage of mobile objects only after the heights of these traverse ways are increased by:
- (1) Seventeen 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.
  - (2) Fifteen feet for any other public roadway.
  - (3) Ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.
  - (4) Twenty-three feet for a railroad, and,
  - (5) 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.

### **77.25 Civil Airport Imaginary Surfaces.**

The following civil airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

- (a) Horizontal surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
- (1) 5,000 feet for all runways designated as utility or visual;
  - (2) 10,000 feet for all other runways.
- The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
- (b) Conical surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- (c) Primary surface. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
- (1) 250 feet for utility runways having only visual approaches.
  - (2) 500 feet for utility runways having nonprecision instrument approaches.
  - (3) For other than utility runways the width is:

- (i) 500 feet for visual runways having only visual approaches.
- (ii) 500 feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile.
- (iii) 1,000 feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.

The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

- (d) Approach surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
  - (1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
    - (i) 1,250 feet for that end of a utility runway with only visual approaches;
    - (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
    - (iii) 2,000 feet for that end of a utility runway with a nonprecision instrument approach;
    - (iv) 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
    - (v) 4,000 feet for that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and
    - (vi) 16,000 feet for precision instrument runways.
  - (2) The approach surface extends for a horizontal distance of:
    - (i) 5,000 feet at a slope of 20 to 1 for all utility and visual runways;
    - (ii) 10,000 feet at a slope of 34 to 1 for all nonprecision instrument runways other than utility; and,
    - (iii) 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for all precision instrument runways.
  - (3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- (e) Transitional surface. These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

**77.27 [Reserved]**

**77.28 Military Airport Imaginary Surfaces.**

- (a) Related to airport reference points. These surfaces apply to all military airports. For the purposes of this section a military airport is any airport operated by an armed force of the United States.
  - (1) Inner horizontal surface. A plane is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.
  - (2) Conical surface. A surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.
  - (3) Outer horizontal surface. A plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.
- (b) Related to runways. These surfaces apply to all military airports.
  - (1) Primary surface. A surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet. However, at established bases where substantial construction has taken place in accordance with a previous lateral clearance criteria, the 2,000 foot width may be reduced to the former criteria.
  - (2) Clear zone surface. A surface located on the ground or water at each end of the primary surface, with a length of 1,000 feet and the same width as the primary surface.
  - (3) Approach clearance surface. An inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach clearance surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at 50,000 is 16,000 feet.
  - (4) Transitional surfaces. These surfaces connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

**77.29 Airport Imaginary Surfaces for Heliports.**

- (a) Heliport primary surface. The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.
- (b) Heliport approach surface. The approach surface begins at each end of the heliport primary surface with the same width as the primary surface, and extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.
- (c) Heliport transitional surfaces. These surfaces extend outward and upward from the lateral boundaries

of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

**Subpart D**  
**AERONAUTICAL STUDIES OF EFFECT OF**  
**PROPOSED CONSTRUCTION ON NAVIGABLE AIRSPACE**

**77.31 Scope.**

- (a) This subpart applies to the conduct of aeronautical studies of the effect of proposed construction or alteration on the use of air navigation facilities or navigable airspace by aircraft. In the aeronautical studies, present and future IFR and VFR aeronautical operations and procedures are reviewed and any possible changes in those operations and procedures and in the construction proposal that would eliminate or alleviate the conflicting demands are ascertained.
- (b) The conclusion of a study made under this subpart is normally a determination as to whether the specific proposal studied would be a hazard to air navigation.

**77.33 Initiation of Studies.**

- (a) An aeronautical study is conducted by the FAA:
  - (1) Upon the request of the sponsor of any construction or alteration for which a notice is submitted under Subpart B of this part, unless that construction or alteration would be located within an antenna farm area established under Subpart F of this part; or
  - (2) Whenever the FAA determines it appropriate.

**77.35 Aeronautical Studies.**

- (a) The Regional Manager, Air Traffic Division of the region in which the proposed construction or alteration would be located, or his designee, conducts the aeronautical study of the effect of the proposal upon the operation of air navigation facilities and the safe and efficient utilization of the navigable airspace. This study may include the physical and electromagnetic radiation effect the proposal may have on the operation of an air navigation facility.
- (b) To the extent considered necessary, the Regional Manager, Air Traffic Division or his designee:
  - (1) Solicits comments from all interested persons;
  - (2) Explores objections to the proposal and attempts to develop recommendations for adjustment of aviation requirements that would accommodate the proposed construction or alteration;
  - (3) Examines possible revisions of the proposal that would eliminate the exceeding of the standards in Subpart C of this part; and
  - (4) Convenes a meeting with all interested persons for the purpose of gathering all facts relevant to the effect of the proposed construction or alteration on the safe and efficient utilization of the navigable airspace.

- (c) The Regional Manager, Air Traffic Division or his designee issues a determination as to whether the proposed construction or alteration would be a hazard to air navigation and sends copies to all known interested persons. This determination is final unless a petition for review is granted under § 77.37.
- (d) If the sponsor revises his proposal to eliminate exceeding of the standards of Subpart C of this part, or withdraws it, the Regional Manager, Air Traffic Division, or his designee, terminates the study and notifies all known interested persons.

### **77.37 Discretionary Review.**

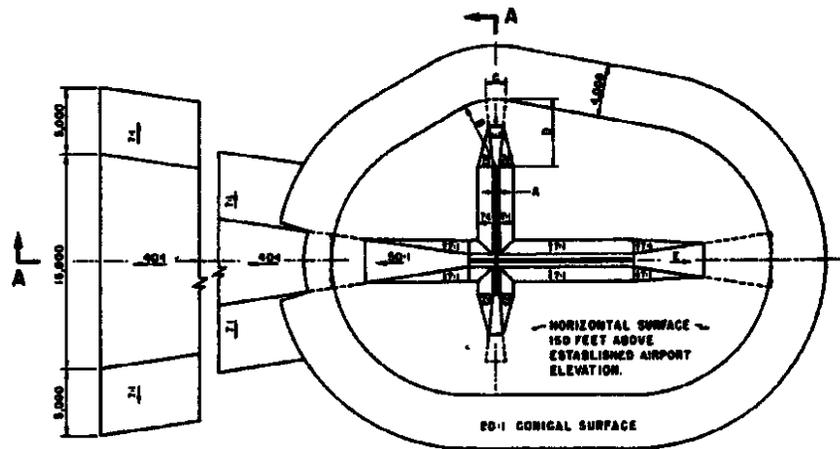
- (a) The sponsor of any proposed construction or alteration or any person who stated a substantial aeronautical objection to it in an aeronautical study, or any person who has a substantial aeronautical objection to it but was not given an opportunity to state it, may petition the Administrator, within 30 days after issuance of the determination under § 77.19 or § 77.35 or revision or extension of the determination under § 77.39(c), for a review of the determination, revision, or extension. This paragraph does not apply to any acknowledgment issued under § 77.19(c)(1).
- (b) The petition must be in triplicate and contain a full statement of the basis upon which it is made.
- (c) The Administrator examines each petition and decides whether a review will be made and, if so, whether it will be:
  - (1) A review on the basis of written materials, including study of a report by the Regional Manager, Air Traffic Division of the aeronautical study, briefs, and related submissions by any interested party, and other relevant facts, with the Administrator affirming, revising, or reversing the determination issued under § 77.19, § 77.35 or § 77.39(c); or
  - (2) A review on the basis of a public hearing, conducted in accordance with the procedures prescribed in Subpart E of this part.

### **77.39 Effective Period of Determination of No Hazard.**

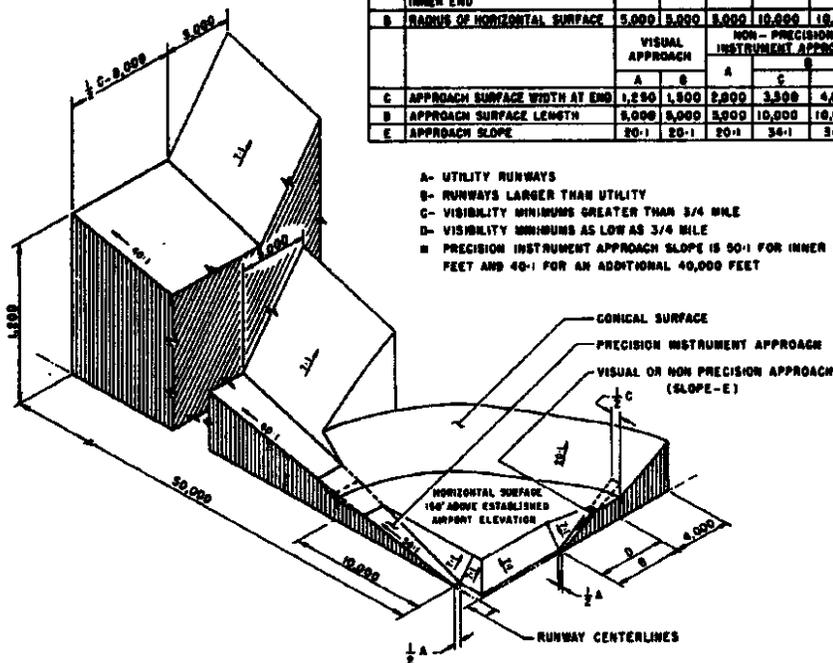
- (a) Unless it is otherwise extended, revised, or terminated, each final determination of no hazard made under this subpart or Subpart B or E of this part expires 18 months after its effective date, regardless of whether the proposed construction or alteration has been started, or on the date the proposed construction or alteration is abandoned, whichever is earlier.
- (b) In any case, including a determination to which paragraph (d) of this section applies, where the proposed construction or alteration has not been started during the applicable period by actual structural work, such as the laying of a foundation, but not including excavation, any interested person may, at least 15 days before the date the final determination expires, petition the FAA official who issued the determination to:
  - (1) Revise the determination based on new facts that change the basis on which it was made; or
  - (2) Extend its effective period.
- (c) The FAA official who issued the determination reviews each petition presented under paragraph (b) of this section, and revises, extends, or affirms the determination as indicated by his findings.
- (d) In any case in which a final determination made under this subpart or Subpart B or E of this part

relates to proposed construction or alteration that may not be started unless the Federal Communications Commission issues an appropriate construction permit, the effective period of each final determination includes:

- (1) The time required to apply to the Commission for a construction permit, but not more than 6 months after the effective date of the determination; and
  - (2) The time necessary for the Commission to process the application except in a case where the Administrator determines a shorter effective period is required by the circumstances.
- (e) If the Commission issues a construction permit, the final determination is effective until the date prescribed for completion of the construction. If the Commission refuses to issue a construction permit, the final determination expires on the date of its refusal.



| DIM | ITEM   | DIMENSIONAL STANDARDS (FEET) |       |                                   |        |                               |        |
|-----|--|------------------------------|-------|-----------------------------------|--------|-------------------------------|--------|
|     |  | VISUAL RUNWAY                |       | NON-PRECISION INSTRUMENT RUNWAY   |        | PRECISION INSTRUMENT RUNWAY   |        |
|     |  | A                            | B     | A                                 | C      | B                             |        |
| A   | WIDTH OF PRIMARY SURFACE AND APPROACH SURFACE WIDTH AT INNER END | 250                          | 500   | 500                               | 500    | 1,000                         | 1,000  |
| B   | RADIUS OF HORIZONTAL SURFACE                                     | 5,000                        | 5,000 | 5,000                             | 10,000 | 10,000                        | 10,000 |
| C   | APPROACH SURFACE WIDTH AT END                                    | VISUAL APPROACH              |       | NON-PRECISION INSTRUMENT APPROACH |        | PRECISION INSTRUMENT APPROACH |        |
|     |  | A                            | B     | A                                 | C      | B                             |        |
| C   | APPROACH SURFACE WIDTH AT END                                    | 1,500                        | 1,500 | 2,000                             | 3,500  | 4,000                         | 15,000 |
| D   | APPROACH SURFACE LENGTH  | 5,000                        | 5,000 | 5,000                             | 10,000 | 10,000                        | A      |
| E   | APPROACH SLOPE   | 20:1                         | 20:1  | 20:1                              | 34:1   | 34:1                          | B      |



- A- UTILITY RUNWAYS
- B- RUNWAYS LARGER THAN UTILITY
- C- VISIBILITY MINIMUMS GREATER THAN 3/4 MILE
- D- VISIBILITY MINIMUMS AS LOW AS 3/4 MILE
- E- PRECISION INSTRUMENT APPROACH SLOPE IS 50:1 FOR INNER 10,000 FEET AND 40:1 FOR AN ADDITIONAL 40,000 FEET

ISOMETRIC VIEW OF SECTION A-A

§ 77.25 CIVIL AIRPORT IMAGINARY SURFACES

Source: Federal Aviation Regulations Part 77

EXHIBIT B-1

FAR Part 77 Imaginary Surfaces



## Methods for Determining Concentrations of People

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One criterion used in many compatibility plans is the maximum number of people per acre that can be present in a given area at any one time. If a proposed use exceeds the maximum density, it is considered inconsistent with compatibility planning policies. This appendix provides some guidance on how the people-per-acre determination can be made.

The most difficult part about making a people-per-acre determination is estimating the number of people likely to use a particular facility. There are several methods which can be utilized, depending upon the nature of the proposed use:

- ▶ **Parking Ordinance**—The number of people present in a given area can be calculated based upon the number of parking spaces provided. Some assumption regarding the number of people per vehicle needs to be developed to calculate the number of people on-site. The number of people per acre can then be calculated by dividing the number of people on-site by the size of the parcel in acres. This approach is appropriate where the use is expected to be dependent upon access by vehicles. Depending upon the specific assumptions utilized, this methodology typically results in a number in the low end of the likely intensity for a given land use.
- ▶ **Maximum Occupancy**—The Uniform or California Building Code can be used as a standard for determining the maximum occupancy of certain uses. The chart provided as Exhibit C-1 indicates the required number of square feet per occupant. The number of people on the site can be calculated by dividing the total floor area of a proposed use by the minimum square feet per occupant requirement listed in the table. The maximum occupancy can then be divided by the size of the parcel in acres to determine the people per acre. Surveys of actual occupancy levels conducted by various agencies have indicated that many retail and office uses are generally occupied at no more than 50% of their maximum occupancy levels, even at the busiest times of day. Therefore, the number of people calculated for office and retail uses should usually be adjusted (50%) to reflect the actual occupancy levels before making the final people-per-acre determination. Even with this adjustment, the UBC-based methodology typically produces intensities at the high end of the likely range.
- ▶ **Survey of Similar Uses**—Certain uses may require an estimate based upon a survey of similar uses. This approach is more difficult, but is appropriate for uses which, because of the nature of the use, cannot be reasonably estimated based upon parking or square footage.

Exhibit C-2 shows sample calculations.

| Use  | Minimum<br>Square Feet per Occupant    |
|--|--|
| 1. Aircraft Hangars (no repair) . . . . .                              | 500                                    |
| 2. Auction Rooms . . . . .   | 7                                      |
| 3. Assembly Areas, Concentrated Use . . . . .                          | 7                                      |
| (without fixed seats)  |  |
| Auditoriums  |  |
| Churches and Chapels   |  |
| Dance Floors   |  |
| Lobby Accessory to Assembly Occupancy                                  |  |
| Lodge Rooms  |  |
| Reviewing Stands   |  |
| Stadiums   |  |
| Waiting Area . . . . .   | 3                                      |
| 4. Assembly Areas, Less Concentrated Use . . . . .                     | 15                                     |
| Conference Rooms   |  |
| Dining Rooms   |  |
| Drinking Establishments  |  |
| Exhibit Rooms  |  |
| Gymnasiums   |  |
| Lounges  |  |
| Stages   |  |
| Gaming . . . . .   | 11                                     |
| 5. Bowling Alley (assume no occupant load for bowling lanes) . . . . . | 4                                      |
| 6. Children's Homes and Homes for the Aged . . . . .                   | 80                                     |
| 7. Classrooms . . . . .  | 20                                     |
| 8. Congregate Residences . . . . .                                     | 200                                    |
| 9. Courtrooms . . . . .  | 40                                     |
| 10. Dormitories . . . . .  | 50                                     |
| 11. Dwellings . . . . .  | 300                                    |
| 12. Exercising Rooms . . . . .   | 50                                     |
| 13. Garage, Parking . . . . .  | 200                                    |
| 14. Health-Care Facilities . . . . .                                   | 80                                     |
| Sleeping Rooms . . . . .   | 120                                    |
| Treatment Rooms . . . . .  | 240                                    |
| 15. Hotels and Apartments . . . . .                                    | 200                                    |
| 16. Kitchen — Commercial . . . . .                                     | 200                                    |
| 17. Library Reading Room . . . . .                                     | 50                                     |
| Stack Areas . . . . .  | 100                                    |
| 18. Locker Rooms . . . . .   | 50                                     |
| 19. Malls . . . . .  | Varies                                 |
| 20. Manufacturing Areas . . . . .                                      | 200                                    |
| 21. Mechanical Equipment Room . . . . .                                | 300                                    |
| 22. Nurseries for Children (Day Care) . . . . .                        | 35                                     |
| 23. Offices . . . . .  | 100                                    |
| 24. School Shops and Vocational Rooms . . . . .                        | 50                                     |
| 25. Skating Rinks . . . . .  | 50 on the skating area; 15 on the deck |
| 26. Storage and Stock Rooms . . . . .                                  | 300                                    |
| 27. Stores — Retail Sales Rooms  |  |
| Basements and Ground Floor . . . . .                                   | 30                                     |
| Upper Floors . . . . .   | 60                                     |
| 28. Swimming Pools . . . . .   | 50 for the pool area; 15 on the deck   |
| 29. Warehouses . . . . .   | 500                                    |
| 30. All Others . . . . .   | 100                                    |

Source: California Building Code (1998), Table 10-A

EXHIBIT C-1

**Occupancy Levels—California Building Code**

**Example 1**

*Proposed Development:* Two office buildings, each two stories and containing 20,000 square feet of floor area per building. Site size is 3.0 net acres. Counting a portion of the adjacent road, the gross area of the site is 3.5± acres.

**A. Calculation Based on Parking Space Requirements**

For office uses, assume that a county or city parking ordinance requires 1 parking space for every 300 square feet of floor area. Data from traffic studies or other sources can be used to estimate the average vehicle occupancy. For the purposes of this example, the number of people on the property is assumed to equal 1.5 times the number of parking spaces.

The average usage intensity would therefore be calculated as follows:

- 1) 40,000 sq. ft. floor area x 1.0 parking space per 300 sq. ft. = 134 required parking spaces
- 2) 134 parking spaces x 1.5 people per space = 200 people maximum on site
- 3) 200 people ÷ 3.5 acres gross site size = 57 people per acre average for the site

Assuming that occupancy of each building is relatively equal throughout, but that there is some separation between the buildings and outdoor uses are minimal, the usage intensity for a single acre would be estimated to be:

- 1) 20,000 sq. ft. bldg. ÷ 2 stories = 10,000 sq. ft. bldg. footprint
- 2) 10,000 sq. ft. bldg. footprint ÷ 43,560 sq. ft. per acre = 0.23 acre bldg. footprint
- 3) Building footprint < 1.0 acre; therefore maximum people in 1 acre = bldg. occupancy = 100 people per single acre

**B. Calculation Based on Uniform Building Code**

Using the UBC (Appendix C1) as the basis for estimating building occupancy yields the following results for the above example:

- 1) 40,000 sq. ft. bldg. ÷ 100 sq. ft./occupant = 400 people max. bldg. occupancy (under UBC)
- 2) 400 max. bldg. occupancy x 50% adjustment = 200 people maximum on site
- 3) 200 people ÷ 3.5 acres gross site size = 57 people per acre average for the site

*Conclusions:* In this instance, both methodologies give the same results. For different uses and/or different assumptions, the two methodologies are likely to produce different numbers. In most such cases, the UBC methodology will indicate a higher intensity.

EXHIBIT C-2

**Sample People-Per-Acre Calculations**

**Example 2**

*Proposed Development:* Single-floor furniture store containing 24,000 square feet of floor area on a site of 1.7 net acres. Counting a portion of the adjacent road, the gross area of the site is 2.0 acres).

**A. Calculation Based on Parking Space Requirements**

For furniture stores, the county requires 1 parking space per 400 square feet of use area. Assuming 1.5 people per automobile, the average usage intensity would be:

- 1) 24,000 sq. ft. bldg. x 1.0 parking space per 400 sq. ft. = 60 required parking spaces
- 2) 60 parking spaces x 1.5 people per space = 90 people maximum on site
- 3) 90 people ÷ 1.26 acres gross site size = 72 people per acre average for the site

Again assuming a relatively balanced occupancy throughout the building and that outdoor uses are minimal, the usage intensity for a single acre would be estimated to be:

- 1) 24,000 sq. ft. bldg. footprint ÷ 43,560 sq. ft. per acre = 0.55 acre bldg. footprint
- 3) Building footprint < 1.0 acre; therefore maximum people in 1 acre = bldg. occupancy = 90 people per single acre

**B. Calculation Based on Uniform Building Code**

For the purposes of the UBC-based methodology, the furniture store is assumed to be consist of 50% retail sales floor (at 30 square feet per occupant) and 50% warehouse (at 500 square feet per occupant). Usage intensities would therefore be estimated as follows:

- 1) 12,000 sq. ft. retail floor area ÷ 30 sq. ft./occupant = 400 people max. occupancy in retail area
- 2) 12,000 sq. ft. warehouse floor area ÷ 500 sq. ft./occupant = 24 people max. occupancy in warehouse area
- 3) Maximum occupancy under UBC assumptions = 400 + 24 = 424 people
- 4) Assuming typical peak occupancy is 50% of UBC numbers = 212 people maximum expected at any one time
- 5) 212 people ÷ 1.26 acres = 168 people per acre average for the site

With respect to the single-acre intensity criteria, the entire building occupancy would again be within less than 1.0 acre, thus yielding the same intensity of 168 people per single acre.

*Conclusions:* In this instance, the two methods produce very different results. The occupancy estimate of 30 square feet per person is undoubtedly low for a furniture store even after the 50% adjustment. The 72 people-per-acre estimate using the parking requirement methodology is probably closer to being realistic. As part of the general plan consistency process, ALUCs and local jurisdictions should decide which method or combination of methods is to be used in reviewing development proposals.

## Sample Implementation Documents

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The responsibility for implementation of the policies set forth in the compatibility plans adopted by airport land use commissions rests largely with the affected local jurisdictions. This appendix contains samples of two types of implementation documents.

- ▶ **Avigation Easement**—Avigation easements transfer certain property rights from the owner of the underlying property to the owner of an airport. ALUCs may require avigation easement dedication as a condition for approval of development on property subject to high noise levels or a need to restrict heights of structures and trees to less than might ordinarily occur on the property. Also, airports may require avigation easements in conjunction with programs for noise insulation of existing structures in the airport vicinity. A sample of a standard avigation easement is included in Exhibit D-1.
- ▶ **Recorded Deed Notice**—Deed notices are a form of buyer awareness measure whose objective is to ensure that prospective buyers of airport area property, particularly residential property, are informed about the airport's impact on the property. Unlike easements, deed notices do not convey property rights from the property owner to the airport and do not restrict the height of objects. They only document the existence of certain conditions which affect the property—such as the proximity of the airport and common occurrence of aircraft overflights at or below the airport traffic pattern altitude. ALUCs may make recording of deed notices a requirement for project approval within portions of the airport influence area where avigation easements are not essential. Exhibit D-2 contains a sample of a deed notice.

An additional type of implementation document available to local jurisdictions is an airport combining zone ordinance. Possible components for such an ordinance are described in Chapter 5, Table 5B.

This indenture made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ herein after referred to as Grantor, and the [Insert County or City name], a political subdivision in the State of California, hereinafter referred to as Grantee.

The Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual and assignable easement over the following described parcel of land in which the Grantor holds a fee simple estate. The property which is subject to this easement is depicted as \_\_\_\_\_ on "Exhibit A" attached and is more particularly described as follows:

[Insert legal description of real property]

The easement applies to the Airspace above an imaginary plane over the real property. The plane is described as follows:

The imaginary plane above the hereinbefore described real property, as such plane is defined by Part 77 of the Federal Aviation Regulations, and consists of a plane [describe approach, transition, or horizontal surface]; the elevation of said plane being based upon the \_\_\_\_\_ Airport official runway end elevation of \_\_\_\_\_ feet Above Mean Sea Level (AMSL), as determined by [Insert name and Date of Survey or Airport Layout Plan that determines the elevation] the approximate dimensions of which said plane are described and shown on Exhibit A attached hereto and incorporated herein by reference.

The aforesaid easement and right-of-way includes, but is not limited to:

- (1) For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, or any aircraft, of any and all kinds now or hereafter known, in, through, across, or about any portion of the Airspace hereinabove described; and
- (2) The easement and right to cause or create, or permit or allow to be caused or created within all space above the existing surface of the hereinabove described real property and any and all Airspace laterally adjacent to said real property, such noise, vibration, currents and other effects of air, illumination, and fuel consumption as may be inherent in, or may arise or occur from or during the operation of aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight in air; and
- (3) A continuing right to clear and keep clear from the Airspace any portions of buildings, structures, or improvements of any kinds, and of trees or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees, or other things which extend into or above said Airspace, and the right to cut to the ground level and remove, any trees which extend into or above the Airspace; and
- (4) The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects, which extend into or above the Airspace; and
- (5) The right of ingress to, passage within, and egress from the hereinabove described real property, for the purposes described in subparagraphs (3) and (4) above at reasonable times and after reasonable notice.

#### EXHIBIT D-1

## Typical Avigation Easement



A statement similar to the following should be included on the deed for any real property subject to the deed notice requirements set forth in the [Insert ALUC name] *Airport Land Use Compatibility Plan*. Such notice should be recorded by the county of [Insert County name]. Also, this deed notice should be included on any parcel map, tentative map, or final map for subdivision approval.

The [Insert ALUC name] *Airport Land Use Compatibility Plan* and [Insert County/City name] Ordinance (Ordinance No. \_\_\_\_\_) identify a [Insert Airport name] Airport Influence Area. Properties within this area are routinely subject to overflights by aircraft using this public-use airport and, as a result, residents may experience inconvenience, annoyance, or discomfort arising from the noise of such operations. State law (Public Utilities Code Section 21670 et seq.) establishes the importance of public-use airports to protection of the public interest of the people of the state of California. Residents of property near such airports should therefore be prepared to accept the inconvenience, annoyance, or discomfort from normal aircraft operations. Residents also should be aware that the current volume of aircraft activity may increase in the future in response to [Insert County name] County population and economic growth. Any subsequent deed conveying this parcel or subdivisions thereof shall contain a statement in substantially this form.

EXHIBIT D-2

## Sample Deed Notice

## General Plan Consistency Checklist

This checklist is intended to assist counties and cities with modifications necessary to make their general plans and other local policies consistent with the ALUC's compatibility plan. It is also designed to facilitate ALUC reviews of these local plans and policies. The list will need to be modified to reflect the policies of each individual ALUC and is not intended as a state requirement.

### COMPATIBILITY CRITERIA

#### *General Plan Document*

The following items typically appear directly in a general plan document. Amendment of the general plan will be required if there are any conflicts with the compatibility plan.

- ▶ **Land Use Map**—No direct conflicts should exist between proposed new land uses indicated on a general plan land use map and the ALUC land use compatibility criteria.
  - ▶ Residential densities (dwelling units per acre) should not exceed the set limits. Differences between gross and net densities and the potential for secondary dwellings on single parcels (see below) may need to be taken into account.
  - ▶ Proposed nonresidential development needs to be assessed with respect to applicable intensity limits (see below).
  - ▶ No new land uses of a type listed as specifically prohibited should be shown within affected areas.
- ▶ **Noise Element**—General plan noise elements typically include criteria indicating the maximum noise exposure for which residential development is normally acceptable. This limit must be made consistent with the equivalent compatibility plan criteria. Note, however, that a general plan may establish a different limit with respect to aviation-related noise than for noise from other sources (this may be appropriate in that aviation-related noise is often judged to be more objectionable than other types of equally loud noises).

#### *Zoning or Other Policy Documents*

The following items need to be reflected either in the general plan or in a separate policy document such as a combining zone ordinance. If a separate policy document is adopted, modification of the general plan to achieve consistency with the compatibility plan may not be required. Modifications would normally be needed only to eliminate any conflicting language which may be present and to make reference to the separate policy document.

- ▶ **Secondary Dwellings**—Detached secondary dwellings on the same parcel should be counted as additional swellings for the purposes of density calculations. This factor needs to be reflected in local policies either by adjusting the maximum allowable densities or by prohibiting secondary dwellings where their presence would conflict with the compatibility criteria.
- ▶ **Intensity Limitations on Nonresidential Uses**—Local policies must be established to limit the usage intensities of commercial, industrial, and other nonresidential land uses. This can be done by duplication of the performance-oriented criteria—specifically, the number of people per acre indicated in the compatibility plan. Alternatively, local jurisdictions may create a detailed list of land uses which are allowable and/or not allowable within each compatibility zone. For certain land uses, such a list may need to include limits on building sizes, floor area ratios, habitable floors, and/or other design parameters which are equivalent to the usage intensity criteria.
- ▶ **Identification of Prohibited Uses**—Compatibility plans may prohibit day care centers, hospitals, and certain other uses within much of each airport's influence area. The facilities often are permitted or conditionally permitted uses within many commercial or industrial land use designations. Policies need to be established which preclude these uses in accordance with the compatibility criteria.

**Zoning or Other Policy Documents, Continued**

- ▶ **Open Land Requirements**—Compatibility plan requirements, if any, for assuring that a minimum amount of open land is preserved for the airport vicinity must be reflected in local policies. Normally, the locations which are intended to be maintained as open land would be identified on a map with the total acreage within each compatibility zone indicated. If some of the area included as open land is private property, then policies must be established which assure that the open land will continue to exist as the property develops. Policies specifying the required characteristics of eligible open land also must be established.
- ▶ **Infill Development**—If a compatibility plan contains infill policies and a jurisdiction wishes to take advantage of them, the lands which meet the qualifications must be shown on a map.
- ▶ **Height Limitations and Other Hazards to Flight**—To protect the airport airspace, limitations must be set on the height of structures and other objects near airports. These limitations are to be based upon Part 77 of the Federal Aviation Regulations, but may include exceptions for objects on high terrain if provided for in the compatibility plan. Restrictions also must be established on other land use characteristics which can cause hazards to flight (specifically, visual or electronic interference with navigation and uses which attract birds). Note that many jurisdictions have already adopted an airport-related hazard and height limit zoning ordinance which, if up to date, will satisfy this consistency requirement.
- ▶ **Noise Insulation Requirements**—Some compatibility plans call for certain buildings proposed for construction within high noise-impact areas to demonstrate that they will contain sufficient sound insulation to reduce aircraft-related noise to an acceptable level. These criteria apply to new residences, schools, and certain other buildings containing noise-sensitive uses. Local policies must include parallel criteria.
- ▶ **Buyer Awareness Measures**—As a condition for approval of development within certain compatibility zones, some compatibility plans require either dedication of an avigation easement to the airport proprietor or placement on deeds of a notice regarding airport impacts. If so, local jurisdiction policies must contain similar requirements. Compatibility plans also may encourage, but should not require, local jurisdictions to adopt a policy stating that airport proximity and the potential for aircraft overflights be disclosed as part of real estate transactions regarding property in the airport influence area.
- ▶ **Nonconforming Uses and Reconstruction**—Local jurisdiction policies regarding nonconforming uses and reconstruction must be equivalent to or more restrictive than those in the compatibility plan, if any.

**REVIEW PROCEDURES**

In addition to incorporation of ALUC compatibility criteria, local jurisdiction implementing documents must specify the manner in which development proposals will be reviewed for consistency with the compatibility criteria.

- ▶ **Actions Always Required to be Submitted for ALUC Review**—State law specifies which types of development actions must be submitted for airport land use commission review. Local policies should either list these actions or, at a minimum, note the jurisdiction's intent to comply with the state statute.
- ▶ **Other Land Use Actions Potentially Subject to ALUC Review**—In addition to the above actions, compatibility plan may identify certain major land use actions for which referral to the ALUC is dependent upon agreement between the jurisdiction and the ALUC. If the jurisdiction fully complies with all of the items in this general plan consistency check list or has taken the necessary steps to overrule the ALUC, then referral of the additional actions is voluntary. On the other hand, a jurisdiction may elect not to incorporate all of the necessary compatibility criteria and review procedures into its own policies. In this case, referral of major land use actions to the ALUC is mandatory. Local policies should indicate the jurisdiction's intentions in this regard.
- ▶ **Process for Compatibility Reviews by Local Jurisdictions**—If a jurisdiction chooses to submit only the mandatory actions for ALUC review, then it must establish a policy indicating the procedures which will be used to assure that airport compatibility criteria are addressed during review of other projects. Possibilities include: a standard review procedure checklist which includes reference to compatibility criteria; use of a geographic information system to identify all parcels within the airport influence area; etc.
- ▶ **Variance Procedures**—Local procedures for granting of variances to the zoning ordinance must make certain that any such variances do not result in a conflict with the compatibility criteria. Any variance which involves issues of noise, safety, airspace protection, or overflight compatibility as addressed in the compatibility plan must be referred to the ALUC for review.
- ▶ **Enforcement**—Policies must be established to assure compliance with compatibility criteria during the lifetime of the development. Enforcement procedures are especially necessary with regard to limitations on usage intensities and the heights of trees. An airport combining district zoning ordinance is one means of implementing enforcement requirements.

Source: *California Airport Land Use Planning Handbook (January 2002)*

## **Appendix F**

# **Monterey County Airport Approaches Zoning**

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### **21.86 –AIRPORT APPROACHES ZONING**

#### **21.86.010 ADOPTION.**

Pursuant to the authority conferred by Article XI, Section 7, of the California Constitution, the Board of Supervisors of the County of Monterey, State of California, deems it necessary to create an Airport Approaches Zoning Ordinance for the purpose of promoting the health, safety, and general welfare of the inhabitants of the County of Monterey, by preventing the creation or establishment of airport hazards, thereby protecting the lives and property of the users of airports in the County of Monterey and of the occupants of the land in its vicinity and preventing destruction and impairment of the utility of the airport and the public investment therein.

#### **21.86.020 SHORT TITLE.**

This Chapter shall be known and may be cited as the Airport Approaches Zoning Ordinance of the County of Monterey.

#### **21.86.030 DEFINITIONS.**

For the purpose of this Chapter, unless the context otherwise requires, certain terms used in this Title are defined as follows:

- A. Airport means any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes.
- B. Airport Elevation means the elevation of the airport reference point.
- C. Airport Hazard means any structure or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft.
- D. Airport Reference Point means that point at the geographical center of a public airport as defined in this section and shown on the Airport Approaches Zoning Maps which is also the point established for determining the height limits specified in Section 21.86.060, being the official elevation reference.
- E. City or County means any city, county or city and county.
- F. Height of Structure means the vertical distance from the average level of the highest and lowest point of that portion of the building site covered by the structure to the topmost point of the structure.

G. Nonconforming Use means any preexisting structure or use of land which does not conform to a regulation prescribed in this Title or an amendment thereto, as of the effective date of such regulations, but which was legal at the time it was constructed or when the use began.

H. Person means any individual, firm, copartnership, corporation, company, association, joint stock association, city, county or district and includes any trustee, receiver, assignee.

I. Planning Commission means the County Planning Commission of the County of Monterey, State of California.

J. Structure means any object constructed or installed by man, including, but not limited to buildings, towers, smokestacks, and overhead lines.

K. Landing Area means the area of the airport used for the landing, takeoff, or taxiing of aircraft.

L. Airport Land Use Commission (ALUC) means a State authorized body existing in any county where there is an airport operated for the general public and served by an air carrier, having the responsibility to develop plans for achieving land use compatibility between airports and their environs.

#### **21.86.040 ESTABLISHMENT OF ZONES**

A. In order to carry out the purposes of this Chapter all land within the boundaries of airports and other lands in the vicinity of the airport are divided into Instrument Approach Zones, Non-Instrument Approach Zones, Transitional Zones, Horizontal Zones and Conical Zones. These zones are based on the "imaginary surfaces" found in Federal Aviation Regulation (FAR) Part 77 (Objects Affecting Navigable Airspace). The boundaries of these zones are shown on the following maps:

1. Monterey Peninsula Airport Approaches Zoning Map.
2. Salinas Municipal Airport Approaches Zoning Map.
3. Mesa Del Rey (King City) Airport Approaches Zoning Map.
4. Carmel Valley Airport Approaches Zoning Map.
5. Fritzsche Army Airfield (Fort Ord) Airport Approaches Zoning Map.

The Airport Approaches Zoning Maps and other pertinent documents are on file and available for inspection in the Monterey County Planning and Building Inspection Department.

B. Where uncertainty exists as to the boundaries of any of the aforesaid districts as described as aforesaid or as shown on said maps, the Planning Commission and the ALUC, upon written application or upon its own motion, shall determine the location of such boundaries.

#### **21.86.050 DESIGNATION OF ZONES.**

The several zones established pursuant to Section 21.86.040(A) are designated and defined as follows:

A. Instrument Approach Zone: An instrument approach zone is established at each end of the

instrument runway for instrument landings and takeoffs. The instrument approach zones shall have a width of one thousand feet at a distance of two hundred feet beyond each end of the runway, widening thereafter uniformly to a width of sixteen thousand feet at a distance of fifty thousand two hundred feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

B. **Noninstrument Approach Zone:** A noninstrument approach zone is established at each end of all noninstrument runways for noninstrument landings and takeoffs. The noninstrument approach zone shall have a width of five hundred feet at a distance of two hundred feet beyond each end of the runway, widening thereafter uniformly to a width of one thousand five hundred feet at a distance of five thousand two hundred feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

C. **Transition Zones:** Transition zones are established adjacent to each instrument and noninstrument runway and approach zone as indicated on the Airport Approaches Zoning Maps. Transition zones symmetrically located on either side of runways have variable widths as shown on the zoning map. Transition zones extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sites of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

D. **Horizontal Zone:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

- (1) 5,000 feet for all runways designated as utility or visual;
- (2) 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

E. **Conical Zone:** A conical zone is established as the area that extends outward and upward from the periphery of the horizontal zone at a slope of 20 to 1 for a horizontal distance of 4,000 feet as shown on the Airport Approaches Zoning Maps. The conical zone does not include the instrument approach zones and transition zones.

#### **21.86.060 HEIGHT LIMITATIONS.**

No structure shall be erected, altered, or maintained in any zone created by this Chapter to a height in excess of the height limit established in this section for such zone without first obtaining a Use Permit. Such height limitations are established for each of the zones in question as follows:

A. **Instrument Approach Zone:** One foot in height for each fifty feet in horizontal distance beginning at a point two hundred feet from and at the centerline elevation of the end of the instrument runways and extending to a distance of ten thousand two hundred feet from the end of the runway; thence one foot in height for each forty feet in horizontal distance to a point fifty thousand two hundred feet from the end of the runway;

B. **Noninstrument Approach Zones:** One foot in height for each twenty feet in horizontal distance beginning at a point two hundred feet from and at the centerline elevation of the end of the noninstrument runway and extending to a point five thousand two hundred feet from the end of the runway.

C. **Transition Zones:** These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

D. **Horizontal Zone:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

(1) 5,000 feet for all runways designated as utility or visual;

(2) 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

E. **Conical Zone:** One foot in height for each twenty feet of horizontal distance beginning at the periphery of the horizontal zone extending for a horizontal distance of 4,000 feet, as shown on Airport Approaches Zoning Maps.

**21.86.070 USE RESTRICTIONS.**

Notwithstanding any other provisions of this Chapter, no use may be made of land within any zone established by this ordinance which will (1) create electrical interference with navigational signals or radio communications between the airport and aircraft; (2) make it difficult for pilots to distinguish between airport lights and other lights; (3) result in glare in the eyes of pilots using the airport; (4) impair visibility of the airport; or (5) otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft using or intending to use the airport.

**21.86.080 NONCONFORMING STRUCTURES.**

A. The regulations prescribed in Sections 21.86.060 and 21.86.070 shall not be construed to require the removal, lowering or other change or alteration of any structure which was lawfully constructed, but not conforming to these regulations as of the effective date of this Chapter, or otherwise interfere with the continuance of any such legal nonconforming use.

B. Nothing contained in this Chapter shall require any change in the construction, alteration or intended use of any structures, the construction or alteration of which was begun prior to the effective date of this Chapter, and is diligently pursued and completed within a reasonable time thereof.

C. Before any nonconforming structure may be replaced, substantially altered, repaired or rebuilt, a Use Permit must be secured from the Planning Commission.

**21.86.090 USE PERMITS.**

A. Authority: The Planning Commission shall review and decide all applications for Use Permits under this Chapter. All Use Permit applications in the area encompassed in the zones created by this Chapter shall be referred to the Monterey County Airport Land Use Commission for review and recommendations.

B. Application: Application for a Use Permit shall be made pursuant to Chapter 21.74.

C. Public Hearing: A public hearing shall be held pursuant to Chapter 21.78.

D. Action by Planning Commission:

In addition to the requirements of Chapter 21.74:

1. The Planning Commission shall not grant a permit which adds to or increase the hazards stated in Section 21.86.070.

2. No permit shall be granted that would allow a legal nonconforming structure or a legal nonconforming use to become a greater hazard to air navigation than it was on the effective date of this Chapter, or than it is when the application for a Use Permit is made. No such permit shall be required to make maintenance repairs or to replace parts of existing structures which do not enlarge or increase the height of the existing structure.

E. Conditions; Avigation and Hazard Easements:

1. A Use Permit may be allowed subject to any reasonable condition that the ALUC may recommend and Planning Commission may deem necessary to achieve the purposes of this Chapter.

2. Such conditions may include the requirements that an Avigation and Hazard Easement be granted to the airport operator for aircraft overflight and that such easement be recorded with the County Recorder. The easement may include:

(a) Right-of-flight at any altitude above the acquired easement surfaces.

(b) Right to cause noise, vibrations, fumes, dust, and fuel particle emissions.

(c) Right to prevent construction or growth of all structures, objects or natural growth above the acquired easement surfaces.

(d) Right-of-entry to remove, mark, or light any structures or growth above the acquired easement surfaces, or right to require the owner to remove, mark or light.

(e) Right to prohibit creation of electrical interference, unusual light sources, and other hazards to aircraft flight.

(f) Any other limitation that the ALUC may recommend to protect the public's health, safety and welfare.

F. Appeal.

1. An appeal to the Board of Supervisors may be filed pursuant to Chapter 21.80

#### **21.86.100 EXCEPTIONS.**

The following regulations shall apply only within those zones related to the Monterey Peninsula Airport and if any of the regulations specified in this Section differ from any of the corresponding regulations specified in this Chapter for any zone, then in such case the provisions of this Section shall govern:

A. Nothing in this Chapter shall prohibit a structure to a maximum height of thirty-five feet.

B. Nothing in this Chapter shall prohibit a structure that is completely shielded or shadowed from the Airport Reference Point by a natural land formation that is equal or greater in elevation than the structure.



