

Airport Land Use Commission
AIRPORT ENVIRONS



LAND USE PLAN
for
JOHN WAYNE AIRPORT

Amended: April 17, 2008

AIRPORT ENVIRONS LAND USE PLAN

April 17, 2008

Text of Plan	Adopted – April 17, 1975
Marine Corps Air Station, El Toro	Adopted – April 17, 1975
Orange County Airport	Adopted – May 15, 1975
Fullerton Municipal Airport	Adopted – June 5, 1975
First Revised Edition	Adopted – June 30, 1983
Updated for Amendments	Adopted – Thru December 19, 1985
Second Revised Edition	Adopted – September 15, 1988
1990 Airport Environs Land Use Plan Amendment	Adopted – November 29, 1990
1994 Airport Environs Land Use Plan Amendment	Adopted – December 15, 1994
1995 Airport Environs Land Use Plan Amendment	Adopted – November 16, 1995
2002 Airport Environs Land Use Plan Amendment	Adopted – December 19, 2002
2005 Confirm Nonapplicability of AELUP for MCAS El Toro	Adopted – July 21, 2005

AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY MEMBERSHIP AS OF APRIL 2008

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Errata Sheet

- 1) In Section 2.1.3 of the *AELUP for JWA* please note the correction on page 13 (bottom of the first paragraph):

“To coincide with this regulation, the ALUC also requires notification for such projects regardless of where within ~~the jurisdiction of the County of Orange~~ Orange County the project would be located. This may or may not result in referral of a project to the ALUC.”

- 2) The note on Figure 1 titled Airport Land Use Commission for Orange County Airport Planning Areas has been revised to state the following:

“NOTE: ALL CONSTRUCTION OR ALTERATION OF STRUCTURES WITHIN ~~THE COUNTY OF ORANGE~~ ORANGE COUNTY AT ELEVATIONS MORE THAN 200 FT. ABOVE GROUND LEVEL REQUIRE FAA AND ALUC NOTIFICATION.”

- 3) At the April 17, 2008 Airport Land Use Commission (ALUC) meeting, the Commission directed staff to include the JWA Airport Layout Plan (ALP) approved in March 2005. The ALP exhibit is included in Appendix D of the *AELUP for JWA*.

SECTION 1.0 – INTRODUCTION

1.1 Background

In 1967 the first Airport Land Use Commission (ALUC) statute was adopted by the California legislature, according to the California Airport Land Use Planning Handbook. The legislation has been amended many times in the ensuing years. Particularly significant amendments occurred in 1982, 1984, 1994 and 2000. The 1982 amendments more clearly articulated the purpose of ALUCs, eliminated the reference to “achieve by zoning,” required consistency between local general plans and zoning and ALUC compatibility plans, required that local agencies make findings of fact before overriding an ALUC decision and changed the vote required for an override from four-fifths to two-thirds. In 1984, amendments to compatibility plans were limited to once per year and immunity was extended to airports if an ALUC action is overridden by a local agency not owning the airport. In 1994 the California Environment Quality Act (CEQA) statutes as applied to the preparation of environmental documents in the vicinity of airports was amended. Lead agencies are required to use the Airport Land Use Planning Handbook as a technical resource when assessing the airport-related noise and safety impacts of airport vicinity projects. In 2000, Section 21670(f) was added to clarify that special districts are among the local agencies to which airport land use planning laws are intended to apply.

The purpose of ALUCs has remained essentially unchanged since the early years of the statutes. To fulfill its purpose ALUC has two specific duties according to the Handbook.

- Prepare Compatibility Plans—Each commission is required to “prepare and adopt” an airport land use plan for each of the airports within its jurisdiction (Section 21674 (c) and 21675(a)).
- Review Local Agency Land Use Actions and Airport Plans—The commissions’ second duty is to “review the plans, regulations, and other actions of local agencies and airport operators...” (Section 21674(d))

The key limitations are 1) that they have no authority over existing land uses regardless of whether such uses are incompatible with airport activities and 2) the “powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.”

The Airport Land Use Commission for Orange County was established in late 1969. Between 1970 and the actual adoption of the Airport Environs Land Use Plan (AELUP), the Commission made advisory comments on projects. The first AELUP elements were adopted by the Commission between April 17 and August 7, 1975.

1.2 Purpose and Scope

This AELUP for John Wayne Airport is one of several AELUPs prepared for each of the airports in Orange County. The ALUC serves all the airports in Orange County which include John Wayne Airport (JWA), Fullerton Municipal Airport (FMA) and Joint Forces Training Base Los Alamitos. Additionally, there is an AELUP for Heliports.

This land use compatibility plan intends, for the twenty year planning future for John Wayne Airport (See Appendix D for maps), to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the plan seeks to protect the public from the adverse effects of aircraft noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace. The implementation of this plan will forestall urban encroachment on the airport and will allow for its continued operation. This compatibility plan for John Wayne Airport affects the cities of Costa Mesa, Irvine, Newport Beach, Santa Ana, and Tustin, as well as unincorporated areas of the County of Orange. Furthermore, per Federal Aviation Regulation Part 77, Section 77.13(a), notice to the Federal Aviation Administration (FAA) is required for any proposed structure more than 200 feet Above Ground Level (AGL) of its site. Notices to the FAA provide a basis for evaluating project impacts on operational procedures and air navigation. To coincide with the FAA regulation, the ALUC also requires notification of all such proposals, which may result in referral to the ALUC.

1.3 Authority

Public Utilities Code (PUC) 21676(a) requires each local agency whose General Plan includes areas covered by an airport land use commission plan to submit a copy of its general plan or specific plans (each reference to specific plan also includes conventional zoning and planned community zoning) to the airport land use commission.

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 hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes stated in Section 21670.

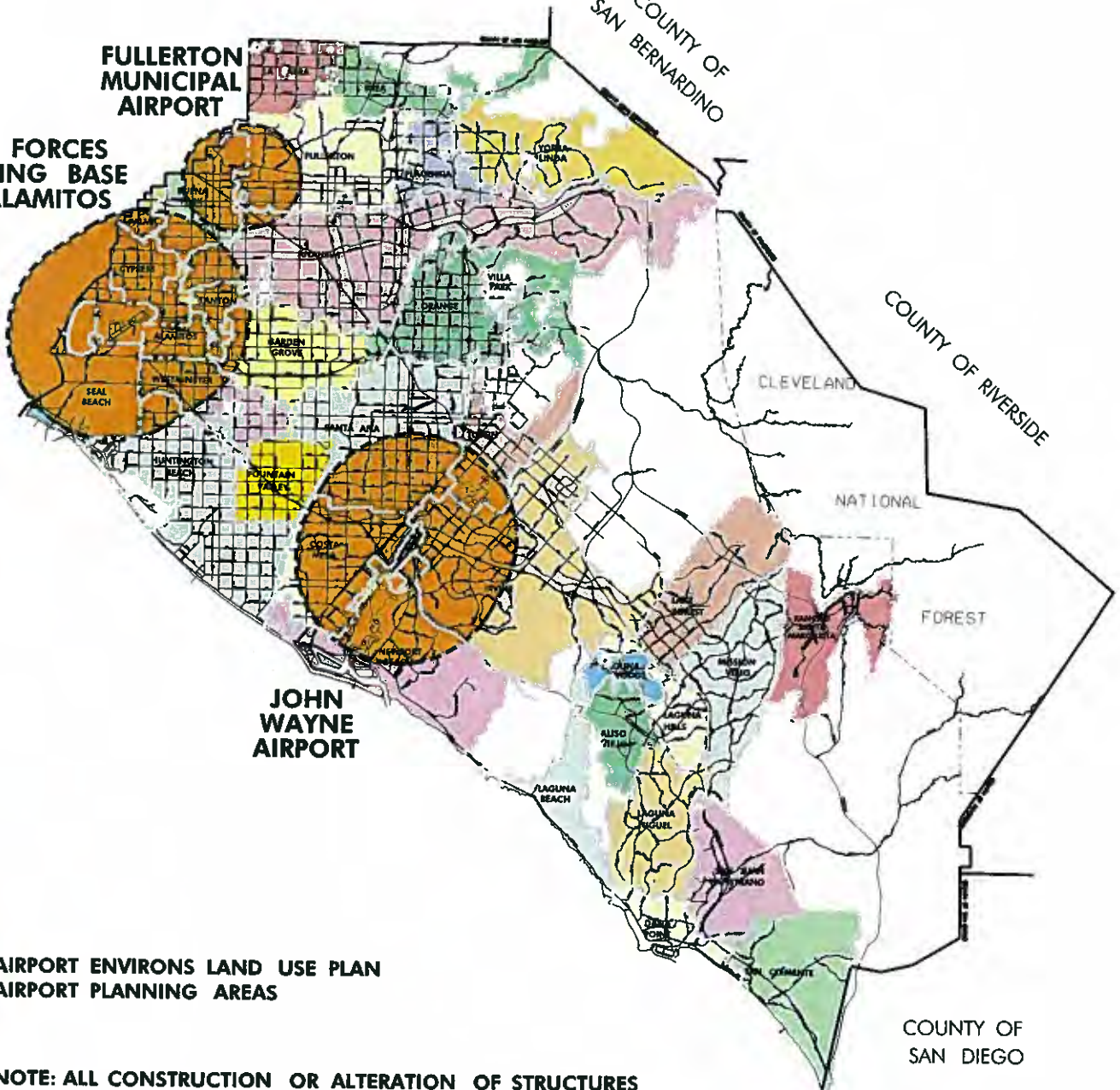
Section 21676(b) of the Public Utilities Code requires that prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. 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 stated in Section 21670.

COUNTY OF LOS ANGELES

COUNTY OF
SAN BERNARDINO

FULLERTON
MUNICIPAL
AIRPORT

JOINT FORCES
TRAINING BASE
LOS ALAMITOS



AIRPORT ENVIRONS LAND USE PLAN
AIRPORT PLANNING AREAS

NOTE: ALL CONSTRUCTION OR ALTERATION OF STRUCTURES
WITHIN THE COUNTY OF ORANGE AT ELEVATIONS MORE THAN
200 FT. ABOVE GROUND LEVEL REQUIRE FAA AND ALUC NOTIFICATION.

**AIRPORT LAND USE COMMISSION
for ORANGE COUNTY
AIRPORT PLANNING AREAS
Figure 1**



0 10,000 20,000 30,000 50,000
5,000
Scale In Feet

CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

Kari A. Ragoni
Kari A. Ragoni, Executive Officer

April 17, 2008
Date

Section 21676(c) requires that 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 each 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 stated in Section 21670.

Section 21676(d) requires that 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.

Section 21676.5(a) and (b) provides that:

- (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 as stated in Section 21670, the commission may require that 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 the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes 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 individual projects shall be reviewed by the commission.

1.4 Requirements

Section 21675 of the California Public Utilities Code specifies that the comprehensive land use plans will:

"(a) . . . 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. (see Appendix A for state law)

(b) The commission may include, within its plan formulated pursuant to sub-division (a), the area within the jurisdiction of the commission surrounding any federal military airport for all of the purposes specified in subdivision (a) . . ."

The Commission is prohibited from exercising any authority over the operations of any airport.

1.5 Concept of the Planning Document

This document has been designed to reflect a uniform approach to planning for John Wayne Airport. Noise and safety impacts have been identified for each airport by using similar standards and criteria except where the size of an airport or type of aircraft operations dictated otherwise. All building height restrictions will have as their ultimate limits the imaginary surfaces as applicable and as defined in Part 77 of the Federal Aviation Regulations. When a project is proposed by an agency, which exceeds the height limits established by FAR Part 77, a determination will be made by the commission on a case by case basis.

Land use policies have been established on the basis of noise and safety impacts on the welfare of the public, and on the building height and activity impacts upon the continued operation of the airport. The concepts and processes presented below illustrate the commission's efforts to ensure that land use policies were determined only by the most incontrovertible methods.

1.6 Applicability

Section 21670(a)(2) of the Public Utilities Code indicates that a commission's authority is applicable only within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

1.6.1 Section 21674.7 provides that 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 California Airport Land Use Planning Handbook ("Handbook") published by the Division of Aeronautics of the Department of Transportation.

The Handbook advises that while existing development which is incompatible becomes a nonconforming use with respect to ALUC criteria, any redevelopment of those areas would be subject to ALUC policies.

1.6.2 “Existing Land Use” is defined by the Commission as a property already “devoted to” a certain use or a use that has been vested by virtue of the fact that a property developer has:

- Obtained a valid building permit (as distinguished from merely a foundation or other specific permit); *and*
- Performed substantial work; *and*
- Incurred substantial liabilities in good faith reliance upon the permit
or
- Entered into a Development Agreement
or
- Obtained a Vesting Tentative Map

1.6.3 The Commission believes that the limitation on its authority over existing land uses applies only to the extent that the use remains constant. If new or increased compatibility conflicts would result and to the extent that such land use changes require discretionary approval on the part of a county or city, the Commission policy is to review expansion, conversion, or redevelopment of existing uses.

1.6.4 Infill development is development proposed in a location where some development already exists. These are commonly residual vacant areas within already established areas. These existing areas may represent either compatible or incompatible land uses within the Commission’s planning area for an airport.

The Commission recognizes that while a particular non-conforming infill use would likely be inconsistent with its compatibility plan, the introduction of a use which is compatible into a developed area may raise broader community planning issues. The Commission, therefore, will weigh both the severity of the incompatibility and the integrity of the already developed area.

Infill projects are those submitted to the Commission pursuant to applicable law which seek to develop residual vacant areas within established neighborhoods. Such existing neighborhoods may represent either compatible or incompatible land uses within an airport’s planning areas. An infill project must comply with all applicable Specific Policies (and their associated mitigation measures, such as sound attenuation, height limitation, occupancy limits, etc.) in order to be found consistent with this AELUP. The Commission will not find an infill project to be consistent with this AELUP, if the project would result in an increase of incompatible land use within the airport’s planning areas. Examples of potentially incompatible infill projects include, but are not limited to, the development of: dwelling units within the 65 CNEL Contour, high-occupancy buildings within an APZ, and excessively tall structures deleterious to the navigable airspace.

1.6.5 The Commission will utilize the following additional criteria in determining consistency/inconsistency of an infill action/project within the applicable planning area(s):

- The portions of the planning area within which infill is to be permitted (infill within the runway protection zone would be prohibited, for example);
- The maximum size of a parcel or parcels on which infill is to be allowed;
- The extent to which the site must be bounded by similar uses (and not extend the perimeter of incompatible uses);
- The density and/or intensity of development allowed relative to that of the surrounding uses and the otherwise applicable compatibility criteria; and
- Other applicable development conditions (such as easement dedications or special structural noise level attenuation requirements) which must be met.

1.6.6 Conditions such as acoustical treatment of structures, recorded deed notices, aviation easement dedication (if offered by a local agency or project proponent), buyer awareness measures, real estate disclosure statements, and building occupancy limits may be considered and applied by the Commission to find an infill project/action consistent.

1.7 Glossary/Definitions

ADD	- Average Daily Departure.
AELUP	- Airport Environs Land Use Plan. (A land use compatibility plan referred to in Public Utilities Code Section 21675.)
AERONAUTICAL - STUDY	- The technical analysis performed by the Federal Aviation Administration (FAA) pursuant to the filing of Form 7460-1 "Notice of Proposed Construction or Alteration" by a project proponent.
AIRPORT	- Any public or military airport, airstation, or air facility within Orange County, California.
AIRPORT INFLUENCE AREA	- The area in which current or future airport-related noise, over-flight, safety, and/or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses. In most instances, the airport influence area is designated by the ALUC as its <i>planning area boundary</i> for the airport and the two terms can be considered synonymous.

AIRSPACE ANALYSIS	- The technical analysis performed by the FAA pursuant to the filing of Form 7480-1 “Notice of Landing Area Proposal” by a project proponent.
AVIGATION EASEMENT	<p>- Avigation easement is generally defined by the Caltrans Aeronautics Division as: “A type of easement which typically conveys the following rights: a right-of-way for free and unobstructed passage of aircraft through the airspace over the property at any altitude above a surface specified in the easement...a right to subject the property to noise, vibrations, fumes, dust, and fuel particle emissions associated with normal airport activity; a right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace; a right-of-entry onto the property with proper advance notice for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace; a right to prohibit electrical interference, glare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property.” (Caltrans Division of Aeronautics</p> <p><i>California Airport Land Use Planning Handbook</i> dated January 2, 2002 or as revised by Caltrans; Appendix D, pp. D-3/4). A sample avigation easement is included in Appendix I.</p>
CNEL	- Community Noise Equivalent Level [CNEL is the energy average noise level measured in A-level for a 24-hour period, with different weighting factors for the hourly noise levels occurring during the daytime (0700 to 1900, 0 dB weighting), evening (1900 to 2200, 5 dB weighting), and nighttime (2200 to 0700, 10 dB weighting) periods.]
COMMISSION	- The Airport Land Use Commission for Orange County
dB(A)	- A-Weighted sound pressure level or A-level is the sound pressure level which has been filtered or weighted to quantitatively reduce the effect of the low frequency noise. It was designed to approximate the response of the human ear to sound. A-level is measured in units of decibels.
FAA	- Federal Aviation Administration.
FAR	- Federal Aviation Regulations.
FREE-STANDING BUILDING	- A building which does <u>not</u> share a common wall with another building.

HABITABLE ROOM	- Any room meeting the requirements of the Uniform Building Code other applicable regulations which is intended to be used for sleeping, living, cooking or dining purposes, excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.
HELIPORT	- An identifiable area on land or water, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters. Does not include temporary landing and takeoff sites, as defined in the California Aeronautics Act. Refueling and overnight maintenance are permitted.
HELISTOP	- An identifiable area on land or water, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters. Does not include temporary landing and takeoff sites as defined in the California Aeronautics Act. Refueling and overnight maintenance are <u>not</u> permitted.
INFILL	- Development which takes place on vacant property largely surrounded by existing development, especially development which is similar in character.
LOCAL AGENCY	- The County of Orange, or any city or special district within Orange County.
NEW AIRPORT	- Any new public airport that is proposed to be constructed and operated by a local agency(ies) such as county(ies), city(ies), or other special district(s) or authorities.
NOISE DISCLOSURE	- Appropriate written notification, usually in the form of avigation easement, deed notice, or real estate disclosure statement, or final tract or parcel map, which informs the future resident of aircraft noise. Noise disclosure examples are presented in AELUP Section 3.3.
NOTICE OF AIRPORT IN VICINITY	- Notice disclosure method defined by Section 11010 of the Business and Professions Code.
OBSTRUCTION	- Any object of natural growth, terrain or permanent or temporary construction or alteration, including equipment or materials used therein, the height of which exceeds the standards established in Subpart C of Federal Aviation Regulations Part 77, <i>Objects Affecting Navigable Airspace</i> .

OPERATION	- Any single landing or approach performed by an aircraft. Also any single take-off or departure constitutes an operation.
OUTDOOR LIVING AREAS	- Spaces that are associated with residential land uses typically used for passive recreational activities or other noise-sensitive uses. Such spaces include patio areas, barbecue areas, jacuzzi areas, etc. associated with residential uses; outdoor patient recovery or resting areas associated with hospitals, convalescent hospitals, or rest homes; outdoor areas associated with places of worship which have a significant role in services or other noise-sensitive activities; and outdoor school facilities routinely used for educational purposes which may be adversely impacted by noise. Outdoor areas usually not included in this definition are: front yard areas, driveways, greenbelts, maintenance areas, and storage areas associated with residential land uses; exterior areas at hospitals that are not used for patient activities; outdoor areas associated with places of worship and principally used for short-term social gatherings.
OVERRIDE	- See “Overrule” below.
OVERRULE	- The formal procedure set forth in PUC Sections 21675.1, 21676, 21676.5, and 21677 whereby a local agency’s governing body may overrule an ALUC determination of inconsistency.
PLANNING AREA	- Public Utilities Code Section 21675(c) requires that area surrounding any airport which affects, or is affected by, aircraft operations be embraced by the boundaries of its compatibility plan. The planning area sets limits of the area within which proposed land use projects are to be referred to the ALUC for review. With certain exceptions, planning area boundaries are determined by the location and configuration of the airport included in the plan, and the extent of the noise and safety impacts associated with that airport. The overall planning area is the furthest extent of the 60 CNEL Contour, the FAR Part 77 Notification Surface and the runway safety zones associated with the airport.
POLICY IMPLEMENTATION LINE	- A line adopted by the Orange County Board of Supervisors in 1985 which corresponds to the location of the 65-decibel CNEL contour for John Wayne Airport. This line is based on the highest noise level at a given location utilizing noise projections from both the 1990 and 2005 project case contours developed as part of the 1985 John Wayne Airport Master Plan (See Section 2.2.1). These contours continue to be applicable as a result of the most recent JWA Airport Layout Plan (ALP) approval on March 24, 2005.

PUC	- Public Utilities Code of the California Codes.
REDEVELOPMENT-	The expansion or conversion of an existing land use, whether compatible or incompatible within an airport environs, which would result in an intensified use, or in a new use which may or may not be compatible.
RUNWAY PROTECTION ZONE (CLEAR ZONE)	- A trapezoidal area off each end of a runway used to enhance the protection of people and property on the ground. The innermost of the safety zones.
SAFETY ZONES	- Safety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. See Appendix D for safety zone exhibit and definitions for JWA.
SINGLE EVENT NOISE EXPOSURE LEVEL (SENEL)	- In decibels, shall mean the sound exposure level of a single event, such as an aircraft fly-by, measured over the time interval between the initial and final times for which the sound level of a single event exceeds the threshold sound level. SENEL is an A-weighted measure of an individual flyover, which time-integrates the level accumulated during this event with reference to a duration of one second. Because of this integration process, SENEL takes into consideration both the duration and the magnitude of the noise signal.

SECTION 2.0 - PLANNING GUIDELINES

Guidelines for airport land use planning have been set down in a variety of cohesive approaches and systematic forms. Civilian and military authorities have established regulations or statutes which specify numerous methodologies for mitigating the incompatibilities between an airport and its environs, and such incompatibilities have been adequately defined.

Public Utilities Code Section 21670 et. seq. provides general planning and procedural guidance while directing a land use commission to provide "for the orderly growth of each public airport and the area surrounding the airport," and to "safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general." Toward these ends, Sections 21675 and 21674 further enables the Commission to "develop height restrictions on buildings," to specify the "use of land," to determine "building standards, including sound-proofing"; and 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." The Commission is also empowered 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."

The California Department of Transportation's *California Airport Land Use Planning Handbook*, provides further guidelines, which the commission is bound by law to utilize in the preparation of this AELUP. Similarly, legislation passed in 1994 requires that, when preparing an environmental impact report for any project situated within an airport influence area as defined in an ALUC compatibility plan (or, if a compatibility plan has not been adopted, within two nautical miles of a public-use airport), lead agencies shall utilize the *Handbook* as a technical resource with respect to airport noise and safety compatibility issues. (Public Resources Code, Section 21096)

In the formulation and amendment of this plan, the Commission has made every effort to study and to evaluate all available viewpoints regarding airport land use planning. Historically, the Commission has held formal public hearings to gather input in addition to its key reliance on the Caltrans *Handbook*.

2.1 Standards and Criteria

The following sections describe the standards and criteria adopted by the Airport Land Use Commission for Orange County for establishing planning boundaries and the reasoning of the Commission in choosing them.

2.1.1 Aircraft Noise

In adopting the Community Noise Equivalent Level Methodology, Resolution No. 75-1 of the Airport Land Use Commission for Orange County states that:

" . . . aircraft noise emanating from airports may be incompatible with the general welfare of the inhabitants within the vicinity of an airport and in order to measure the impact of aircraft noise on inhabitants within the vicinity of an airport, the Airport Land Use Commission for Orange County adopts the

Community Noise Equivalent Level Methodology as specified in the Noise Standards for California Airports (Title 21, California Code of Regulations)."

Historically, the Commission investigated other aircraft noise description systems including Composite Noise Rating, Noise Exposure Forecast, Noise and Number Index, and Aircraft Sound Description System. The Commission discussed at length the variability of aircraft noise due to atmospheric conditions and aircraft operations and the inability of any sound measurement system to provide a completely accurate noise description at all times.

The Community Noise Equivalent Level (CNEL) system was adopted by the Commission for the following reasons:

- (1) the system is set forth in the State Code of Regulations (Title 21, California Code of Regulations) and therefore is imbued with legal authority; and
- (2) the Noise Insulation Standards in the State Housing Law (Title 25, California Code of Regulations) specify the use of the CNEL system to describe intrusive noise levels and prescribe soundproofing; and
- (3) the CNEL system most accurately describes those noise levels prescribed in the Noise Element of the Orange County General Plan.

The 60 dB CNEL contour line was chosen as a planning boundary by the Commission for the following reasons:

- (1) this level is prescribed in the California Noise Insulation Standards as the criterion for enforcing the use of sound insulation; and
- (2) the flexible nature of a CNEL contour requires that some leeway from the 65 dB level, prescribed in the Noise Standards for California Airports, be created in order to protect inhabitants of the airport environs from noise. The CNEL methodology has been adopted for, and applies to, all airports in Orange County, both civilian and military.

2.1.2 Safety Compatibility Zones

Safety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. The purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.

The John Wayne Airport Safety Compatibility Zones are defined in the Airport Layout Plan (ALP) approved by FAA in March 2005. These zones are shown in Appendix D and were developed for the runways at JWA using the California Airport Land Use Planning Handbook January 2002 Edition. The following Safety

Compatibility Zones are defined for the “Short General Aviation Runway” (length less than 4,000 feet) and the “Medium General Aviation Runway” (length 4,000 to 5,999 feet):

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

These zones are further described in the California Airport Land Use Planning Handbook, 2002 Edition, (Chapter 9, Table 9B). See Appendix D to view Table 9B.

2.1.3 Building Height Restrictions

In adopting criteria for building height restrictions in the vicinities of airports, the Commission considered only one standard and that was Federal Aviation Regulations Part 77 (FAR Part 77) entitled, "Objects Affecting Navigable Airspace." These regulations are the only definitive standard available and the standard most generally used. In order to ensure that buildings which might affect the continued operations of airports are not built in their vicinities, the Commission has incorporated the standards for determining obstructions and FAR Part 77 definitions, of the "imaginary and notification surfaces" for airports, as the guidelines for height limits.

The "imaginary surfaces" are defined by means of elevations, heights and slopes in relation to individual airports, the spaces above which are reserved to air navigation. In addition to the "imaginary surfaces," the Commission will use all of the FAR Part 77.23 standards along with the results of FAA aeronautical studies, or other studies deemed necessary by the Commission, in order to determine if a structure is an "obstruction." Building or structural heights are limited to the distance between the ground elevation of the site and an elevation that has been determined will not adversely affect an airport or aeronautical operations, nor navigational-aid siting criteria, including interference with navigational-aids or published flight paths and procedures. The FAA uses the 100:1 notification surface to help identify projects that may interfere with airport operations. A project exceeding the 100:1 notification surface is not necessarily incompatible, but rather requires that the FAA be notified, so they can conduct an aeronautical study. Projects that penetrate the 100:1 notification surface must file Form 7460-1 with the FAA. See Appendix D to view the FAR Part 77 Notification Area and Obstruction Imaginary Surfaces for JWA.

In the aeronautical studies, the FAA determines if a project is considered an Obstruction and if a project is determined to be a Hazard to Air Navigation. A Determination of No Hazard to Air Navigation does not automatically equate to a Consistency determination by the ALUC. The FAA may also conclude in their aeronautical study that a project is an Obstruction but not a Hazard to Air Navigation. The Commission may find a project Inconsistent based on an Obstruction

determination. The Commission may utilize criteria for protecting aircraft traffic patterns at individual airports which may differ from those contained in FAR Part 77, should evidence of health, welfare, or air safety surface sufficient to justify such an action.

Commission review of individual cases will be guided by FAR Part 77, and by FAA Advisory Circular No. 150/5190-4A, as published on December 14, 1987 and entitled "A Model Zoning Ordinance to Limit Height of Objects Around Airports" (Appendix E). This document has been promulgated by the FAA expressly to guide local agencies in the preparation of specialized zoning regulations, and in the conduct of individual case reviews. The Advisory Circular complements FAR Part 77, and together they provide an overall means to protect the navigable airspace at local airports. In addition, per FAR Part 77, Section 77.13(a), notice to the Federal Aviation Administration (FAA) is required for any proposed structure more than 200 feet Above Ground Level (AGL) of its site. To coincide with this regulation, the ALUC also requires notification for such projects regardless of where within the jurisdiction of the County of Orange the project would be located. This may or may not result in referral of a project to the ALUC.

The results of an aeronautical study conducted by the FAA pursuant to FAR Part 77.13 will be utilized to help determine if a structure will have an adverse effect on the airport or on aeronautical operations. If the proposed object is concluded to be a potential hazard to air navigation, the FAA may object to its construction, examine possible revisions of the proposal to eliminate the problem, require that the object be appropriately marked and lighted as an airspace obstruction, and/or initiate changes to the aircraft flight procedures for the airport so as to account for the object. The ALUC considers projects that are a hazard to air navigation to be Inconsistent with the *AELUP for JWA*.

The Commission considers and recognizes the FAA as the single "Authority" for analyzing project impact on airport or aeronautical operations, or navigational-aid siting, including interference with navigational-aids or published flight paths and procedures. The Commission also considers the FAA as the "Authority" for reporting the results of such studies and project analyses. The Commission will not consider the findings of reports or studies conducted by parties other than the FAA unless the FAA certifies and adopts such findings as true and correct.

In those portions of the height restriction planning areas that lie outside of the Safety Zones and 60 dB CNEL Contours, or other areas of special concern as delineated by the FAA and adopted by the Commission, local agencies are required to submit only those matters which contemplate structures that would penetrate the imaginary surfaces as defined in FAR Part 77.13, 77.25, or 77.28 which have been designated for each individual airport for height restriction referral.

2.1.4 Air Transportation

The Commission is charged by PUC Section 21674 “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.” The preparation and dissemination of the AELUPs are themselves important long-term steps in fulfilling this duty.

2.1.5 Airports/Heliports/Helistops

The Commission is charged with reviewing and acting on proposed airport master plans, expansion of existing airports, and plans for construction of new airports and heliports within its jurisdiction and with making recommendations directly to the California Department of Transportation/Aeronautics Division, regarding the state airport/heliport permit under Section 21661.5 of the California Public Utilities Code. Heliports/helistops to be located at an existing airport do not require Commission review. Emergency/Temporary landing sites do not need to be submitted to the Commission.

The Commission review of proposed projects for airports/heliports/helistops is initiated by the local agency's referral of the proponent's request for a development permit to construct and operate an airport/heliport/helistop. (Note that per Section 3534(b)(5) of the California Code of Regulations, a referral for a heliport/helistop may be directly from the applicant/sponsor.) A finding by the Commission regarding consistency of the proposed project with this plan will be forwarded to the local jurisdiction for their consideration. Prior to a heliport referral to ALUC, the applicant must obtain an Airspace Analysis from the FAA. To obtain this analysis the applicant must file FAA form 7480-1 Notice of Landing Area Proposal.

The information needed for review of the proposed airport/heliport/helistop by the Commission includes the following:

1. Location of the proposed airport/heliport/helistop (street address).
2. Purpose of request: Personal, private, or commercial use of airport/heliport/helistop.
3. General Plan and zoning of the site.
4. Description of area and adjoining properties.
5. Approach/departure paths.
6. Anticipated number of approaches and departures (counted separately) during a specified time interval (day, week, month).

7. Potential for creating a nuisance due to noise generated by the operation of fixed-wing aircraft and helicopters (Noise Study may be required).
8. Potential for creating an accident hazard (Accident Probability Study may be required).
9. Federal Aviation Administration Airspace Analysis (Form 7480).
10. Type of craft proposed to be used and noise output of craft.
11. Description of proposed operations/facilities (maintenance, refueling, etc.).
12. Depiction of proposed Helipad Protection Zone per Section 2.1.2 of the *Helipad AELUP*.

Policies and criteria for heliports can be found in the ALUC's separate *Airport Environs Land Use Plan for Heliports*

2.1.6 Planning Areas - Airports

Designated planning areas for each Airport are set forth in Section 2.2. (See Appendix D) The Commission evaluated the factors germane to its mandated duties and decided that the planning areas shall be based on the following criteria:

1. Areas that are within the 60 dB CNEL contour, as specified for each individual airport in Section 2.2 of the AELUP.
2. Areas that are within the Runway Protection Zones or Safety Zones, as specified for each individual airport in Section 2.2 of the AELUP.
3. Areas subject to building height restrictions, as specified for each individual airport in Section 2.2 of the AELUP. See the AELUP Notification Area for JWA and the Obstruction Imaginary Surfaces Maps in Appendix D.
4. In addition to the criteria listed above in items 1-3, the entire County shall be deemed within the Commission's planning area for development proposals (as defined in PUC Section 21676(b)) which are:
 - a. Germane to air transportation i.e., sites of developments whose proposed populations are so large as to have an effect on air transportation.
 - b. Outside the height restriction planning area specified for each individual airport in Section 2.2 of the AELUP, but which are planned to be built to a height of more than 200 feet above ground level, and which in the opinion of the local agency, the FAA, or the Commission, may pose an adverse aeronautical effect, as generally defined in AELUP Section 3.2.1, must be submitted to the Commission.

- c. Within 20,000 feet from the nearest point of the nearest runway of at least 3,200' in length at JWA, which in the opinion of the local agency, the FAA, or the Commission would interfere with visual or electronic navigation systems or would threaten the operation of an airport or decrease its utility, by producing or causing excessive glare, light, steam, smoke, dust, electronic interference, or by attracting birds, must be submitted to the Commission.

In those portions of the planning areas that lie outside of the Runway Protection Zones or Safety Zones and 60 dB CNEL contours or other areas of special concern as specified in Items 4a, 4b, or 4c, local agencies are required to submit only those matters which contemplate or permit structures that would penetrate the imaginary surfaces as defined in FAR Part 77.13, 77.25, or 77.28 which have been designated for each individual airport for height restriction referral. A local jurisdiction's legislative acts (general plan or specific plan amendments, including conventional zoning and Planned Communities, zoning ordinances or building regulations and airport plans) shall be referred to the Commission pursuant to Public Utilities Code Section 21676(b).

2.1.7 Planning Areas – New Airports

Public Utilities Code Section 21661.5 states that no application for the construction of a new airport may be submitted to any local, regional, state or federal agency unless that plan has been both:

1. 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
2. Submitted to and acted upon by the Commission.

During the process by the local land use authority and the FAA to certify/approve an EIR/EIS and a Master Plan for the development of a new airport, the Commission shall review the EIR/EIS and/or Master Plan for consistency with, and possible future inclusion in, Section 2.2 of the AELUP. The Commission will adopt the projected noise contours presented in the EIR/EIS and/or Master Plan based on the selected alternative runway alignment and future operational projections. Likewise, the Commission will adopt the FAR Part 77 - height restriction criteria based on the selected alternative or Master Plan project. These will form the basis for the planning area for Commission referral until revised data can be generated based on an evaluation of actual operations. New or amended Safety and Runway Protection Zones may be considered for possible establishment as a planning area if called for as a mitigation in the EIR/EIS or included in the Master Plan. Other factors such as light and glare or smoke will also be considered if called for in the EIR/EIS and/or Master Plan.

2.2 Establishment of Planning Areas

In adopting the various standards and criteria, the Commission applied several appropriate systems and methodologies to the individual airports. The following section details the considerations of the Commission in fixing the particular contours and boundaries around John Wayne Airport.

2.2.1 John Wayne Airport, SNA, Orange County

John Wayne Airport, Orange County, was formerly called Orange County Airport.

CNEL CONTOURS - Formerly, the Commission utilized those contours developed by Wyle Laboratories in February 1975.

In February, 1985, the Board of Supervisors adopted the John Wayne Airport Master Plan (AMP) and the Santa Ana Heights Land Use Compatibility Program (LUCP). The Airport Master Plan includes a limit of 73 average daily departures (ADDs) for most commercial jet operations. In preparing the LUCP, a projected 65 dB CNEL noise contour reflecting expected future flight levels and a reasonable mix of aircraft types was utilized. This contour, referred to as the Project Case and depicted in EIR 508 (Figure 4.15-15) (prepared jointly for the AMP and LUCP), was approved by the Board of Supervisors as the implementation line for two noise compatibility programs: Purchase Assurance and Acoustical Insulation. It was also utilized in the preparation and Board adoption of a land use plan. The Commission recognizes and utilizes the noise contours referred to in EIR 508 (Figure 4.15-15). Consideration of a future revision to this set of contours, referred to as the 73 ADD-Project Case - 1990 Contours, would probably occur subsequent to full implementation of Phase II of the JWA Master Plan, based on the JWA continuous noise monitoring program and the Commercial Airline Access Plan and Regulation. The Commission determined that the partial noise contour for JWA resulting from the 1992 FAA Demonstration Study (EIR 546, JWA Phase II Access Plan Amendments) should not be adopted. The Commission will re-evaluate this set of contours at such time as a comprehensive noise study is conducted as part of an Airport Master Plan update. The Commercial Airline Access Plan regulates flight operations at JWA. The Commission also adopted a set of noise contours referred to as the 73 ADD-Project Case – 2005 Contour (Figure 4.15-17) from EIR 508. The Commission will utilize noise projections from either the 1990 or the 2005 Project Case contours, whichever projects the highest noise level at the given location. The JWA CNEL contours adopted by the Commission are reflected in Appendix D and reflect the 1990/2005 highest noise level contour.

SAFETY ZONES/RUNWAY PROTECTION ZONES-JWA Runway Protection Zones are shown in Appendix D on the map entitled John Wayne Airport Impact Zones. Safety Zones are depicted on the exhibit titled Airport Land Use Plan & Safety Zones also in Appendix D. Safety Zones were adopted through the Airport Layout Plan and were approved by the FAA in March 2005.

BUILDING HEIGHT RESTRICTIONS – For JWA, the Commission, by reference, has adopted Part 77, Objects Affecting Navigable Airspace, of the Federal Aviation Regulations as a guideline to describe the ultimate height of structures under the imaginary surfaces as defined in FAR Part 77. Structures should not exceed the elevations defined in FAR Part 77.25 unless, upon completion of an aeronautical analysis conducted by the FAA pursuant to FAR Part 77.13, the Commission finds that they will be consistent with the Policies of Section 3.2 of the AELUP. In addition to the imaginary surfaces, the Commission will use all of the FAR Part 77.23 standards for determining if a structure is an "obstruction." Structural height is limited to the distance between the ground elevation of the site and an elevation which the FAA has determined will not adversely affect this airport or its aeronautical operations, including interference with navigational-aids or published flight paths and procedures. If the FAA concludes that the proposed structure would be a potential hazard to air navigation, the FAA may object to its construction, examine possible revisions of the proposal to eliminate the problem, require that the object be appropriately marked and lighted as an airspace obstruction, and/or initiate changes to the aircraft flight procedures for the airport so as to account for the object.

The Commission may consider the utilization of criteria for protecting aircraft traffic patterns at this airport which may differ from those contained in FAR Part 77, should evidence of health, welfare, or air safety surface sufficient to justify such an action. The Commission will utilize the results of an Aeronautical Study, conducted by the FAA pursuant to FAR Part 77.13, in order to determine if a structure will have an adverse effect on the airport or on aeronautical operations. The California Airport Land Use Planning Handbook (page 9-6, January 2002) emphasizes that the FAA aeronautical studies are concerned only with airspace hazards, not with hazards to people and property on the ground. An FAA determination of "no hazard" says nothing about whether proposed construction is compatible with airport activity in terms of safety and noise.

PLANNING AREA - The Commission has adopted and defined as its Planning Area for John Wayne Airport all area within the 60 dB CNEL Contour (either the 73 ADD-Project Case Contour 1990 - or the 73 ADD-Project Case - 2005 Contour, whichever projects the highest noise level at the given locale), within the Runway Protection Zones, Safety Zones, and all area that lies above or penetrates the 100:1 Imaginary Surface for FAA notification as defined in FAR Part 77.13.

Outside of the 60 dB CNEL Contour, the Runway Protection Zones, Safety Zones or other areas of special concern as delineated by the FAA and adopted by the Commission, local agencies are required to submit only those matters to the Commission which contemplate or permit structures that would penetrate the 100:1 imaginary surface for notice to the FAA as defined in FAR Part 77.13.

TWENTY-YEAR FUTURE - The Commission assumes that the Airport will continue to operate in accordance with the JWA Master Plan and subsequent Settlement Agreement Amendments, and the current Airport Layout Plan through the 20-year planning horizon. The County of Orange and the City of Newport Beach have approved an agreement to modify the 1985 Settlement Stipulation to allow an increase in operating capacity and commercial airline facilities at John Wayne Airport. The settlement agreement modifications were also approved by the two citizens groups which are signatories to the original 1985 Settlement Stipulation. These modifications increase the regulated Average Daily Departures from 73 to 89, and the permitted number of commercial passenger loading bridges from 14 to 20. This activity level will continue through at least, December 31, 2015.

SECTION 3.0 - LAND USE POLICIES

3.1 Concept

To fulfill the purpose of this plan, land use within the planning area boundaries of the AELUP must conform to noise, safety and height restriction standards. Section 3.0 sets forth both the General Policy and Specific Policies pertaining to land use. The General Policy outlines the land use standards for the planning areas. The Specific Policies clarify the General Policy. Impact areas are denoted either on maps (appended) or by reference to some standard source.

3.2 Land Use Policies

3.2.1 General Policy

The General Land Use policy of the Airport Land Use Commission for Orange County shall be:

Within the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which;

- (1) Places people so that they are affected adversely by aircraft noise,
- (2) Concentrates people in areas susceptible to aircraft accidents,
- (3) Permits structures of excessive height in areas which would affect adversely the continued operation of the airport, or
- (4) Permits activities or facilities that would affect adversely aeronautical operations.

Adverse effects of aircraft noise are defined by the "reasonable person" concept presented in the Noise Standards for California Airports, Title 21 of the California Code of Regulations (Appendix G). Adverse effects of aircraft noise include single event noise disturbances to which people near airports are subjected.

A concentration of people in an area susceptible to aircraft accidents are defined as a number of people situated on the ground so as to increase the potential magnitude of a major crash catastrophe (i.e., a larger number of fatalities or injuries than otherwise may occur).

Adverse effect of structure height refers to a structure of such height and/or location that its existence would threaten the continued operation of the airport, or would decrease the airport's utility, such as by creating an obstacle in the flight paths or other aircraft traffic patterns employed at the airport, or by interfering with visual or electronic navigation systems.

Adverse effect of activities or facilities refers to a land use that would hamper aeronautical operations within the boundaries of the AELUP of an airport by producing or causing excessive glare, light, steam, smoke, dust or electronic interference, or by attracting birds.

Any land use which is in conformance with this general policy shall be consistent with the AELUP. Any land use which is not in conformance with this general policy shall be inconsistent with the AELUP.

3.2.2 Specific Policies

Some proposed land uses as normally designed and constructed may be found to be inconsistent with the AELUP by the Commission on a case-by-case basis. Other land uses may be found to be consistent with the AELUP by the Commission provided that certain conditions, mitigations, or design measures as described in the following Sections are utilized. Examples of limitations on land uses due to noise are set forth in Table 1.

TABLE 1

AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY
 AIRPORT ENVIRONS LAND USE PLAN
 LIMITATIONS ON LAND USE DUE TO NOISE
 (Applicable to Aircraft Noise Sources)

LAND USE CATEGORY	COMMUNITY NOISE EQUIVALENT LEVEL dB					
	55	60	65	70	75	80
Residential (all types): Single and Multi-Family Residences						
Community Facilities: Churches, Libraries, Schools, Preschools, Day-Care Centers, Hospitals, Nursing/Convalescent Homes, & Other noise sensitive uses						
Commercial: Retail, Office						
Industrial:						



NORMALLY CONSISTENT

Conventional construction methods used. No special noise reduction requirements.



CONDITIONALLY CONSISTENT

Must use sound attenuation as required by the California Noise Insulation Standards, Title 25, California Code of Regulations. Residential use sound attenuation required to ensure that the interior CNEL does not exceed 45 dB. Commercial and industrial structures shall be sound attenuated to meet Noise Impact Zone "1" criteria (refer to Section 3.2.3).



NORMALLY INCONSISTENT

All residential units are inconsistent unless are sound attenuated to ensure that the interior CNEL does not exceed 45 dB, and that all units are indoor oriented so as to preclude noise impingement on outdoor living areas.

3.2.3 Noise Impact Zone "1" - High Noise Impact (65 dB CNEL and above)

Noise impact in this zone is sufficient to warrant restrictions on residential uses and to require sound attenuation measures on other uses. The ALUC does not support residential development within the 65 dB CNEL noise contour. All residential units are inconsistent in this area unless it can be shown conclusively that such units are sufficiently sound attenuated for present and projected noise exposures, which shall be the energy sum of all noise impacting the project, so as not to exceed an interior standard of 45 dB CNEL, with an accompanying dedication of an aviation easement for noise to the airport proprietor applicable to single family residences, multi-family residences and mobile homes. Furthermore, all residential units are to be sufficiently indoor oriented so as to preclude noise impingement on outdoor living areas, as defined in Section 1.7.

Noise-sensitive institutional uses such as schools, churches, hospitals, libraries, and other noise-sensitive uses may also be inconsistent in this zone. All noise-sensitive uses are inconsistent in this area unless it can be shown conclusively that such units are sufficiently sound attenuated for present and projected noise exposures, which shall be the energy sum of all noise impacting the project, so as not to exceed an interior standard of 45 dB CNEL, and may require the dedication of an aviation easement for noise to the airport proprietor. Commercial, industrial, and recreational uses may be acceptable in this zone providing that commercial and industrial structures are sufficiently sound attenuated to allow normal work activities to be conducted. Said structures shall be sound attenuated against the combined input of all present and projected exterior noise to meet the following criteria:

<u>Typical Use</u>	<u>Level L (eq)*(12)**</u>
Private office ¹ , church sanctuary, board room, conference room, etc.	45 dB(A)
General office ² , reception, clerical etc.	50 dB(A)
Bank lobby, retail store, restaurant, typing pool, etc.	55 dB(A)
Manufacturing, kitchen, warehousing, etc.	65 dB(A)

* L(eq) is the equivalent sound level for a specified time period in dB(A).

** Measured from 7:00 a.m. to 7:00 p.m. or other appropriate, approved time period.

¹ An enclosed office intended for use by an individual

² An open office intended to have more than one work station.

In addition, it is recommended that all designated outdoor common or recreational areas within Noise Impact Zone 1 provide outdoor signage informing the public of the presence of operating aircraft.

3.2.4 Noise Impact Zone "2" - Moderate Noise Impact (60 dB CNEL or greater, less than 65 dB CNEL)

Noise impact in this area is sufficient to require sound attenuation as set forth in the California Noise Insulation Standards, Title 25, California Code of Regulations. Single noise events in this area create serious disturbances to many inhabitants. Even though the Commission would not find residential units incompatible in this area, the Commission strongly recommends that residential units be limited or excluded from this area unless sufficiently sound attenuated. The residential use interior sound attenuation requirement shall be a CNEL value not exceeding an interior level of 45 dB. In addition, it is recommended that designated outdoor common or recreational areas within Noise Impact Zone 2 provide outdoor signage informing the public of the presence of operating aircraft.

3.2.5 Runway Protection Zone "RPZ," Extreme Crash Hazard

The severe potential for loss of life and property due to accidents prohibits most land uses in this area. Also, the close proximity to aircraft operations limits land uses which would endanger such operations. Only airport-related uses and open space uses, including agriculture and certain types of transportation and utility uses are permitted. No buildings intended for human habitation are permitted in the RPZ. Furthermore, because of the proximity to aeronautical operations, uses in this area must not attract birds nor emit excessive glare or light, nor produce or cause steam, smoke, dust, or electronic interference so as to interfere with, or endanger, aeronautical operations.

3.2.6 Height Restriction Zone

Any object, which by reason of its height or location would interfere with the established, or planned, airport flight procedures, patterns, or navigational systems, is unacceptable to the Commission. Similarly, any proposal which would cause a diminution in the utility of an airport is unacceptable to the Commission. The standards, criteria, and procedures promulgated by the FAA for the thorough evaluation of development projects are designed to ensure the safe and efficient use of the navigable airspace. The application of these principles by the Commission will ensure the stability of local air transportation, as well as promote land uses that are compatible with the airport environs. However, any object which rises above the height of surrounding development, or which is located in close proximity to any of the various flight paths, must be clearly visible during hours of twilight or darkness and must not threaten, endanger, or interfere with aeronautical operations. Such objects, even if within the above height restrictions, are not acceptable to the Commission unless they are clearly marked or lighted according to FAA standards.

3.2.7 Airspace/Airport Inconsistency

In reviewing projects, the Commission will find any structure, either within or outside of the planning areas, inconsistent with this AELUP if it:

1. Is determined to be a "Hazard" by the FAA;
2. Would raise the ceiling or visibility minimums at an airport for an existing or planned instrument procedure (i.e., a procedure consistent with the FAA-approved airport layout plan or a proposed procedure formally on file with the FAA);
3. Would result in a loss in airport utility, e.g. in a diminution of the established operational efficiency and capacity of the airport, such as by causing the usable length of the runway (s) to be reduced; or
4. Would conflict with the VFR air space used for the airport traffic pattern or enroute navigation to and from the airport.

3.2.8 Avigation Easements

The dedication of an avigation easement in favor of an airport proprietor is designated as a method which may be employed by airport proprietors for controlling and reducing noise problems surrounding airports, pursuant to Title 21, California Code of Regulations, Section 5037. See Appendix G for a reference to Section 5037.

Therefore, in recognition of Section 5037 the continuing policy of the Commission is that an avigation easement may be considered by the Commission if so requested by a local agency or project proponent as a factor which may render a land use, within the AELUP planning area set forth in Section 3.2.3 (Noise Impact Zone "1"), consistent with the AELUP. However, nothing in this section shall be deemed to confer upon the Commission the legal jurisdiction or authority to require, compel or mandate the dedication of an avigation easement as a condition of consistency; and the lack of an avigation easement shall not constitute the basis for a determination by the Commission that a project is inconsistent with the AELUP. This section is applicable only to projects submitted to the Commission by local agencies after the adoption of the revisions set forth herein and only to projects within the subject matter jurisdiction of the Commission.

3.3 Specific Policies for Consistency Determinations

- 3.3.1 As set forth in Public Utilities Code Sections 21676 and 21676.5 and as discussed in the *California Airport Land Use Planning Handbook*, a key responsibility of an airport land use commission is to review particular types of local actions for compliance with the criteria and policies set forth in a commission's adopted compatibility plan.

- 3.3.2 Section 3.0 of the Airport Environs Land Use Plan sets forth the policies and criteria by which a local action can be reviewed, and a determination made of its consistency/inconsistency with the AELUP.
- 3.3.3 The ALUC may find a local action consistent with the AELUP; or
- 3.3.4 The ALUC may find a local action consistent with the AELUP with condition(s) attached if the local agency/project proponent offer such conditions. These condition(s) serve to mitigate a project which would otherwise be found inconsistent with the AELUP; or
- 3.3.5 The ALUC may find an action inconsistent with the AELUP.
- 3.3.6 Examples of conditions which may serve to mitigate a project/action and thus may permit the ALUC to make a finding of consistency include the following:
- Requirement for the lighting of structures per FAA Standards as set forth in FAA Advisory Circular 70/7460-1J “Obstruction Marking and Lighting.”
 - Specification of maximum density of residential development
 - Specification of maximum intensity of non-residential development
 - Appropriate written notification, (as set forth in the “Noise Disclosure” and “Notice of Airport in Vicinity” definitions), for residential and other noise sensitive land uses (as described in Table 1), of aircraft noise impact, to all initial and subsequent buyers, lessees, and renters within the AELUP Noise Impact Zones set forth in Sections 3.2.3 and 3.2.4, may on a case-by-case basis be a condition/mitigation for a land use to be found consistent with this AELUP.
 - Inclusion of a statement on the Final Tract or Parcel Map and the Deed Disclosure Notice, for property in Noise Impact Zone “1” or Zone “2”, that the residential or other noise-sensitive land use property is subject to aircraft noise impact in substantially this form:

This property is in an area in the vicinity of John Wayne Airport and as a result residents and occupants of buildings may experience inconvenience, annoyance or discomfort arising from the noise resulting from aircraft operating at the airport.

State law (Public Utilities Code Section 21670 et seq.) establishes the importance of public use airports for the protection of public interest of the people of the State of California. Residents and building occupants near a public airport should therefore be prepared to accept such inconvenience, annoyance or discomfort from normal aircraft operations.

Any subsequent deed conveying parcels or lots shall contain a statement in substantially this form.

- Presentation of evidence that commercial and industrial structures are sufficiently sound attenuated to allow normal work activities to be conducted. The structures should be attenuated to at least meet the level specified in Section 3.2.3. (Noise Impact Zone “1”).
- If offered by a local agency or project proponent, dedication of an avigation easement in favor of an airport proprietor for residential and other noise-sensitive uses as described in Table 1 under “Community Facilities” of this AELUP. Sample avigation easements are included in Appendix I.

The dedication of an avigation easement in favor of an airport proprietor is designated as a method which may be employed by airport proprietors for controlling and reducing noise problems surrounding airports, pursuant to Title 21, California Code of Regulations, Section 5037.

- Application of a “Notice of Airport in Vicinity” prior to January 1, 2004. The Commission may elect to mitigate a residential action/project under the “airport influence area” as defined by Subdivision (b) of Section 11010 of the Business and Professions Code, by including a condition based on the language added to Section 11010 of the Business and Professions Code prior to the operative date (January 1, 2004) of this section by the inclusion of the following language on the Final Tract or Parcel Map and the Deed Disclosure Notice for residential property.

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

- Other condition(s) as determined by the Commission which would mitigate an action/project.

In order to apply the preceding specific policies in the most diligent manner, the Commission will consider all relevant data pertaining to the various airports within Orange County and the areas surrounding them. The Commission will consider current information, as it becomes available, whenever germane to the Commission's deliberations. The integration of current and reliable information into this plan will be an ongoing goal of the Commission

SECTION 4.0 - IMPLEMENTATION

4.1 Statutes

The Public Utilities Code for the State of California, Sections 21670 through 21679.5 governs the activities and responsibilities of the Airport Land Use Commission. A copy of these Sections can be found in Appendix A of this document. Further discussion of these responsibilities can be found below. Generally, the Commission is required to make recommendations directly to the California Department of Transportation/Aeronautics Division regarding the required State permit for new airports and heliports/helistops. The Commission also makes findings regarding consistency of proposed land use plans/regulations/projects with this AELUP and forwards those findings to the appropriate local jurisdictions for their consideration.

4.2 General Plans and Specific Plans (Zoning)

Each local agency having jurisdiction over any area within the planning areas (as defined in Section 2.1.6) is required to submit its general or specific plans (including conventional zoning and Planned Communities) for that area to the Commission for a determination in accordance with the Government Code for the State of California, Section 65302.3 and Public Utilities Code Section 21676. The submittals should highlight those areas which address the AELUP noise impact, safety compatibility, and height restriction zones. The only requirement is that the submittals illustrate how local agencies will incorporate the performance standards outlined in this AELUP into their planning, zoning, and development processes. All agencies are encouraged to file their submittals at the earliest practical time. The agencies are encouraged further to include a statement or summary of those issues which are believed to be consistent, as well as inconsistent, with the standards of this AELUP.

4.3 Amendments to General Plans and Specific Plans (Zoning)

Within the AELUP planning areas (as defined in Section 2.1.6), any amendment to a General Plan or Specific Plan (including conventional zoning and Planned Communities) must be submitted to the Commission for a determination prior to its adoption by the local agency. The submittal should be in the same manner as with Section 4.2 above.

4.4 Zoning Ordinances and Building Regulations

Within the AELUP planning areas (as defined in Section 2.1.6), any proposed changes to a zoning ordinance or building regulation must be submitted to the Commission for a determination prior to its adoption by the local agency. The submittal should be in the same manner as with Section 4.2 above.

4.5 Airport Master Plans

Each public agency owning an airport within Orange County must submit any change to its Airport Master Plan to the Commission for a determination prior to its adoption pursuant to Section 21676 of the Public Utilities Code.

4.6 Other Submittals

A project other than those described above, including but not limited to use permits and site plans, may be submitted voluntarily to the Commission for a recommendation prior to its adoption. See Section 4.11 for exception to “voluntary” submittal of projects such as use permits and site plans. The submittal should be in the same manner as with Section 4.2 above.

4.7 Submittal Requirements

To file a project for a consistency determination with the Airport Land Use Commission (ALUC), a letter from the local jurisdiction (city, county or special district) requesting the ALUC to review the project for consistency with the Airport Environs Land Use Plan (AELUP) and attachments as specified below are required.

1. Project submittals should be sent to:

Airport Land Use Commission for Orange County
Attn: Executive Officer
3160 Airway Avenue
Costa Mesa, CA 92626
2. Description of Project: General Plan Amendment (GPA); Specific Plan Amendment (or other zoning amendment); Zoning Ordinance; Building Regulation; Conditional Use Permit (CUP); etc.
3. Location of Project: Area Map; Site Plan; street address, etc.
4. Existing and proposed General Plan and zoning designations.
5. Existing and proposed uses on the site and adjacent properties (descriptive text and maps from an environmental document may be submitted to respond to this item).
6. Approval Schedule: Planning Commission, City Council or Board of Supervisors.
7. Is the project within the 60 CNEL Contour of the affected airport? Within the 65 CNEL Contour? What noise mitigation measures will be required to achieve interior standards?
8. Is the project within the Runway Protection Zone (RPZ) of the affected airport?
9. Is the project within the Height Restriction Zone (FAR Part 77 Notification Area) of the affected airport? Has the project sponsor filed a 7460-1 Notice with the FAA? (Provide a copy of the FAA Determination to ALUC staff. If a 7460-1 Determination is necessary, the ALUC must have this as part of the submittal before the project can be accepted for filing.
10. Applicable sections of CEQA documentation.

10. Applicable sections of CEQA documentation.
11. Latitude and Longitude (accurate to within the nearest hundredth of a second if known).
12. Height of each of the proposed structures above ground level.
13. Elevation of the project site using North American Vertical Datum 1988 (NAVD88) or National Geodetic Vertical Datum of 1929 (NGVD29).
14. Local agency building height restrictions for the project area (Zoning Requirements).
15. Building heights of surrounding structures within 1000' radius of the proposed project area.

PLEASE NOTE: A heliport (airport) referral checklist is in the AELUP for Heliports.

4.8 Submittal Deadlines

The Commission requests that project referrals be submitted and agendized by the ALUC staff between the Local Agency's expected Planning Commission and City Council hearings. The ALUC meets on the third Thursday afternoon of each month so submittals must be received in the ALUC office by the first of the month to ensure sufficient time for review, analysis, and agendizing.

4.9 Acceptance of Submittal

Matters referred to the Commission for review shall be deemed accepted upon the date when all materials and information necessary for processing a project have been confirmed as received by the Commission staff. Staff will inform the local jurisdiction, in writing within five working days after receipt of an item for consideration (with copy to applicant), whether more information as specified in Section 4.7 is necessary or if the item will then be deemed accepted and scheduled for formal review by the Commission (See Appendix H - Referral Confirmation Letter). Necessary information as specified in Section 4.7 must include final plans, acoustical reports or FAA Aeronautical Studies when deemed necessary for Commission review by the Commission staff. This procedure does not apply to screen checks or Draft Environmental Impact Report responses which staff will respond to within the specified review period. If the local jurisdiction is not contacted by Commission staff by the sixth business day, they should contact the Commission office to verify receipt of the original referral package. Upon receipt of a complete referral for Airport Land Use Commission review and consideration, the Commission Secretary shall schedule and agendize said referral for the next available Airport Land Use Commission meeting.

The implementation of this AELUP shall result generally from the interaction between the Commission and local agencies. Only local agencies may submit General and Specific Plans, Airport Master Plans, and amendments thereto.

4.11 Commission Finding of Inconsistency

When the Commission determines that a submittal is inconsistent with the AELUP, the Commission shall promptly notify the affected local agency. The local agency may modify the submitted project so as to be consistent with the AELUP, and resubmit the project to the Commission for a determination of consistency; or the local agency may instead choose to overrule the Commission by following the procedure established in PUC Sections 21676 and 21676.5 (see Appendix A). This procedure requires the local agency to: hold a public hearing on the matter by its governing body (Board of Supervisors, City Council); make specific findings that the proposed overruling is consistent with the purposes stated in PUC Section 21670 (see Appendix A); and overrule the Commission by at least a two-thirds vote of the Board of Supervisors or City Council.

When such an overruling occurs, the PUC provides in Section 21678 (see Appendix A) that if the local agency does not operate the public airport in question, then the operator of that affected public airport shall be immune from liability for damages to property or personal injury caused by, or resulting directly or indirectly from, the local agency's decision to overrule the Commission's determination of inconsistency.

4.12 Inconsistent Local Agency

If the Commission determines that a City or the County is an Inconsistent Local Agency and the local jurisdiction does not overrule that determination, the Commission may require that the jurisdiction submit all land use actions to the Commission for review and determination.

4.13 Continuous Monitoring

It shall be the ongoing function of the Commission and its staff to monitor all development within the planning areas to ensure that the purposes of this AELUP are fulfilled.

4.14 Periodic Review

The Commission shall review the substance and adequacy of this AELUP at a minimum of once every five years.

4.15 AELUP Amendments

Upon approving any amendment to this AELUP, the Commission will promptly inform all affected agencies of the action and the requirement for local agency action per Government Code Section 65302.3 as specified below:

65302.3 (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 provision 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.

APPENDIX A

(Information in this appendix is provided as a reference source to assist the users of the AELUP.)

STATE AERONAUTICS ACT AND AIRPORT LAND USE COMMISSION LAW

Current provisions of the California Public Utilities Code related to Airport Land Use Commissions and land use planning around airports.

Readers should check the following website for up-to-date version:

<http://www.dot.ca.gov/hq/planning/aeronaut/htmlfile/forms.html>



California Public Utilities Code
Section 21001 et seq.
relating to the
State Aeronautics Act

Prepared by
California Department of Transportation
Division of Aeronautics, M.S. # 40
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Mary C. Frederick
Division Chief

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Dear Reader,

The law contained in this booklet was copied from www.leginfo.ca.gov, a website maintained by the Legislative Counsel of California. We attempt to provide you with current law by periodically updating this booklet as changes are made at the Counsel's website. We encourage you to visit the website to check for updates by selecting "California Law" and searching within the Public Utilities Code.

California Department of Transportation
Division of Aeronautics

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CALIFORNIA PUBLIC UTILITIES CODE

Section 21001 et seq. relating to the State Aeronautics Act

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AERONAUTICS LAW STATE AERONAUTICS ACT PUBLIC UTILITIES CODE

Chapter 1. General Provisions and Definitions

Title of Part

21001. This part may be cited as the "State Aeronautics Act."

Purpose

21002. The purpose of this part is to further and protect the public interest in aeronautics and aeronautical progress by the following means:

- (a) Encouraging the development of private flying and the general use of air transportation.
- (b) Fostering and promoting safety in aeronautics.
- (c) Effecting uniformity of the laws and regulations relating to aeronautics consistent with federal aeronautics laws and regulations.
- (d) Granting to a state agency powers, and imposing upon it duties, so that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property, assist in the development of a statewide system of airports, encourage the flow of private capital into aviation facilities, and cooperate with and assist political subdivisions and others engaged in aeronautics in the development and encouragement of aeronautics.
- (e) Establishing only those regulations which are essential and clearly within the scope of the authority granted by the Legislature, in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others.
- (f) Providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state.
- (g) Assuring that persons residing in the vicinity of airports are protected to the greatest possible extent against intrusions by unreasonable levels of aircraft noise.
- (h) Fostering and promoting the development of a stable and efficient regional air carrier system to provide access for small and rural communities to the national air transportation system consistent with federal policies favoring deregulation.
- (i) Developing, in cooperation with the private sector, airport management, local jurisdictions, federal authorities, and the general public, informational programs to increase the understanding of current air transportation issues including, but not limited to, aviation safety, planning, airport noise, airport development and management, and the role of aviation in the economic development of the state, as an integral part of the state's transportation system.
- (j) Sponsoring or cosponsoring, with representatives of the aerospace and aviation industry, aviation educational and informational seminars which meet the needs of pilots and other members of the industry for current information on aviation safety, planning, and airport development and management.

Definitions; Effect

21003. Unless the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this part.

Public and Government Functions; Public Necessity

21004. The acquisition of any land or interest therein pursuant to this part, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any political subdivision, and the exercise of any other powers granted to the department by this part are public and governmental functions, exercised for a public purpose, and are matters of public necessity. All land and other property and privileges acquired and used by or on behalf of the state pursuant to this part are acquired and used for public and governmental purposes as a matter of public necessity.

Effect of Part on Zoning Regulations

21005. This part shall not be construed as limiting any power of the state or a political subdivision to regulate airport hazards by zoning.

Effect of Chapter on Use of Helicopters

21006. This chapter or any other law shall not be construed as prohibiting, restricting, or permitting the prohibition of the operation or landing in populated areas of helicopters and similar aircraft capable of approximately vertical ascent and descent, subject to such reasonable rules affecting the public safety as the department may promulgate. The department shall adopt rules and regulations, effective January 1, 1989, for the conditions under which helicopters may make temporary use of a landing site.

Department

21006.5. "Department" means the Department of Transportation.

Aeronautics Commission; Division; Department

21007. Whenever the term "California Aeronautics Commission," "Division of Aeronautics," or "Department of Aeronautics" is used in any other law, it means the Department of Transportation.

Director

21008. "Director" means the Director of Transportation. Any reference in any law or regulation to the Director of Aeronautics shall be deemed to refer to the Director of Transportation.

Division

21008.3. "Division" means the Division of Aeronautics in the department.

Commission

21008.5. "Commission" means the California Transportation Commission.

Person

21009. "Person" means any individual, firm, partnership, corporation, limited liability company, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative.

Political Subdivision

21010. "Political subdivision" means any county, city, city and county, public corporation, district or other political entity or public corporation of this State.

Aeronautics

21011. "Aeronautics" means:

- (a) The science and art of flight, including transportation by aircraft.
- (b) The operation, construction, repair, or maintenance of aircraft and aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes.
- (c) The design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities.

Aircraft

21012. "Aircraft" means any manned contrivance used or designed for navigation of, or flight in, the air requiring certification and registration as prescribed by federal statute or regulation. Notwithstanding the foregoing provisions of this section, manned lighter-than-air balloons and ultralight vehicles as defined in the regulations of the Federal Aviation Administration (14 C.F.R. Part 103), whether or not certificated by the Federal Aviation Administration, shall not be considered to be aircraft for purposes of this part.

Airport

21013. "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights of way, and all airport buildings and facilities located thereon.

Air Navigation Facility

21014. "Air navigation facility" means any facility, other than facilities owned or operated by the United States, used, or available or designed for use, in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other facilities used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport.

Operation of Aircraft; Operate Aircraft

21015. "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the air space over this State or upon any airport within this State.

Airman

21016. "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air traffic control-tower operator. "Airman" does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

Airport Hazard

21017. "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for flight of aircraft in landing or taking off at an airport or which is otherwise hazardous to the landing or taking off.

Airway

21018. "Airway" means a route in the navigable air space over the land or waters of this State, designated by proper authority as a route suitable for air navigation.

Violations; Punishment

21019. Any person violating any of the provisions of this part, other than Section 21407.1, or any of the rules or orders issued under this part, is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment of not more than six months, or both.

Land

21020. "Land" includes tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries.

Chapter 2. Department of Transportation and State Aeronautics Board

Article 1. Department of Transportation

Rules and Regulations

21204. The department may adopt, administer, and enforce rules and regulations for the administration of this part.

Statement of Estimated Revenues; Budget

21206. The department shall prepare a statement of all estimated revenues of the Aeronautics Account in the State Transportation Fund and revenues available for local subventions from any other sources for the next succeeding fiscal year, together with a statement of proposed expenditures to be made to local agencies and the University of California during the next succeeding fiscal year, or obligations to be incurred in connection therewith.

The statement shall be included in the printed fiscal year budget submitted to the Legislature. Insofar as the matters to which it pertains, it shall constitute as submitted the budget submitted to the Department of Finance pursuant to Section 13320 of the Government Code, and, as to such matters, shall be administered by the Department of Finance as the fiscal year budget of the Department of Transportation under the provisions of this

section and of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

Any changes or modifications in the budget described in this section shall be approved by the Director of Finance.

In the event, during an annual period, the budgetary amount approved and allocated for any purpose exceeds the amount actually necessary therefor, with a resultant available surplus, such surplus may be allocated to any other purpose or supplemental project upon the written approval of the Director of Finance.

In administering the budget, the Director of Finance shall not limit expenditures or incurrence of obligations thereunder to quarterly, semiannual, or other periods of the fiscal year.

Noise Mitigation Projects

21207. Whenever a political subdivision owning and operating an airport constructs or implements a noise mitigation project at the airport, including, but not limited to, the installation of noise monitoring equipment at any time after the project has been included within the aeronautics program in the state transportation improvement program and prior to funding of the project, the department shall, when funding for the project becomes available, reimburse the political subdivision for the eligible costs of the project, without interest, not to exceed the amount of the funds made available to the department or the political subdivision's actual eligible costs, whichever is lower. Reimbursement under this section shall be made only if the political subdivision completes the project to the standards approved by the department including, but not limited to, bidding and contracting procedures and the project is approved by the commission. This section does not apply to any project for which state funding is not specifically made available.

Article 1.5. State Aeronautics Board

State Aeronautics Board Abolished

21215. (a) The State Aeronautics Board is hereby abolished, and the California Transportation Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction vested in the State Aeronautics Board.

(b) Any reference in any law or regulation to the State Aeronautics Board shall be deemed to refer to the California Transportation Commission.

(c) The California Transportation Commission shall have the possession and control of all licenses, permits, leases, agreements, contracts, orders, claims, judgments, records, papers, equipment, supplies, bonds, moneys, funds, appropriations, buildings, land and other property, real or personal, held for the benefit, use, or obligation of the State Aeronautics Board.

Appeals

21216. Any person or entity injured or aggrieved by any procedure or action of the department with respect to aeronautics may appeal to the California Transportation Commission for relief, and the decision of the commission as to such matter shall, after hearing thereon, be conclusive, subject to such review as may be otherwise provided by law. This section shall not apply to any procedure or action for which a hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is specified in this part as the means for reviewing or finalizing the procedure or action.

Article 2: Powers and Duties

Recognition of Federal Authority; Intrastate Rates

21240. This state recognizes the authority of the federal government to regulate the operation of aircraft and to control the use of the airways, and nothing in this act shall be construed to give the department the power to so regulate and control safety factors in the operation of aircraft or to control use of the airways. This section does not affect the state's power to regulate the intrastate rates of common carriers by air, and such power is hereby reserved to the state.

Encouragement of Aeronautics, Airports, and Air Navigation Facilities

21241. The department shall encourage, foster, and assist in the development of aeronautics in this state and encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, political subdivisions of this state, and others in the development of aeronautics, and shall seek to coordinate their aeronautical activities.

Political subdivisions may cooperate with the department in the development of aeronautics and aeronautics facilities in this state.

Legislation; Representation of State

21242. The department may:

- (a) Draft and recommend necessary legislation to advance the interest of the state in aeronautics.
- (b) Represent the state in aeronautical matters before federal and other agencies.
- (c) Participate as plaintiff or defendant or as intervenor on behalf of the state or any political subdivision or citizen in any controversy which involves the interest of the state in aeronautics.
- (d) Assist political subdivisions and their law enforcement agencies in becoming acquainted with and enforcing the civil air regulations.

Rules, Regulations, Procedures, and Standards; Classification of Airports

21243. The department may make and amend general or special rules, regulations, and procedures and establish minimum standards, consistent with and clearly within the scope of federal legislation governing aeronautics and the rules, regulations, and standards issued thereunder. The department may, by regulation, classify airports into several reasonable classes or groups according to their facilities and the types and number of aircraft which they are capable of handling and may make and amend rules, regulations, and procedures and establish minimum standards for each separate class or group.

Temporary Rules, Regulations, Procedures, and Standards

21244. For the purpose of protecting and insuring the general public interest and safety and the safety of persons operating, using, or traveling in aircraft and developing aeronautics in this state, and after appropriate public hearings, the department may make and amend temporary general or special rules and procedures and establish temporary minimum standards consistent with this part as it deems necessary to administer this part. The department shall draft these temporary rules, procedures, and standards in the form of proposed aviation law and shall submit them to the next general session of the Legislature. These temporary rules, procedures, and standards shall not remain in effect beyond 90 days after the final adjournment of that session of the Legislature.

Rules; Copies for Public Inspection

21245. The department shall keep on file with the Secretary of State, and at its principal office, a copy of all its rules for public inspection.

Publication and Distribution of Orders, Rules, and Procedures

21246. The department shall provide for the publication and general distribution of all its orders, rules, and procedures having general effect.

Contracts

21247. The department may enter into any contracts necessary to the execution of its powers under this part. All contracts made by the department, either as the agent of the state or as the agent of any political subdivision, shall be made pursuant to the laws of the state governing the making of like contracts. Where the planning, acquisition, construction, improvement, maintenance, or operation of any airport or air navigation facility is financed wholly or partially with federal money the department, as agent of the state or of any political subdivision, may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules made thereunder.

Joint Exercise of Powers

21248. The department may exercise any of its powers under this part jointly with any political subdivision, state agency, other states or their political subdivisions, or the United States.

Conferences and Joint Hearings with Federal Agencies

21249. The department may confer or hold joint hearings with any federal agency in connection with any matter arising under this part or relating to the sound development of aeronautics.

Cooperation with Federal Agencies

21250. The department may avail itself of the cooperation, services, records, and facilities of the federal agencies in the administration and enforcement of this part. It shall cooperate with and make available to the federal agencies, its services, records, and facilities, insofar as practicable.

Administration

21251. In administering this part the department may use the facilities and services of other state agencies and political subdivisions to the utmost extent possible. These agencies and political subdivisions shall make available to the department their facilities and services.

Enforcement

21252. (a) The department, its members, the director, officers and employees of the department, and every state and peace officer charged with the enforcement of state and subordinate laws or ordinances, may enforce and assist in the enforcement of this part, the rules and orders issued under this part, and all other laws of this state relating to aeronautics. In the enforcement of such rules, orders, and laws, the director, and such officers and employees as the director may designate, shall have the authority, as public officers, to arrest without a warrant, any person who, in his presence, has violated or as to whom there is probable cause to believe has violated any of such rules, orders, or laws.

In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting officer may, instead of taking such person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the Penal Code. The provisions of such chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(b) There shall be no civil liability on the part of and no cause of action shall arise against any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) The director, and such officers and employees as the director may designate, may serve all processes and notices throughout the state.

Enforcement of Part; Injunction and Other Legal Process

21253. In the name of the state, the department may enforce this part and rules and orders issued under this part by injunction or other legal process in the courts of this state.

Reports of Violations to Federal and Other State Agencies

21254. The department may report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of Section 21407, and Sections 21409 to 21412, inclusive, and all penalties of which it has knowledge imposed upon airmen or the owners or operators of aircraft for violations of the law of this state relating to aeronautics or for violations of the rules or orders of the department.

Reports from Federal and Other State Agencies

21255. The department may receive reports of penalties and other data from agencies of the federal government and other states, and may enter into agreements with these agencies governing the delivery, receipt, exchange, and use of reports and data. The department may make the reports and data of these agencies and of the courts of this state available to any court of this state and to any officer of the state or of any political subdivision authorized to enforce the aeronautics laws by Section 21252.

Receipt and Disbursement of Funds

21256. The department may accept, receive, receipt for, disburse, and expend federal and other money, public or private, made available to accomplish in whole or in part any of the purposes of this part. All federal money accepted under this part shall be accepted and expended by the department upon the terms and conditions prescribed by the United States. In accepting federal money under this part, the department shall have the same authority to enter into contracts on behalf of the state as is granted to the department under Section 21603. The department shall deposit all money received under this section in the Special Deposit Fund in the State Treasury, to be disbursed or expended in accordance with the terms and conditions upon which it was made available.

Ownership and Operation of Aircraft

21257. The department may own and operate aircraft for use in the furtherance of its duties, employ airmen and mechanics for proper operation and maintenance of the aircraft, and insure its employees against injury or death arising from aircraft accidents incurred in the performance of their assigned duties, within the limits of appropriations for these purposes.

Department Responsibility

21258. The department shall represent the state and local agencies before the Civil Aeronautics Board and other federal agencies in all matters related to the Airline Deregulation Act of 1978 (P.L. 95-504, as amended) and the essential air service program created by that act. The department shall assist and cooperate with federal, state, and local agencies and private entities in the development of a stable and efficient regional air carrier system.

Chapter 3. Regulation of Aeronautics

Sovereignty

21401. Sovereignty in the space above the land and waters of this state rests in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of the state.

The operation of aircraft in such space is a privilege subject to the laws of this state.

Ownership; Prohibited Use of Airspace

21402. 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.

Lawful Flight; Flight Within Airport Approach Zone

21403. (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.

Tort Liability; Injury or Death of Passengers

21404. Liability of the owner or pilot of an aircraft carrying passengers for injury or death to the passengers is determined by the rules of law applicable to torts on the land or waters of this state, arising out of similar relationships. Every owner of an aircraft is liable and responsible for death or injury to person or property resulting from a negligent or wrongful act or omission in the operation of the aircraft, in the business of the owner or otherwise, by any person using or operating the same with the permission, express or implied, of the owner.

Limitation on Liability

21404.1. (a) The liability of an owner, bailee of an owner, or personal representative of a decedent imposed by Section 21404 and not arising through the relationship of principal and agent or master and servant is limited to the

amount of fifteen thousand dollars (\$15,000) for the death of or injury to one person in any one accident and, subject to the limit as to one person, is limited to the amount of thirty thousand dollars (\$30,000) for the death of or injury to more than one person in any one accident and is limited to the amount of five thousand dollars (\$5,000) for damage to property of others in any one accident.

(b) An owner, bailee of an owner, or personal representative of a decedent is not liable under this section for damages imposed for the sake of example and by way of punishing the operator of the aircraft. Nothing in this subdivision makes an owner, bailee of an owner, or personal representative immune from liability for damages imposed for the sake of example and by way of punishing him for his own wrongful conduct.

Tort Liability; Collision Damage

21405. The liability of the owner of one aircraft to the owner of another aircraft, or to operators or passengers on either aircraft, for damage caused by collision on land or in the air, is determined by the rules of law applicable to torts on land.

Careless or Reckless Operation

21407. It is unlawful for any person to operate an aircraft in the air, or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In any proceeding charging operation of aircraft in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

Operation While Under the Influence

21407.1. (a) It is unlawful for any person, who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, to operate an aircraft in the air, or on the ground or water, or to engage in parachuting for sport.

(b) No person shall operate an aircraft in the air or on the ground or water who has 0.04 percent or more, by weight, of alcohol in his or her blood.

Consent to Chemical Testing

21407.2. (a) (1) (A) Any person who operates an aircraft in the air or on the ground or water is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 21407.1 or if the officer requests chemical testing as part of any investigation of a suspected violation of state or local law. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) Any person who operates an aircraft in the air or on the ground or water is deemed to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 21407.1 or if the officer requests chemical testing as part of an investigation of a suspected violation of state or local law.

(C) The testing shall be administered at the direction of a peace officer having reasonable cause to believe the person was operating an aircraft in violation of Section 21407.1 under either of the following conditions:

(i) The person is lawfully arrested.

(ii) The officer requests the person to submit to chemical testing as part of an investigation of a suspected violation of state or local law.

(D) The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing may result in prohibition from operating an aircraft for not more than one year and, if the person is convicted of a violation of Section 21407.1, a fine, imprisonment, prohibition from operating an aircraft for not more than one year, or any combination thereof.

(2) (A) If the person is lawfully arrested for operating an aircraft under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood or breath, and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) If the person is lawfully arrested for operating an aircraft under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the officer has reasonable cause to believe that the person was operating an aircraft under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or

urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. If the person who is arrested is either incapable or states that he or she is incapable of completing a blood test, that person shall submit to and complete a urine test. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 21407.1 and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In that event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests may result in a fine, imprisonment, and prohibition from operating an aircraft for not more than one year. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) (1) A person lawfully arrested for any offense allegedly committed while the person was operating an aircraft in violation of Section 21407.1 may request the arresting officer to have a chemical test made of the arrested person's blood or breath for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(2) If a blood or breath test is not available under subparagraph (A) of paragraph (1) of subdivision (a), or under subparagraph (A) of paragraph (2) of subdivision (a), or under paragraph (1) of this subdivision, the person shall submit to the remaining test in order to determine the percent, by weight, of alcohol in the person's blood. If both the blood and breath tests are unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

Punishment

21407.6. (a) Any person convicted under Section 21407.1 shall be punished upon a first conviction by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) or by both such fine and imprisonment.

Any person convicted under Section 21407.1 shall be punished upon a second or any subsequent conviction by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), without being granted probation by the court and without having the court suspend the execution of the sentence.

(b) Any person convicted under Section 21407.1 and who, when so operating an aircraft, has done any act forbidden by law or neglects any duty imposed by law in the operation of the aircraft, which act or neglect proximately causes bodily injury to any person other than the operator shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year and by fine of not less than two hundred fifty dollars (\$250) nor more than ten thousand dollars (\$10,000).

Authority to Prohibit Violator from Operation Aircraft

21408. For any violation of Section 21407 or 21407.1, in addition to the penalties provided by Section 21019 or 21407.6, the court may prohibit the violator from operating an aircraft within the state for a period not exceeding one year. Violation of the prohibition of the court may be treated as a separate offense under this section or as a contempt of court. Upon a plea of guilty or conviction under Section 21407 or 21407.1, the department shall cause a record of the plea or conviction and of the sentence imposed to be maintained. This section does not authorize the court or any other agency or person to take away, impound, hold, or mark any federal certificate, permit, rating, or license. The peace officer requesting that a person submit to a chemical test of the blood, breath, or urine pursuant to Section 21407.2 shall report anyone refusing to submit to the chemical test to the Federal Aviation Administration for appropriate administrative action.

Unlicensed Operation

21409. It is unlawful for any person to engage in aeronautics as an airman in the State unless he has an appropriate effective airman certificate, permit, rating, or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if the certificate, permit, rating, or license is required by the United States.

Possession and Inspection of Certificate, License, Etc.

21410. Every airman shall keep any certificate, permit, rating, or license required for him by the United States in his personal possession when he is operating within the state. He shall present it for inspection upon the demand of any peace officer, any other officer of the state or of a political subdivision, or member, official, or employee of the department, authorized by Section 21252 to enforce the aeronautics laws, or any official, manager, or person in charge of any airport upon which the airman lands, or upon the reasonable request of any other person.

Unlicensed Aircraft

21411. It is unlawful for any person to operate, or cause or authorize to be operated, any civil aircraft within this State unless the aircraft has an appropriate effective certificate, permit, or license issued by the United States if required by the United States.

Posting Aircraft License; Inspection

21412. Any certificate, permit, or license required by the United States for an aircraft shall be carried in the aircraft at all times while the aircraft is operating in the state, shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors, and shall be presented for inspection upon the demand of any peace officer, any other officer of the state or of a political subdivision, or member, official, or employee of the department, authorized by Section 21252 to enforce the aeronautics laws, or any official, manager, or person in charge of any airport upon which the aircraft lands, or upon the reasonable request of any person.

Accidents; Reports; Preservation of Parts Pending Investigation

21413. The department shall report to the appropriate federal agency all accidents in aeronautics in this state of which it is informed, and shall, insofar as is practicable, preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation.

Intoxicated Persons In or About Aircraft

21415. No person shall be in, or perform any act in connection with the maintenance or operation of, any aircraft when under the influence of intoxicating liquor.

This section does not apply to a person who is in an aircraft merely as a passenger, but this section shall not be construed to relieve any such person of criminal liability imposed by any other law for being intoxicated while in an aircraft.

Locking Door Separating Pilot Compartment from Passenger Compartment

21416. On all commercial aircraft which transport passengers for compensation or hire the door which separates the pilot compartment from the passenger compartment shall be kept locked at all times the aircraft is in a flight over this state during which passengers are being transported except:

(a) During takeoff and landing of the airplane when such door is the means of access to a required passenger emergency exit.

(b) At such times as it may be necessary to provide access to the flight crew or passenger compartments for the crew members in the performance of their duties, or to provide access for other persons authorized admission to the flight crew compartment.

The pilot of the aircraft shall be guilty of a misdemeanor if the door is not so locked.

It shall be unlawful for any person, except a member of the crew, to have in his possession in the passenger compartment at any time the aircraft is in a flight over this state during which passengers are being transported a key or other device for opening such door from the passenger side of the door.

Chapter 3.7 Wire Strike Education and Prevention

Legislative Intent

21504. The Legislature finds and declares as follows:

(a) Representatives from the aviation community, electric utility industry, and government agencies voluntarily convened a working group in July 1992 to develop a comprehensive program to improve low-level flight safety throughout California.

(b) The working group found that the prevention of aircraft wire strikes and losses through (1) pilot education and awareness and (2) selective marking of those wires and supporting structures that present a hazard to low-level flight safety are equally important to improving low-level flight safety throughout the state.

(c) The working group developed criteria for marking selected wires and supporting structures based upon visibility and likelihood of aircraft activity, which now must be evaluated in the field.

(d) It is, therefore, the intent of the Legislature in enacting this chapter to implement recommendations of the working group to undertake a pilot education and awareness program and to evaluate the criteria for marking selected wires and supporting structures in the field.

Pilot Awareness Program

21505. (a) The Division of Aeronautics, in cooperation with the aviation industry and the electric utility industry and in consultation with the Federal Aviation Administration, shall coordinate and disseminate information provided by the working group to pilots to increase awareness of wire hazards and to communicate techniques for identifying and avoiding wires.

(b) For purposes of coordinating and disseminating the information provided to the division by the working group pursuant to subdivision (a), every electrical corporation and publicly owned electrical utility in this state which serves 250,000 or more customers shall pay a one-time fee in a sufficient amount so that the total of all fees collected does not exceed one hundred thousand dollars (\$100,000). The fee shall be in the proportion that each utility's total miles of transmission line greater than 110 kilovolts bears to the total miles of transmission line greater than 110 kilovolts statewide.

(c) All fees collected pursuant to subdivision (b) shall be deposited in the Aeronautics Account in the State Transportation Fund to be continuously appropriated to the Department of Transportation for the purposes set forth in subdivision (a).

Cost Recovery

21507. All costs incurred by an electrical corporation pursuant to this chapter shall be deemed reasonable by the commission and shall be fully recoverable through rates.

Chapter 4. Airports and Air Navigation Facilities

Article 1. Assistance to Political Subdivisions

Engineering and Technical Services

21601. The department may make available its engineering and other technical services, with or without charge, to any political subdivision or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or air navigation facilities, subject to rules promulgated by the department.

Financing

21602. (a) Subject to the terms and within the limits of special appropriations made by the Legislature, the department may render financial assistance by grant or loan, or both, to political subdivisions jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by a political subdivision or subdivisions, if the financial assistance has been shown by public hearing to be appropriate to the proper development or maintenance of a statewide system of airports. Financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

(b) Notwithstanding subdivision (a) of Section 21681, a city or county designated by the Airport Land Use Commission is eligible to compete for funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned, public use airport that is included in an airport land use compatibility plan. However, the city or county shall be eligible to compete for the funds only when zoning on the parcel is tantamount to a taking

of all reasonable uses that might otherwise be permitted on the parcel. The eligible airport and aviation purposes are limited to those specified in paragraphs (4), (5), (6), (9), and (14) of subdivision (f) of Section 21681, and, further, any capital improvements or acquisitions shall become the property of the designated city or county. Matching funds pursuant to subdivision (a) of Section 21684 may include the in-kind contribution of real property, with the approval of the department.

(c) Any grant of funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned airports shall contain a covenant that the airport remain open for public use for 20 years. Any grant made to a city or county on behalf of a privately owned airport shall contain a payback provision based upon existing market value at the time the private airport ceases to be open for public use.

(d) Upon request, California Aid to Airports Program (CAAP) projects included within the adopted Aeronautics Program, may be funded in advance of the year programmed, with the concurrence of the department, in order to better utilize funds in the account.

(e) There is, in the Aeronautics Account in the State Transportation Fund, a subaccount for the management of funds for loans to local entities pursuant to this chapter. All funds for airport loans in the Special Deposit Fund are hereby transferred to the subaccount. With the approval of the Department of Finance, the department shall deposit in the subaccount all money received by the department from repayments of and interest on existing and future airport loans, including, but not limited to, the sums of five hundred forty thousand dollars (\$540,000) in repayments from the General Fund due in July 1987, and July 1988, and may, upon appropriation, transfer additional funds from the Aeronautics Account in the State Transportation Fund to the subaccount as the department deems appropriate. Interest on money in the subaccount shall be credited to the subaccount as it accrues.

(f) Notwithstanding Section 13340 of the Government Code, the money in the subaccount created by subdivision (e) is hereby continuously appropriated to the department without regard to fiscal years for purposes of loans to political subdivisions for airport purposes.

Agent for Political Subdivisions; Contracts; Handling of Funds

21603. Upon the request of any political subdivision or political subdivisions acting jointly, the department may act as agent in accepting, receiving, receipting for, and disbursing federal money, and other money public or private, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance, or operation of a public airport or air navigation facility. The department may act as agent in contracting for and supervising the planning, acquisition, construction, improvement, maintenance, or operation. Any political subdivision may designate the department as its agent for these purposes.

The department as principal on behalf of the state, and any political subdivision on its own behalf, may enter into any contracts with each other, the United States, or any person, which may be required in connection with a grant or loan of federal money for public airport or air navigation facility purposes.

All federal money accepted under this section shall be accepted and transferred or expended by the department upon such terms and conditions as are prescribed by the United States. All money received by the department pursuant to this section shall be deposited in the Special Deposit Fund in the State Treasury, to be disbursed or expended in accordance with the terms and conditions upon which it was made available.

Airport Closing Procedures

21605. No proprietor of any permitted airport which is open to the public and has received public funds shall close or suspend operation of the airport, or close an existing runway or taxiway except on a temporary basis for inspection, maintenance, construction, or emergency purposes, without notifying the department in writing 60 days prior to the intended closure or suspension of operations. On its own motion or upon the request of an affected or interested person, the department may conduct a public hearing to determine the impact of the intended closure or suspension of operations, both economically and on the entire state air transportation system. The department may take appropriate action to assist the proprietor in keeping the airport operational and open for public use.

Article 2. State Airports and Air Navigation Facilities

Establishment; Planning; Construction

21631. From appropriations or other money made available for the purpose, the department, on behalf of and in the name of the state, may plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, either within or without the state, including the construction, installation, equipment, maintenance, and operation at the airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers.

Acquisition of Existing Facilities

21632. (a) The department may also acquire existing airports and air navigation facilities, but it shall not acquire any airport or air navigation facility owned or controlled by a political subdivision of this or any other state without the consent of the political subdivision.

(b) Whenever an airport owned or operated by the United States in this state ceases to be so owned or operated, the department, in consultation with local and regional transportation planning agencies, may evaluate the present and future need for the airport in the state's public-use airport system, including the need for both the transportation of people and goods. The purpose of the evaluation is to determine aviation needs and does not eliminate any requirement of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) Prior to finalizing the evaluation, the department shall submit a copy of its report to the commission for review and comment.

The commission shall complete its review and forward any comments to the department not later than 45 days after receiving the evaluation.

(d) Upon completion of its evaluation, the department may make a recommendation to the Legislature, the commission, the affected local agencies, and the appropriate federal agency for the airport's ownership and type of operation as a public-use airport, if the department determines that the airport would be of significant benefit to the state's airport system. It is the intent of the Legislature that the department, in making its recommendation, give priority for ownership and operation of these public-use airports to a local political subdivision or subdivisions acting jointly.

(e) Notwithstanding Section 21606, if a political subdivision or subdivisions acting jointly notify the department of their intentions to prepare a reuse plan for the airport, and simultaneously apply to the Federal Aviation Administration for a federal grant to develop an airport master plan for the airport, the department shall not make its recommendation pursuant to subdivision (d). If the department's evaluation determines that the airport would be of significant benefit to the state's airport system, and the political subdivision or subdivisions acting jointly fail to convert the federal airport to a civil public-use airport in accordance with the department's evaluation within five years of notification to the department, or fail to evidence substantial progress toward that purpose as determined by the department, then the department may take action in accordance with subdivision (f).

(f) If the department determines the airport is of present or future benefit to the state's public-use airport system, and no political subdivision applies to the appropriate federal agency to acquire or operate the airport, or has notified the department of its intention to prepare a reuse plan for the airport and thereafter fails to act upon its application pursuant to subdivision (e), the department may, subject to subdivision (g), assist in the formation of a public entity to own and operate the airport which shall be representative of political subdivisions in the area which surrounds and is served by the airport, as determined by the department. If established, the owning and operating entity may, subject to subdivision (g), prepare and submit an application to the appropriate federal agency to acquire or operate, or acquire and operate, the airport as a public airport.

(g) Notwithstanding subdivision (f), if any political subdivision has previously applied to the appropriate federal agency to acquire and operate the airport as a public airport, has completed all required environmental and fiscal evaluations, and subsequently withdrew its application prior to December 31, 1988, the department shall not file any application to acquire or operate the airport or assist in the formation of a public entity to own and operate the airport.

Acquisition of Real or Personal Property

21633. For the purposes of this article, the department, by purchase, gift, devise, lease, condemnation, or otherwise, may acquire real or personal property, or any interest therein, including any property described in Section 21652.

Disposal of Property

21636. The department may dispose of any property, airport, air navigation facility, or portion or interest, acquired pursuant to this article, by sale, lease, or otherwise. The disposal shall be in accordance with the laws of this state governing the disposition of other state property, except that in the case of disposals to any political subdivision or government or the United States for aeronautical purposes, the disposal may be effected in the manner and upon the terms the department deems in the best interests of the state.

Contracts and Leases for Operation

21637. In operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements for a term not exceeding 20 years with any person, granting the privilege of using or improving the airport or air navigation facility or space therein for commercial purposes,

conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility, or making available services to be furnished by the department or its agents at the airport or air navigation facility. In each case the department may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with regard to the property and improvement used and the expenses of operation to the state. In no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or portion of either. The department shall grant no exclusive privilege for the sale or delivery of gasoline or other petroleum products.

Lease of Airports

21638. The department shall call for bids for the operation of any state-owned airport and shall lease the airport for a term not to exceed five years to the highest qualified bidder or bidders. No person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under Section 21637. The state may operate an airport only if no acceptable bid is received.

Exclusive Right for Use Prohibited

21639. The department shall grant no exclusive right for the use of any airport or air navigation facility under its jurisdiction. This section shall not be construed to prevent the making of contracts, leases, and other arrangements pursuant to this article.

Lien for Charges; Enforcement

21640. To enforce the payment of any charges for repairs, improvements, storage, or care of any personal property by the department or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state has a lien on the property, which is enforceable by the department as provided by law.

Flying or Releasing Balloon, Kite or Rocket Near Airport as Misdemeanor

21646. It shall be a misdemeanor for any person to release or fly or cause to be released or flown, within five miles of any airport, any moored balloon, kite, unmanned rocket, or unmanned free balloon which might be ingested by an aircraft engine or might cause a pilot's view of the airport and zone approach to be obstructed, or which could be used to suspend an object capable of endangering airborne aircraft or impairing a pilot's vision.

Article 2.5. Non-Public Use Airports

Airport Defined

21650. "Airport" for the purposes of this article means an airport not open to the general public.

Airport Marks; Federal Aviation Administration Standards

21650.1. An airport shall be marked as required by rule of the department with letters or symbol selected by the department to designate that the airport is not open to the general public. In selecting the letters or symbol, the department shall be guided by letters or symbols currently in use by the Federal Aviation Administration for similar or comparable purposes.

Permit; Application and Receipt Under Article 3

21650.2. Nothing shall prevent an airport from applying for and receiving a permit pursuant to Article 3 (commencing with Section 21661) of this chapter.

Article 2.6 Hazard Elimination; Flight Disturbance

Eminent Domain

21652. (a) Any person authorized to exercise the power of eminent domain for airport purposes may acquire by purchase, gift, devise, lease, condemnation, or otherwise:

(1) Any property necessary to permit the safe and efficient operation of the airport, or to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards.

(2) Airspace or an easement in such airspace above the surface of property where necessary to permit imposition upon such property of excessive noise, vibration, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value, due to the operation of aircraft to and from the airport.

(3) Remainder property underlying property taken pursuant to paragraph (2), where permitted by Section 1240.410 of the Code of Civil Procedure.

(b) As used in this section, "property" includes real and personal property and any right or interest therein, whether within, beyond, adjacent to, or in the vicinity of, the boundaries of an airport or airport site, and, by way of illustration and not by way of limitation, includes air rights, airspace, air easements, and easements in airport hazards.

Removal of Hazards

21653. Any person authorized to exercise the power of eminent domain for airport purposes may provide, by purchase, gift, devise, lease, condemnation, or otherwise, for the removal or relocation of any airport hazard or the removal or relocation of all facilities, structures, and equipment that may interfere with the location, expansion, development, or improvement of the airport and other air navigation facilities or with the safe approach thereto and takeoff therefrom by aircraft. Any person acting under authority of this section shall pay the cost of such removal or relocation.

Article 2.7 Regulation of Obstructions

Proposed Site for Construction of State Building Within Two Miles of Airport Boundary

21655. 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.

Permit for Extension of Structure More Than 500 Feet Above Ground

21656. No person shall erect or add to the height of any structure within the boundaries of this state which will result in a structure that extends more than 500 feet above the ground on which such structure rests until a permit therefor has been issued for such purpose by the department. This section is not applicable to the construction of any structure if the Federal Communications Commission is required to approve the height of the structure or if the height of the structure is required to be approved under the Federal Aviation Act of 1958 (Public Law 85-726; 72 Stat. 731).

Refusal to Issue Permit; Request for Hearing

21657. The department may refuse issuance of a permit under Section 21656 if it determines that the erection of or addition to a structure would obstruct the airspace overlying the state so as to create an unsafe condition for the flight of aircraft.

Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether a permit shall be issued. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Construction of Utility Pole or Line in Vicinity of Aircraft Landing Area

21658. 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.

Hazards Near Airports Prohibited

21659. (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).

Refusal to Issue Permit; Request for Hearing

21660. The department may refuse issuance of a permit under Section 21659 if it determines that the construction or alteration of the structure or growth of the natural growth would constitute a hazard to air navigation or create an unsafe condition for air navigation.

Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether a permit shall be issued. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3. Regulation of Airports

Exemptions

21661. This article does not apply to any temporary seaplane landing site, ultralight vehicle flightpark, or to airports owned or operated by the United States. To the extent necessary, the department may exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or requirement thereof, adopted pursuant to this article, if it finds that its application would be an undue burden on the class and is not required in the interest of public safety.

This section shall become operative on January 1, 1989.

City Council or Board of Supervisors and ALUC Approvals

21661.5. (a) 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 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 Part 1 of Division 9, and acted upon by that commission in accordance with the provisions of that article.

(b) A county board of supervisors or a city council may, pursuant to Section 65100 of the Government Code, delegate its responsibility under this section for the approval of a plan for construction of new helicopter landing and takeoff areas, to the county or city planning agency.

Submission of Plan for Expansion or Enlargement of Airport

21661.6. (a) Prior to the acquisition of land or any interest therein, including tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries, by any political subdivision for the purpose of expanding or enlarging any existing publicly owned airport, the acquiring entity shall submit a plan of that expansion or enlargement to the board of supervisors of the county, or the city council of the city, in which the property proposed to be acquired is located.

(b) The plan shall show in detail the airport-related uses and other uses proposed for the property to be acquired.

(c) The board of supervisors or the city council, as the case may be, shall, upon notice, conduct a public hearing on the plan, and shall thereafter approve or disapprove the plan.

(d) Upon approval of the plan, the proposed acquisition of property may begin.

(e) The use of property so acquired shall thereafter conform to the approved plan, and any variance from that plan, or changes proposed therein, shall first be approved by the appropriate board of supervisors or city council after a public hearing on the subject of the variance or plan change.

(f) The requirements of this section are in addition to any other requirements of law relating to construction or expansion of airports.

Approval of Sites; Issuance of Permits; Charges

21662. The department shall have the authority to issue airport site approval permits, amended airport site approval permits, airport permits, and amended airport permits. No charge shall be made for the issuance of any permit.

Emergency Service Helicopters

21662.1. (a) At or as near as practical to the site of a medical emergency and at a medical facility, an officer authorized by a public safety agency may designate an area for the landing and taking off of an emergency service helicopter, in accordance with regulations established not later than January 1, 1989, pursuant to Section 21243.

(b) "Public safety agency" means any city, county, state agency, or special purpose district authorized to arrange for emergency medical services.

Emergency Flights for Medical Purposes

21662.4. (a) Emergency aircraft flights for medical purposes by law enforcement, fire fighting, military, or other persons who provide emergency flights for medical purposes are exempt from local ordinances adopted by a city, county, or city and county, whether general law or chartered, that restrict flight departures and arrivals to particular hours of the day or night, that restrict the departure or arrival of aircraft based upon the aircraft's noise level, or that restrict the operation of certain types of aircraft.

(b) As used in this section, "emergency aircraft flights for medical purposes" are those flights in which undue delay would threaten a patient's life. "Emergency aircraft flights for medical purposes" include, but are not limited to, flights for the transportation of all of the following:

- (1) Patients accompanied by licensed or certificated medical attendants such as paramedics, nurses, physicians, and respiratory therapists.
- (2) Surgical transplant teams for the purpose of procuring human organs for reimplantation in recipients.
- (3) Organ procurement agency coordinators responding to a potential donor.
- (4) Temporarily viable human organs such as a heart, liver, lungs, kidneys, and pancreas, and human tissue, blood, or blood components.
- (5) Human tissue and blood samples for clinical testing to determine compatibility between a donor and a recipient.
- (6) Mechanical adjuncts or biological replacements for human organs.
- (7) Medical equipment and supplies.

"Emergency aircraft flights for medical purposes" do not include the transportation of medical personnel to attend seminars, conferences, or speaking appearances in which undue delay would not jeopardize any patient's medical condition.

(c) Written information concerning the emergency shall be submitted to the airport proprietor for all emergency aircraft flights within 72 hours prior or subsequent to the departure or arrival of the aircraft. For all emergency aircraft flights for medical purposes, the information shall include the patient's name and address, the names of medical attendants or personnel and the discipline in which they are licensed or hold a certificate to practice, a signed statement by the attending physician specifying that a medical emergency was involved, the requesting medical facility or agency, the intended destination, the type and registration number of the aircraft, and the names of all flight crew members.

This subdivision does not apply to emergency aircraft flights for medical purposes by law enforcement, fire fighting, or military personnel.

(d) Any airport that incurs additional expenses in order to accommodate the arrival or departure of emergency aircraft flights for medical purposes may charge the patient on whose behalf the flight is made, or any organization or entity which has volunteered to reimburse the airport, for those expenses.

(e) For emergency aircraft flights for medical purposes, when two airports are located in the same geographical area, and one of the airports is a "closed" or restricted airport, the Legislature encourages the use of the "open" or unrestricted airport when feasible, rather than using the "closed" or restricted airport.

(f) When leasing aircraft for flights for emergency medical purposes, the Legislature encourages the use, when feasible, of aircraft which comply with local noise ordinances.

Helicopters in Proximity to Certain Schools Prohibited

21662.5. Notwithstanding Section 21006 or Section 21661 or any other provision of law to the contrary, no helicopter may land or depart in any area within 1,000 feet, measured by air line, of the boundary of any public or private school maintaining kindergarten classes or any classes in grades 1 through 12, without approval of the department or by a public safety agency designated by the department, unless the landing or departure takes place at a permitted permanent heliport, or is a designated emergency medical service landing site.

Before approval of the landing or departure of a helicopter pursuant to this section, all schools within the specified area shall be notified by the department or public safety agency of the application and shall have 15 days after the notice in which to demand a public hearing. The public hearing shall be held at a location in the immediate vicinity of the landing or departure site. The department or public safety agency shall not grant approval pursuant to this section unless it has first found that helicopter operations at the proposed site can be conducted in a safe manner, and in accordance with criteria established by the department.

This section shall not prevent the governing body of any city or county from enacting ordinances or regulations imposing restrictions equal to or greater than those imposed by this section.

Operation Without Permit

21663. It is unlawful for any political subdivision, any of its officers or employees, or any person to operate an airport unless an appropriate airport permit required by rule of the department has been issued by the department and has not subsequently been revoked.

Approval of Sites; Application

21664. Any political subdivision or person planning to construct, establish, or expand an airport shall apply for the appropriate permit from the department prior to the construction, establishment or expansion. The application shall set forth the location of all highways, railways, wires, cables, poles, fences, schools, residential areas and places of public gathering, and any other information as may be required by the rules and regulations of the department. Whenever an airport owned or operated by the United States ceases to be so owned or operated, any political subdivision or person desiring or planning to own or operate the airport shall apply to the department in compliance with the provisions of this article. If the airport holds a permit issued by the department, the application shall be confined to consideration of the matters enumerated in subdivision (e) of Section 21666.

Amended Airport Permits; Airport Expansion Defined

21664.5. (a) 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 this 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.

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

(1) The acquisition of runway protection zones, as defined in Federal Aviation Administration Advisory Circular 150/1500-13, or of any interest in land for the purpose of any other expansion as set forth in this section.

(2) The construction of a new runway.

(3) The extension or realignment of an existing runway.

(4) Any other expansion of the airport's physical facilities for the purpose of accomplishing or which are related to the purpose of paragraph (1), (2), or (3).

(c) This section does 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 that effective date, of each governmental agency that required the approval by law.

Issuance of Permits; Requirements; Conditions

21666. The department shall issue a permit if it is satisfied that all of the following requirements have been met:

(a) The site meets or exceeds the minimum airport standards specified by the department in its rules and regulations, provided, however, that the department may modify its minimum airport standards when issuing a permit if it is satisfied that the airport will conform to minimum standards of safety.

(b) Safe air traffic patterns have been established for the proposed airport and for all existing airports and approved airport sites in its vicinity.

(c) The zone of approach of the airport has been engineered in conformity with the provisions of Section 21403, the documents relating thereto are available for public inspection.

(d) The department when issuing a permit may impose reasonable conditions which it deems necessary to effectuate the purposes of this article.

(e) The advantages to the public in selection of the site of a proposed new airport outweigh the disadvantages to the environment or, in the case of an amended permit, the advantages to the public of the proposed airport expansion outweigh the disadvantages to the environment. Environmental considerations include but are not limited to noise, air pollution, and the burden upon the surrounding area caused by the airport or airport expansion, including but not limited to, surface traffic and expense. The standards by which noise considerations are weighed shall be the level of noise acceptable to a reasonable person residing in the vicinity of the airport. The regulations adopted by the department pursuant to Section 21669 may be considered in determining such level of noise.

Each permit issued by the department shall set forth any conditions imposed thereon, and any modification of the general minimum airport standards prescribed by the department relative to such airport or airport site.

The department may refuse to issue a permit under this article if it determines that the requirements of this section have not been met. Any person denied a permit shall, upon request, be granted a hearing by the department to determine whether the permit should be issued.

Revocation of Permit; Grounds

21668. The department may revoke any airport permit if it determines that any of the following conditions are present:

- (a) There has been an abandonment of a site or an airport.
- (b) There has been a failure within the time prescribed to develop the site as an airport or to comply with the conditions of the approval as set forth in the permit.
- (c) The airport or site no longer conforms to the minimum airport standards prescribed by the department, or no longer complies with the conditions imposed in the airport permit or site approval.
- (d) The owner or operator of a permitted airport has failed to comply with any rule or regulation of the department.
- (e) The site may no longer be safely used by the general public because of a change in physical or legal conditions either on or off the airport site.

The department shall not revoke a permit under this section without prior notice or opportunity for hearing, unless the department determines in writing that public safety considerations require a summary revocation. In this event, any person aggrieved by the action of the department shall, upon request, be granted a hearing by the department to determine whether the revocation shall remain in effect.

Suspension of Operation

21668.2. In lieu of revoking an airport permit pursuant to Section 21668, the department may suspend any airport permit, or may require suspension of operations of a portion of an airport, and such suspension shall remain in effect until the department determines that the conditions requiring the suspension no longer exist.

The department shall not order a suspension under this section without prior notice or opportunity for hearing, unless the department determines in writing that public safety considerations require a summary suspension. In this event, any person aggrieved by the action of the department shall, upon request, be granted a hearing by the department to determine whether the suspension shall remain in effect.

Adoption of Noise Standards

21669. The department shall adopt noise standards governing the operation of aircraft and aircraft engines for airports operating under a valid permit issued by the department to an extent not prohibited by federal law. The standards shall be based upon the level of noise acceptable to a reasonable person residing in the vicinity of the airport.

Existing Residential Conversion

21669.1. (a) Land use conversion involving existing residential communities shall generally be considered the least desirable action for achieving compliance with noise standards regulations adopted by the Department of Transportation pursuant to Section 21669.

(b) Nothing in this section creates a private right of action in any civil litigation.

(c) This section is declaratory of existing regulations of the department.

Guidelines

21669.2. In its deliberations, the department shall be governed by the following guidelines:

(a) Statewide uniformity in standards of acceptable airport noise need not be required, and the maximum amount of local control and enforcement shall be permitted.

(b) Due consideration shall be given to the economic and technological feasibility of complying with the standards promulgated by the department.

Effective Date of Regulations

21669.3. Any regulations designed to establish a noise monitoring program at an airport entering service after November 30, 1971, shall go into effect on the date the airport enters service.

Violation of Standards; Enforcement; Penalties

21669.4. (a) The violation of the noise standards by any aircraft shall be deemed a misdemeanor and the operator thereof shall be punished by a fine of one thousand dollars (\$1,000) for each infraction.

(b) It shall be the function of the county wherein an airport is situated to enforce the noise regulations established by the department. To this end, the operator of an airport shall furnish to the enforcement authority designated by the county the information required by the department's regulations to permit the efficient enforcement thereof. The operator of each airport shall reimburse the county for its costs of implementing the airport noise regulations contained in Article 8 (commencing with Section 5050) of subchapter 6 of Title 4 of the California Administrative Code, which shall, for purposes of subdivision (c), credit the operator for any amounts received from penalties assessed for violations at such airport. Upon request of the operator, the department shall review and shall determine the reasonableness of such costs, and such costs may be considered in fixing any airport user fees.

(c) Penalties assessed for the violation of the noise regulations shall be used first to reimburse the General Fund for the amount of any money appropriated to carry out the purposes for which the noise regulations are established, and second be used in the enforcement of the noise regulations at participating airports.

Hearing Procedures

21669.6. Hearings under this article required by the provisions of Sections 21665, 21666, 21668, 21668.2, and 21669, or regulations adopted pursuant to such provisions, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3.5. Airport Land Use Commission

Creation; Membership; Selection

21670. (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 of 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 paragraphs (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 of 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 him or her 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, that special districts, school districts, and community college districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

Action by Designated Body Instead of Commission

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the 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) that does not include among its membership at least two members having 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 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), 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 airport land use compatibility 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 airport land use compatibility plans.

(C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.

(D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.

(E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each airport land use compatibility 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 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.

(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 airport land use compatibility 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 an airport land use compatibility 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 airport land use compatibility plans with the Division of Aeronautics under the California Aid to Airports Program (Chapter 4 (commencing with Section 4050) of Title 21 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 airport land use compatibility plans:

(1) Agree to adopt and implement the airport land use compatibility 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 the 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.

Los Angeles County

21670.2. (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 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 airport land use compatibility 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 airport land use compatibility 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 airport land use compatibility plans are adopted.

San Diego County

21670.3. (a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, is responsible for coordinating the airport planning of public agencies within the county and shall, on or before June 30, 2005, after reviewing the existing airport land use compatibility plan adopted pursuant to Section 21675, adopt an airport land use compatibility plan.

(b) Any airport land use compatibility plan developed pursuant to Section 21675 and adopted pursuant to Section 21675.1 by the San Diego Association of Governments shall remain in effect until June 30, 2005, unless the San Diego County Regional Airport Authority adopts a plan prior to that date pursuant to subdivision (a).

Intercounty Airports

21670.4. (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 sideline safety zones, as defined by the department's Airport Land Use Planning Handbook and referenced in the airport land use compatibility plan formulated under 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 do either of the following:

(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.

Airport Owned by a City, District, or County

21671. 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) of 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.

Term of Office

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of 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 is four years. The body that 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 that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's 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 operating 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 that has not adopted the airport land use compatibility plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county that has undertaken by contract or otherwise completed airport land use compatibility 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 airport land use compatibility plans are complete by that date, may continue charging fees after June 30, 1992. If the airport land use compatibility 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.

Rules and Regulations

21672. 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.

Initiation of Proceedings for Creation by Owner of Airport

21673. 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.

Powers and Duties

21674. 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 compatibility 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.

Training of Airport Land Use Commission's Staff

21674.5. (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 airport land use compatibility plans.

(2) The development of criteria for determining the airport influence area.

(3) The identification of essential elements that should be included in the airport land use compatibility 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 that the department determines to be appropriate to provide to commission staff and for which it determines there is a need for staff training or development.

(c) The department may provide training and development programs for airport land use 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.

Airport Land Use Planning Handbook

21674.7. (a) An airport land use commission that formulates, adopts, or amends an airport land use compatibility 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.

(b) It is the intent of the Legislature to discourage incompatible land uses near existing airports. Therefore, prior to granting permits for the renovation or remodeling of an existing building, structure, or facility, and before the construction of a new building, it is the intent of the Legislature that local agencies shall be guided by 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, to the extent that the criteria has been incorporated into the plan prepared by a commission pursuant to Section 21675. This subdivision does not limit the jurisdiction of a commission as established by this article. This subdivision does not limit the authority of local agencies to overrule commission actions or recommendations pursuant to Sections 21676, 21676.5, or 21677.

Land Use Plan

21675. (a) Each commission shall formulate an airport land use compatibility 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's airport land use compatibility 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 an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the airport influence area. The airport land use compatibility 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 shall include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any military airport for all of the purposes specified in subdivision (a). The airport land use compatibility plan shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport. This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The airport influence area 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 airport land use compatibility plan and each amendment to the plan.

(e) If an airport land use compatibility 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.

Adoption of Land Use Plan

21675.1. (a) By June 30, 1991, each commission shall adopt the airport land use compatibility plan required pursuant to Section 21675, except that any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, shall adopt that airport land use compatibility plan on or before June 30, 1992.

(b) Until a commission adopts an airport land use compatibility 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 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 that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated an airport influence area for the airport land use compatibility 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 airport land use compatibility plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the airport land use compatibility plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted airport land use compatibility plan if the action, regulation, or permit is ultimately inconsistent with the airport land use compatibility 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 airport land use compatibility 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 is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations that 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.

Approval or Disapproval of Actions, Regulations, or Permits

21675.2. (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 of 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 location of any proposed development, the application number, 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.

Review of Local General Plans

21676. (a) Each local agency whose general plan includes areas covered by an airport land use compatibility 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 airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may propose to overrule the commission after the 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. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(b) Prior to the amendment of a general plan or specific plan, or the adoption 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 commission. 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, propose to 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. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed

decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the public record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any 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, propose to 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. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(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 airport land use compatibility plan.

Review of Local Plans

21676.5. (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 that 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 airport land use compatibility plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may propose to overrule the commission after the 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. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(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 individual projects shall be reviewed by the commission.

Marin County Override Provisions

21677. Notwithstanding the two-thirds vote required by 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. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the public record of the final decision to overrule the commission, which may be adopted by a majority vote of the governing body.

Airport Owner's Immunity

21678. With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules 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 overrule the commission's action or recommendation.

Court Review

21679. (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 compatibility 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, that 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 that postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency that took the action does one of the following:

(1) In the case of an action that 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 that 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), whichever is applicable.

(c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency that took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use compatibility 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.

Deferral of Court Review

21679.5. (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 compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan.

(b) If a commission has been prevented from adopting the airport land use compatibility plan by June 30, 1991, or if the adopted airport land use compatibility plan could not become effective, because of a lawsuit involving the adoption of the airport land use compatibility 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 compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use compatibility plan on or before June 30, 1991, the action shall be dismissed. If the commission or other designated body does not adopt an airport land use compatibility 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 compatibility 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.

Article 4. Aeronautics Fund

Continuation; Continuous Appropriation

21680. (a) The Aeronautics Fund is hereby continued in existence as the Aeronautics Account in the State Transportation Fund. The moneys deposited to the credit of the account are continuously appropriated for expenditure by the board and the department as provided in this article.

(b) Any reference in any law or regulation to the Airport Assistance Revolving Fund, the Airport Assistance Fund, or the Aeronautics Fund shall be deemed to refer to the Aeronautics Account in the State Transportation Fund. As used in this article, "fund" shall be deemed to refer to the Aeronautics Account in the State Transportation Fund.

Definitions

21681. As used in this article, the following terms have the following meanings:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money that is provided by the public entity and does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation except air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, community services district, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway protection zones" as defined in Federal Aviation Administration Advisory Circular 150/1500-13.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway protection zones.

(7) Installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Installation of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Other capital improvements as may be designated in rules and regulations adopted by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated airport land use compatibility plan pursuant to Section 21675. Expenditures that cannot be clearly identified as capital improvements shall be submitted to the department for consideration and approval.

(17) Airport master plans and airport layout plans.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures that are included in insurance, professional services, supplies, construction equipment,

upkeep and landscaping, and other items of expenditure designated as "operation and maintenance" in rules and regulations adopted by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding of the aircraft. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

Payments from Fund

21682. (a) The department shall establish individual revolving fund subaccounts for eligible airports in the Aeronautics Account in the State Transportation Fund. Money payable under this section shall be credited to individual airport subaccounts annually, and may be accumulated for a maximum period of five years.

(b) The department shall, subject to Section 21684, credit from the Aeronautics Account to each public entity owning and operating an airport or airports under a valid permit issued by the department for every airport which has not been designated by the Federal Aviation Administration as (1) a reliever airport, as defined in Section 503 (a) (19) of the federal Airport and Airway Improvement Act of 1982, as amended, or (2) a commercial service airport, as defined in Section 503 (a) (5) of the federal Airport and Airway Improvement Act of 1982, as amended, the sum of ten thousand dollars (\$10,000) annually for each qualifying airport. These funds shall be paid to public entities upon request for expenditure on preapproved eligible projects. Eligible public entities may submit applications for the withdrawal of credited funds for expenditure on proposed projects in letter form to the department for review and approval. Projects identified shall be for airport and aviation purposes and operation and maintenance purposes. No payment made under this section is transferable, but shall be expended only upon the airport for which the payment is made, unless the department authorizes a payment to be transferred for expenditure on another airport owned or operated by the public entity. The department may establish any accounting systems it deems necessary to provide for the cumulation and expenditure of funds under this subdivision.

(c) If, in any year, there is insufficient money in the Aeronautics Account to make the credits specified in subdivision (b), the department shall, subject to Section 21684, credit to each public entity subaccount an amount which is equal to the total amount of money in the Aeronautics Account multiplied by a percentage equivalent to the proportion which the airport or airports of the public entity for which credit is required to be made pursuant to subdivision (b) bear to the total number of airports for which credit is required to be made pursuant to subdivision (b).

(d) No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct these activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

(e) The department shall adopt rules and regulations and establish procedures to effect prompt payment to public entities for eligible airport projects from money credited pursuant to this section.

Payment of Aviation Share of Comprehensive Transportation Planning Costs

21682.5. The department shall pay, from the Aeronautics Account to the Transportation Planning and Development Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation duties attributable to aviation planning and research, as determined by the Director of Transportation.

Use of Balance

21683. Any public entity may apply to the department each year for the allocation of funds for the acquisition or development of airports. The commission may, pursuant to rules and regulations promulgated by the department, make an allocation to the public entity if it determines that the proposed acquisition or development is feasible and in accordance with the policies and standards established by the department. The department shall make recommendations to the commission on all applications. Such allocations shall be represented as subventions in the department budget in accordance with Section 21206.

No moneys paid under this section shall be expended for operation and maintenance. No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct such activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

Use of Funds for Local Match for Federal Airport Improvement Program Grants

21683.1. (a) At the discretion of the commission, any balance remaining in the Aeronautics Account, after the payments made under Section 21682, may be used to provide a portion of the local match for federal Airport Improvement Program grants. Matching shall be provided only for grants at general aviation airports, or at airports that have been designated by the Federal Aviation Administration as reliever airports, as defined in Section 503(a)(19) of the federal Airport and Airway Improvement Act of 1982, as amended.

(b) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may pay a public entity an amount equal to 5 percent of the amount of a federal Airport Improvement Program grant. These funds are excluded from the requirements of Section 21684.

(c) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may, until December 31, 2006, pay a public entity an amount equal to the 10 percent local match required for a federal Airport Improvement Program grant for security projects at small general aviation airports. For purposes of this section, a "security project" means a project to install or maintain fencing, gates, security lighting, access controls systems, and surveillance systems. For purposes of this section a "small general aviation airport" means an airport with fewer than 80,000 annual landings and take-offs of aircraft.

Use of Balance in Aeronautics Account

21683.2. Any balance remaining in the Aeronautics Account, after the payments made under Section 21682 and Section 21683.1, shall be used at the discretion of the commission for airport and aviation purposes subject to the provisions of Section 21684.

Special Aviation Fund

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity for a project pursuant to Section 21683.2 unless the public entity deposits in its special aviation fund a sum from other than state or federal sources, established annually by the commission at not less than 10 percent nor more than 50 percent of the nonfederal portion of the project.

Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay to each public entity owning and operating an airport or airports the annual amount that is in accordance with Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21683.2 unless the university deposits in its special aviation fund each year, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the commission pursuant to subdivision (a), or unless a city located within 10 miles of the airport or the county within which the airport is located pays to the university a sum based on the rate established annually by the commission pursuant to subdivision (a). However, any sums so deposited by the university or paid by the city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

Use of Balance of Fund to Purchase Emergency Search and Rescue Equipment

21684.1. Notwithstanding the provisions of Section 21683, any balance remaining in the fund after the payments made under Section 21682 may be used by the department to purchase emergency search and rescue equipment and to make such equipment available for use by recognized search and rescue groups. The equipment shall remain the property of the department. No more than eight thousand dollars (\$8,000) shall be expended pursuant to this section for the purchase of emergency search and rescue equipment.

Allocation of Funds for Construction of Airports

21684.5. Notwithstanding the provisions of this article inasmuch as they require matching funds the department may allocate funds to public agencies for the construction of airports.

Allocation of Funds to Counties

21684.6. Notwithstanding the provisions of this article, inasmuch as they require matching funds, the department may allocate funds to a county or a city for the construction of recreational airports or reliever training airstrips in accordance with regulations of the department if the county or city supplies the land and maintains and operates all facilities of such airport or airstrip.

Special Aviation Fund; Payments to State College or University Branch

21685. Any public entity may pay any part of the money in its special aviation fund to a state college or branch of the University of California located within its boundaries to be expended for the same purposes as the public entity may expend such money. Any money paid to a state college or branch of the University of California shall be expended within the public entity paying the money.

Audit of Books and Records of Public Agencies

21686. It shall be the duty of any public entity receiving payments or allocations under this article to periodically audit its books and records as deemed necessary by the department for the purpose of determining that the money received has been expended for the purposes and under the conditions authorized by this article.

Airports No Longer Open to the General Public; Payments to State

21687. (a) (1) If an airport, for which payments have been made from the Aeronautics Account, ceases to be open to the general public for more than one year, the public entity to which those payments were made shall pay to the state funds equal to the amount computed by the department pursuant to paragraph (2), and those funds shall be deposited in the Aeronautics Account.

(2) (A) The department shall compute an amount equal to the total of all payments made for the airport from the Aeronautics Account during the preceding 20 years, less 5 percent of the amount of a particular payment multiplied by the number of years since the payment was made, or the unused balance, whichever is greater.

(B) The computation described in subparagraph (A) shall not include any payment the department made pursuant to Section 21682, if, upon the request of the public entity that owns and operates the airport, the department determines that the airport is not necessary to the system of public airports in this state. When making this determination, the department shall consider all of the following factors:

- (i) Whether the airport is approved for night operations.
- (ii) Whether the airport has an approved instrument approach procedure.
- (iii) How many aircraft are based at the airport.
- (iv) Whether the airport is used for airborne fire attacks.
- (v) Whether the airport is used for emergency medical transportation.
- (vi) What services the airport provides for the community.
- (vii) The size of the community that is served by the airport.
- (viii) Whether any aviation or transportation planning agency has designated the airport as having a significant role.

- (ix) Whether a suitable, public-use airport is situated within a reasonable distance.
- (x) Whether closure of the airport will have a negative effect on other airports.
- (xi) Whether the airport is used for law enforcement purposes.

(b) This section does not apply to either of the following:

(1) An airport that is replaced by a comparable facility, as determined by the department, within a period of one year.

(2) An airport for which the department, on or after January 1, 1981, has suspended the airport permit and for which payments made pursuant to this article are being expended to correct the deficiency or condition that resulted in the suspension of the airport's permit.

Limitation on Expenditure of Funds

21688. (a) No payments shall be made from the Aeronautics Account for expenditure on any airport or for the acquisition or development of any airport, if the department determines that the height restrictions around the airport are inadequate to provide reasonable assurance that the landing and taking off of aircraft at the airport will be conducted without obstruction or will be otherwise free from hazards.

Height restrictions shall be considered adequate if as a minimum they meet the obstruction standards of subchapter C of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, as these standards apply to civil airport imaginary surfaces related to runways.

The airport-owning entity shall have sufficient control over obstructions in the airspace in the vicinity of the airport to assure that height restrictions can be maintained. This control may be in the form of ownership of any land from which obstructions may rise, air navigation easements to guarantee maintenance of restrictions, or height limitation or land use zoning which will prohibit obstructions which would violate the obstruction standards.

(b) This section shall not prevent or prohibit the department from assisting any public agency or public entity in planning airport development or in planning the zoning needs around an airport.

Article 4.5. Airport Facilities and Concessions

Legislative Findings

21690.5. The Legislature finds and declares as follows:

(a) The proper operation of California's publicly owned or operated airports is essential to the welfare of the state and its people.

(b) California's publicly owned or operated airports establish a vital transportation link between the state and the economic systems of the nation and the world, and enable the state to enjoy and provide the benefits of an international tourist and commercial center.

(c) The economic validity and stability of California's publicly owned or operated airports is, consequently, a matter of statewide importance.

(d) The policy of this state is to promote the development of commerce and tourism to the end of securing to the people of this state the benefits of these activities conducted in the state.

(e) Therefore, since the proper operation of the state's publicly owned or operated airports is essential to the welfare of the state and its people, the Legislature recognizes and affirms such operation as a governmental function to be discharged in furtherance of the policy of securing the benefits of commerce and tourism for the state and its people.

Scope of Law

21690.6. The provisions of this article shall apply to any airport owned or operated by a political subdivision, including a charter city.

Promotion of Commerce and Tourism

21690.7. The governing bodies of publicly owned or operated airports shall manage airport facilities and grant airport concessions in furtherance of the development of commerce and tourism in or affecting the state. In managing facilities and granting concessions for services to the public, such airport governing bodies shall promote the development of commerce and tourism by (a) securing a diversity of airport services; (b) avoiding wasteful duplication of such services; (c) securing to the users of airports safe, courteous, and quality service; (d) limiting or prohibiting business competition which is destructive of the ends of promoting commerce and tourism in the state; (e) allocating limited airport resources to promote such ends; and (f) fostering California's image as a commercial and tourist center.

Exclusive Agreements

21690.8. The Legislature recognizes that to further the policies and fulfill the objectives stated in this article, it is often necessary that publicly owned or operated airports enter into exclusive or limited agreements with a single operator or a limited number of operators. The governing bodies of publicly owned or operated airports shall grant exclusive or limited agreements to displace business competition with regulation or monopoly service whenever the governing body determines, in consideration of the factors set forth in Section 21690.9, that such agreements are necessary to further the policies and to fulfill the objectives stated in this article. The Legislature contemplates that publicly owned or operated airports will grant exclusive or limited agreements in furtherance of the policy of this state to displace business competition by exclusive or limited agreements to fulfill these policies and objectives.

Determination of Necessity

21690.9. Before entering any exclusive or limited agreement in connection with the management of any airport facility or the operation of any airport concession, the governing body of a publicly owned or operated airport shall, under authority hereby expressly delegated by the state, determine the necessity for an exclusive or limited agreement. The governing body shall consider the following factors to determine the necessity for an exclusive or limited agreement to further the policies and objectives stated in this article:

(a) Public safety.

(b) Public convenience.

- (c) Quality of service.
- (d) The need to conserve airport space.
- (e) The need to avoid duplication of services.
- (f) The impact on the environment or facilities of the airport as an essential commercial and tourist service center.
- (g) The need to avoid destructive competition which may impair the quality of airport services to the public, lead to uncertainty, disruption, or instability in the rendering of such services, or detract from the state's attractiveness as a center of tourism and commerce.

In making its determination, the airport operator shall not be required to take evidence or to make findings of fact.

Compliance with Other States

21690.10. Nothing in this article shall excuse any local agency from complying with applicable state or local requirements for competitive bidding or public hearings which may be required prior to the awarding or entering into of any bid, agreement or lease.

Article 5. Los Angeles International Airport Relocation and Development

Legislative Findings

21690.20. The Legislature hereby finds that Los Angeles International Airport is one of the important air terminals of the world, making a significant contribution daily to the economy of California.

Since 1959, jet air traffic at the airport has increased from 80 flights daily to nearly 1,000 daily. This increasing air traffic and necessary expansion of airport facilities has had an adverse affect on the residents of the surrounding areas. Expansion and development has and is expected to require the acquisition of many homes in the vicinity of the airport and has rendered other homes in areas subjected to aircraft noise nearly uninhabitable. Property owners in the vicinity of the airport are either unable to sell their homes or able to sell only at depressed market prices. Under present laws, the Department of Airports of the City of Los Angeles is required only to pay homeowners "fair market value" for their property. With increasing property costs and current high interest rates, it is impossible for a homeowner to purchase a comparable dwelling in a comparable residential area for amounts now being paid as "fair market value."

The City Council of the City of Los Angeles has initiated this legislation to enable the city to (1) assist displaced homeowners to relocate in comparable residential areas and housing, (2) provide, where available, replacement housing acceptable to affected homeowners, and (3) purchase affected homes to compensate homeowners for the depressed values of their property.

There is precedent for the provision of replacement housing, where available, in Chapter 953 of the Statutes of 1968, by which the Department of Public Works is authorized to provide relocation assistance and replacement housing to certain individuals and families displaced because of construction of certain state highway projects. Further, there is precedent for relocation payments to compensate certain homeowners in Public Law 90-495 and in Chapter 3 of the Statutes of 1968, First Extraordinary Session.

Definitions

21690.21. Unless the context otherwise requires, the following definitions shall govern the construction of this article:

- (a) "Airport" means Los Angeles International Airport.
- (b) "Department" means the Department of Airports, City of Los Angeles.
- (c) "Mayor" means the Mayor of the City of Los Angeles.
- (d) "Board" means the Los Angeles International Airport Property Acquisition Board.

Authority of Department

21690.22. Notwithstanding any other provision of law, the department is authorized to:

- (a) Assist homeowners displaced by the expansion of the airport to relocate in comparable residential areas and housing.
- (b) Provide, where available, replacement housing acceptable to affected homeowners.
- (c) Purchase affected property to compensate homeowners for the depressed values of their property as a result of the proximity of the airport to enable such homeowners to purchase comparable housing under more normal market conditions.

Expenditure of Available Funds

21690.23. The department is authorized to expend any available funds, including state and federal funds, for the purpose of purchasing homes from homeowners displaced by the expansion of the airport and relocating or providing suitable replacement housing for such persons, notwithstanding any other provision of law.

Petition for Payment of Additional Compensation

21690.24. Upon establishment of a program for additional payments to homeowners by the department pursuant to this article, the affected property owners may petition as provided in Section 21690.26 for the payment of additional compensation for the depressed value of the affected property resulting from the presence and operation of the airport, provided that such owner has not previously recovered any sums in the nature of an inverse condemnation award by reason of the presence and operation of the airport.

Appointment of Board

21690.25. Upon establishment by the department of a program for such additional compensation, the mayor shall appoint, subject to the approval of the city council, five persons who shall constitute the board.

Tenure of Board; Quorum; Duties

21690.26. The members of the board shall serve at the pleasure of the mayor, and any action taken by a majority thereof shall constitute the action of the board. The board shall hear petitions from homeowners dislocated by reason of airport expansion and operations for amounts to be paid in excess of market value of affected property. The board shall establish procedures for the conduct of its business.

Payment of Awards

21690.27. The Board of Airport Commissioners of the City of Los Angeles is directed to pay any sum awarded by the board pursuant to Section 21690.26.

Persons Eligible; Time for Filing Petition; Time for Payment

21690.28. The provisions of this article are available only to persons who own residential property which has been or is being condemned or sold for airport purposes. Petitions for additional compensation may be filed with the board at the same time that condemnation proceedings or acquisition negotiations are initiated; and the board shall pay any sum awarded pursuant to Section 21690.26 within 60 days after condemnation or other acquisition proceedings are completed.

Partial Invalidity

21690.29. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Chapter 5. Proceedings

Investigation, Inquiries, and Hearings

21692. The department, any member, the director, or any officer or employee of the department designated by it may hold investigations, inquiries, and hearings concerning matters covered by this part and the rules and orders of the department, and concerning accidents in aeronautics within this state. Hearings shall be open to the public and, except as provided in Section 21691, shall be held upon such call or notice as the department deems advisable. Each member of the department, the director, and every officer or employee of the department designated by it to hold any inquiry, investigation, or hearing may administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books, and documents. If any person fails to comply with any subpoenas or order issued under the authority of this section, the department or its authorized representative may invoke the aid of any court of general jurisdiction. The court may order such person to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as contempt.

Reports of Investigations and Hearings

21693. In order to facilitate the making of investigations by the department in the interest of public safety and promotion of aeronautics, the reports of investigations or hearings or any part of the reports, shall not be admitted in

evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in the investigation, hearing, or report, except in case of any suit, action, or proceeding, civil or criminal, instituted by or in behalf of the department or in the name of the state under the provisions of this part or other laws of the state relating to aeronautics. Any member of the department, the director, or any officer or employee of the department shall not be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, nor be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to these limitations, the department may make available to appropriate federal, state, and political subdivision agencies information and material developed in the course of its investigations and hearings.

Orders of Department; Contents; Service; Review

21694. Every order of the department requiring performance of certain acts or compliance with certain requirements shall set forth the reasons, state the acts to be done or requirements to be met, and be served upon the person affected either by registered mail or in person. Any person aggrieved by an order of the department may have the action of the department reviewed by the courts in the manner provided by law.

Chapter 6. Airport Planning

California Aviation System Plan

21701. The division, in consultation with transportation planning agencies as designated by the director pursuant to Section 29532 of the Government Code, shall prepare a California Aviation System Plan, which shall include, but not be limited to, every California airport designated in the federal National Plan of Integrated Airport Systems and any other existing or proposed public use airports, as designated by the division.

Elements in Plan

21702. The California Aviation System Plan shall include, but not be limited to, all of the following elements:

(a) A background and introduction element, which summarizes aviation activity in California and establishes goals and objectives for aviation improvement.

(b) An air transportation issues element, which addresses issues such as aviation safety, airport noise, airport ground access, transportation systems management, airport financing, airport land use compatibility planning, and institutional relationships.

(c) A regional plan alternative element, which consists of the aviation elements of the regional transportation plans prepared by each transportation planning agency. This element shall include consideration of regional air transportation matters relating to growth, capacity needs, county activity, airport activity, and systemwide activity in order to evaluate adequately the overall impacts of regional activity in relation to the statewide air transportation system. This element shall propose general aviation and air carrier public use airports for consideration by the commission for funding eligibility under this chapter.

(d) A state plan alternative element, which includes consideration of statewide air transportation matters relating to growth, including, but not limited to, county activity, airport activity, and systemwide activity in order to evaluate adequately the state aviation system and to designate an adequate number of general aviation and air carrier public use airports for state funding in order to provide a level of air service and safety acceptable to the public.

(e) A comparative element, which compares and contrasts the regional plan alternative with the state plan alternative, including, but not limited to, airport noise, air quality, toxic waste cleanup, energy, economics, and passengers served.

(f) A 10-year capital improvement plan for each airport, based on each airport's adopted master plan if the airport has a master plan, approved by the applicable transportation planning agency, and submitted to the division for inclusion in the California Aviation System Plan.

(g) Any other element deemed appropriate by the division and the transportation planning agencies.

(h) A summary and conclusion element, which presents the findings and recommended course of action.

Submittal to Commission

21703. The division shall submit the California Aviation System Plan to the commission.

Periodic Revision of Plan

21704. The division, in consultation with the transportation planning agencies, shall biennially revise the capital improvement plan developed pursuant to subdivision (f) of Section 21702, and the division shall submit the revised capital improvement plan to the commission. The division, in consultation with the transportation planning

agencies, shall revise all other elements of the California Aviation System Plan every five years, and shall submit the revised system plan to the commission.

Adoption of Revisions by Commission

21705. The commission shall review, hold public hearings on, and, based on these hearings, adopt or revise and adopt as revised, the California Aviation System Plan and its subsequent revisions.

Project Funding Applications

21706. The division shall require that every project submitted for funding from the Aeronautics Account in the State Transportation Fund shall be consistent with the California Aviation System Plan. Applications for funding shall be processed in accordance with the procedures adopted by the commission. In determining the priorities of projects, the division shall, and the transportation planning agencies may, utilize the methodology adopted by the commission for determining the priorities of projects that the commission selects for allocation pursuant to Sections 21683 and 21683.2 and the procedures adopted by the commission.

Federal Grant Funds

21707. Any funds necessary to carry out Sections 21701, 21702, and 21704 shall be obtained from federal grants, except for updates of the capital improvement plan and policy elements of the California Aviation System Plan, which may be funded from nonfederal sources.

APPENDIX B

(Information in this appendix is provided as a reference source to assist the users of the AELUP.)

SUMMARY OF FEDERAL AVIATION REGULATIONS

PART 77 – “OBJECTS AFFECTING NAVIGABLE AIRSPACE”

The Airport Land Use Commission has adopted the criteria contained in FAR Part 77 as standards for development in and around airports. The following describes the scope of that document:

- (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 the establishment of antenna farm areas.

Included in this appendix are samples of the appropriate FAA Forms, 7460-1 and 7480-1, for the proper filing of proposed projects with the FAA Regional Office. The forms may also be obtained and submitted online at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.

If you would like to obtain a copy, please contact one of the following:

U.S. Government Bookstore
Arco Plaza, C Level
505 South Flower Street
Los Angeles, CA 90071
(213) 239-9844

Federal Aviation Administration
Public Affairs
15000 Aviation Blvd.
Hawthorne, CA 90261
(310) 725-3580

NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION

§77.13 Construction or alteration requiring notice.

(a) Except as provided in §77.15, each sponsor who proposes any of the following construction or alteration shall notify the Administrator in the form and manner prescribed in §77.17:

(1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(i) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport specified in paragraph (a) (5) of this section with at least one runway more than 3,200 feet in actual length, excluding heliports.

(ii) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport specified in paragraph (a) (5) of this section with its longest runway no more than 3,200 feet in actual length, excluding heliports.

(iii) 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area of each heliport specified in paragraph (a) (5) of this section.

(3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) (1) or (2) of this section.

(4) When requested by the FAA, any construction or alteration that would be in an instrument approach area (defined in the FAA standards governing instrument approach procedures) and available information indicates it might exceed a standard of Subpart C of this part.

(5) Any construction or alteration on any of the following airports (including heliports):

(i) An airport that is available for public use and is listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement.

(ii) An airport under construction, that is the subject of a notice or proposal on file with the Federal Aviation Administration, and except for military airports, it is clearly indicated that that airport will be available for public use.

(iii) An airport that is operated by an armed force of the United States.

(b) Each sponsor who proposes construction or alteration that is the subject of a notice under paragraph (a) of this section and is advised by an FAA regional office that a supplemental notice is required shall submit that notice on a prescribed form to be received by the FAA regional office at least 48 hours before the start of construction or alteration.

(c) Each sponsor who undertakes construction or alteration that is the subject of a notice under paragraph (a) of this section shall, within 5 days after that construction or alteration reaches its greatest height, submit a supplemental notice on a prescribed form to the FAA regional office having jurisdiction over the region involved, if —

(1) The construction or alteration is more than 200 feet above the surface level of its site; or

(2) An FAA regional office advises him that submission of the form is required.

§77.15 Construction or alteration not requiring notice.

No person is required to notify the Administrator for any of the following construction or alteration:

(a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

(b) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

(c) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

(d) Any construction or alteration for which notice is required by any other FAA regulation.

§77.17 Form and time of notice.

(a) Each person who is required to notify the Administrator under §77.13 (a) shall send one executed form set of FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area within which the construction or alteration will be located. Copies of FAA Form 7460-1 may be obtained from the headquarters of the Federal Aviation Administration and the regional offices.

(b) The notice required under §77.13 (a) (1) through (4) must be submitted at least 30 days before the earlier of the following dates —

(1) The date the proposed construction or alteration is to begin.

(2) The date an application for a construction permit is to be filed.

However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to the FAA at the same time the application for construction is filed with the Federal Communications Commission, or at any time before that filing.

(c) A proposed structure or an alteration to an existing structure that exceeds 2,000 feet in height above the ground will be presumed to be a hazard to air navigation and to result in an inefficient utilization of airspace and the applicant has the burden of overcoming that presumption. Each notice submitted under the pertinent provisions of this part 77 proposing a structure in excess of 2,000 feet above ground, or an alteration that will make an existing structure exceed that height, must contain a detailed showing, directed to meeting this burden. Only in exceptional cases, where the FAA concludes that a clear and compelling showing has been made that it would not result in an inefficient utilization of the airspace and would not result in a hazard to air navigation, will a determination of no hazard be issued.

(d) In the case of an emergency involving essential public services, public health, or public safety that requires immediate construction or alteration, the 30 day requirement in paragraph (b) of this section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed FAA Form 7460-1 submitted within five (5) days thereafter. Outside normal business hours, emergency notices by telephone or telegraph may be submitted to the nearest FAA Flight Service Station.

(e) Each person who is required to notify the Administrator by paragraph (b) or (c) of §77.13, or both, shall send an executed copy of FAA Form 7460-2, Notice of Actual Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area involved.



Announcement

Please send all future FAA form 7460-1 notices to the FAA's new...

EXPRESS PROCESSING CENTER

Federal Aviation Administration
Southwest Regional Office
Air Traffic Airspace Branch, ASW-520
2601 Meachan Blvd.
Fort Worth, TX 76137-4298
Phone: (817) 838-1990

Visit the FAA's new Obstruction Evaluation web site at <http://ocaaa.faa.gov>

INSTRUCTIONS FOR COMPLETING FAA FORM 7460-1

PLEASE TYPE or PRINT

ITEM #1. Please include the name, address, and phone number of a personal contact point as well as the company name.

ITEM #2. Please include the name, address, and phone number of a personal contact point as well as the company name.

ITEM #3. New Construction would be a structure that has not yet been built.

Alteration is a change to an existing structure such as the addition of a side mounted antenna, a change to the marking and lighting, a change to power and/or frequency, or a change to the height. The nature of the alternation shall be included in **ITEM #21** "Complete Description of Proposal". Existing would be a correction to the latitude and/or longitude, a correction to the height, or if filing on an existing structure which has never been studied by the FAA. The reason for the notice shall be included in **ITEM #21** "Complete Description of Proposal".

ITEM #4. If Permanent, so indicate. If Temporary, such as a crane or drilling derrick, enter the estimated length of time the temporary structure will be up.

ITEM #5. Enter the date that construction is expected to start and the date that construction should be completed.

ITEM #6. Please indicate the type of structure. **DO NOT LEAVE BLANK.**

ITEM #7. In the event that obstruction marking and lighting is required, please indicate type desired. If no preference, check 'other' and indicate 'no preference'. **DO NOT LEAVE BLANK.** *NOTE: High intensity lighting shall be used only for structures over 500' AGL.* In the absence of high intensity lighting for structures over 500' AGL, marking is also required.

ITEM #8. If this is an existing tower that has been registered with the FCC, enter the FCC Antenna Structure Registration number here.

ITEM #9. and **#10.** Latitude and longitude must be geographic coordinates, accurate to within the nearest second or to the nearest hundredth of a second if known. Latitude and longitude derived solely from a **hand-held GPS instrument is acceptable.** This data, when plotted, should match the site depiction submitted under **ITEM #20.**

ITEM #11. NAD 83 is preferred; however, latitude/longitude may be submitted in NAD 27. Also, in some geographic areas where NAD 27 and NAD 83 are not available other datums may be used. It is important to know which datum is used. **DO NOT LEAVE BLANK.**

ITEM #12. Enter the name of the nearest city/state to the site. If the structure is or will be in a city, enter the name of that city/state.

ITEM #13. Enter the full name of the nearest public-use (not private-use) airport (or heliport) or military airport (or heliport) to the site.

ITEM #14. Enter the distance **from** the airport or heliport listed in **#13 to the structure.**

ITEM #15. Enter the direction **from** the airport or heliport listed in **#13 to the structure.**

ITEM #16. Enter the site elevation above mean sea level and expressed in **whole feet** rounded to the nearest foot (e.g. 17' 3" rounds to 17', 17'6" rounds to 18'). This data should match the ground contour elevations for site depiction submitted under **ITEM #20.**

ITEM #17. Enter the total structure height **above ground level in whole feet** rounded to the **next highest foot** (e.g. 17'3" rounds to 18'). **The total structure height shall include anything mounted on top of the structure, such as antennas, obstruction lights, lightning rods, etc.**

ITEM #18. Enter the overall height above mean sea level and expressed in **whole feet.** This will be the total of **ITEM #16 + ITEM #17.**

ITEM #19. If an FAA aeronautical study was previously conducted, enter the previous study number.

ITEM #20. Enter the relationship of the structure to roads, airports, prominent terrain, existing structures, etc. Attach an 8-1/2" X 11" non-reduced copy of the appropriate 7.5 minute U.S. Geological Survey (USGS) Quadrangle Map MARKED WITH A PRECISE INDICATION OF THE SITE LOCATION. To obtain maps, Contact USGS at 1-888-275-8747 or via Internet at <http://store.usgs.gov/>. If available, attach a copy of a documented site survey with the surveyor's certification stating the amount of vertical and horizontal accuracy in feet.

ITEM #21.

- For transmitting stations, include maximum effective radiated power (ERP) and all frequencies.
- For antennas, include the type of antenna and center of radiation (*Attach the antenna pattern, if available*).
- For microwave, include azimuth relative to true north.
- For overhead wires or transmission lines, include size and configuration of wires and their supporting structures (*Attach depiction*).
- For **each** pole/support, include coordinates, site elevation, and structure height above ground level or water.
- For buildings, include site orientation, coordinates of **each** corner, dimensions, and construction materials,
- For alterations, explain the alteration thoroughly,
- For existing structures, thoroughly explain the reason for notifying the FAA (*e.g. corrections, no record of previous study, etc.*).

Filing this information with the FAA does not relieve the sponsor of this construction or alteration from complying with any other federal state or local rules or regulations. If you are not sure what other rules or regulations apply to your proposal, contact local/state aviation and zoning authorities.



U.S. Department of Transportation
Federal Aviation Administration

Failure To Provide All Requested Information May Delay Processing of Your Notice

Notice of Proposed Construction or Alteration

FOR FAA USE ONLY

Aeronautical Study Number

- - -

1. Sponsor (person, company, etc. proposing this action) :

Attn. of: _____

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-mail Address: _____

2. Sponsor's Representative (if other than #1) :

Attn. of: _____

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-mail Address: _____

3. Notice of: ☐ New Construction ☐ Alteration ☐ Existing

4. Duration: ☐ Permanent ☐ Temporary (_____ months, _____ days)

5. Work Schedule: Beginning _____ End _____

6. Type: ☐ Antenna Tower ☐ Crane ☐ Building ☐ Power Line
☐ Landfill ☐ Water Tank ☐ Other _____

7. Marking/Painting and/or Lighting Preferred:

☐ Red Lights and Paint ☐ Dual - Red and Medium Intensity White
☐ White - Medium Intensity ☐ Dual - Red and High Intensity White
☐ White - High Intensity ☐ Other _____

8. FCC Antenna Structure Registration Number (if applicable):

9. Latitude: _____ ° _____ ' _____ " _____ "

10. Longitude: _____ ° _____ ' _____ " _____ "

11. Datum: ☐ NAD 83 ☐ NAD 27 ☐ Other _____

12. Nearest: City: _____ State: _____

13. Nearest Public-use (not private-use) or Military Airport or Heliport:

14. Distance from #13. to Structure: _____

15. Direction from #13. to Structure: _____

16. Site Elevation (AMSL): _____ ft.

17. Total Structure Height (AGL): _____ ft.

18. Overall height (#16. + #17.) (AMSL): _____ ft.

19. Previous FAA Aeronautical Study Number (if applicable):
_____ - OE

20. Description of Location: (Attach a USGS 7.5 minute
Quadrangle Map with the precise site marked and any certified survey.)

21. Complete Description of Proposal:

Frequency/Power (kW)

Notice is required by 14 Code of Federal Regulations, part 77 pursuant to 49 U.S.C., Section 44718. Persons who knowingly and willingly violate the notice requirements of part 77 are subject to a civil penalty of \$1,000 per day until the notice is received, pursuant to 49 U.S.C., section 46301 (a).

I hereby certify that all of the above statements made by me are true, complete, and correct to the best of my knowledge. In addition, I agree to mark and/or light the structure in accordance with established marking and lighting standards as necessary.

Date

Typed or Printed name and Title of Person Filing Notice

Signature

Paperwork Reduction Work Act Statement: This information is collected to evaluate the effect of proposed construction or alteration on air navigation and is not confidential. Providing this information is mandatory for anyone proposing construction or alteration that meets or exceeds the criteria contained in 14 CFR , part 77. We estimate that the burden of this collection is an average 19 minutes per response. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 2120-0001.

U.S. Department of Transportation
Federal Aviation Administration**NOTICE OF LANDING AREA PROPOSAL**

Name of Proponent, Individual, or Organization

Address of Proponent, Individual, or Organization
(No., Street, City, State, Zip Code)☐ Check if the property owner's name and address are different than above,
and list property owner's name and address on the reverse.

<input type="checkbox"/> Establishment or Activation	<input type="checkbox"/> Deactivation or abandonment	} OF	<input type="checkbox"/> Airport	<input type="checkbox"/> Ultraflight Flightpark	<input type="checkbox"/> Vertiport
<input type="checkbox"/> Alteration	<input type="checkbox"/> Change of Status		<input type="checkbox"/> Heliport	<input type="checkbox"/> Seaplane Base	<input type="checkbox"/> Other (Specify)

A. Location of Landing Area

1. Associated City/State	2. County/State (Physical Location of Airport)	3. Distance and Direction From Associated City or Town
4. Name of Landing Area	5. Latitude ° ' "	6. Longitude ° ' "
	7. Elevation Miles	Direction

B. Purpose

Type Use <input type="checkbox"/> Public <input type="checkbox"/> Private <input type="checkbox"/> Private Use of Public Land/Waters	If Change of Status or Alteration, Describe Change	<input type="checkbox"/> Establishment or change to traffic pattern (Describe on reverse)	Construction Dates To Begin/Began Est. Completion
---	--	---	---

C. Other Landing Areas	Ref. A5 above		D. Landing Area Data	Existing (if any)			Proposed		
	Direction From Landing Area	Distance From Landing Area		Rwy #1	Rwy #2	Rwy #3	Rwy	Rwy	Rwy
			1. Airport, Seaplane Base, or Flightpark Magnetic Bearing of Runway (s) or Sealane						
			Length of Runway (s) or Sealane (s) in Feet						
			Width of Runway (s) or Sealane (s) in Feet						
			Type of Runway Surface (Concrete, Asphalt, Turf, Etc.)						
			2. Heliport						
			Dimensions of Final Approach and Take off Area (FATO) in Feet						
			Dimensions of Touchdown and Lift-Off Area (TLOF) in Feet						
			Magnetic Direction of Ingress/Egress						
			Routes						
			Type of Surface (Turf, concrete, rooftop, etc.)						
			3. All Landing Areas	Description of Lighting (If any)			Direction of Prevailing Wind		

E. Obstructions		Direction From Landing Area	Distance From Landing Area	F. Operational Data					
Type	Height Above Landing Area			1. Estimated or Actual Number Based Aircraft					
				Airport, Flightpark, Seaplane base	Present (If est. indicate by letter "E")	Anticipated 5 Years Hence	Heliport	Present (If est. indicate by letter "E")	Anticipated 5 Years Hence
				Multi-engine	25000		Under 3500 lbs. MGW		
				Single-engine			Over 3500 lbs. MGW		
				Glider					

G. Other Considerations		Direction From Landing Area	Distance From Landing Area	2. Average Number Monthly Landings					
Identification				3. Are IFR Procedures For The Airport Anticipated					
					Present (If est. indicate by letter "E")	Anticipated 5 Years Hence		Present (If est. indicate by letter "E")	Anticipated 5 Years Hence
				Jet			Helicopter		
				Turboprop			Ultralight		
				Prop			Glider		
				3. Are IFR Procedures For The Airport Anticipated <input type="checkbox"/> No <input type="checkbox"/> Yes Within ____ Years Type Navaid:					
				H. Application for Airport Licensing					
				<input type="checkbox"/> Has Been Made <input type="checkbox"/> Not Required <input type="checkbox"/> County					
				<input type="checkbox"/> Will Be Made <input type="checkbox"/> State <input type="checkbox"/> Municipal Authority					

I. CERTIFICATION: I hereby certify that all of the above statements made by me are true and complete to the best of my knowledge.

Name, title (and address if different than above) of person filing this notice -- type or print

Signature (in ink)

Date of Signature

Telephone No. (Precede with area code)

Paperwork Reduction Act Statement: The information collected on this form is necessary because it is the description of the physical and operational characteristics of the airport that will be on file with the FAA. The information on all airports will be maintained in FAA computers for record keeping purposes and used in airspace studies. Some of the information on public use airports is safety-critical and will be published in flight information handbooks and charts for pilot use. The burden associated with completing this form is estimated to be 30 minutes. Providing this information is mandatory if the proponent wishes to have the airport on file with the FAA and entered into the National Airspace System. No assurances of confidentiality are given. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection is 2120-0036.

**INSTRUCTIONS
NOTICE OF LANDING AREA
PROPOSAL**

**As Used Herein, The Term "Airport" Means
Any Landing or Takeoff Area such as Airport, Heliport, Helistop, Vertiport, Gliderport, Seaplane Base,
Ultralight Flightpark, or Balloonport**

Federal Aviation Regulations Part 157 requires all persons to notify the FAA at least 90 days before any construction, alteration, activation, deactivation, or change to the status or use of a civil or joint-use (civil/military) airport. Notice is not required for the establishment of a temporary airport at which operations will be conducted under visual flight rules (VFR) and will be used for less than 30 days with no more than 10 operations per day. Notice also is not required for the intermittent use of a site that is not an established airport, which is used for less than one year and at which flight operations will be conducted only under VFR. Intermittent use means the use of the site for no more than 3 days in any one week and for no more than 10 operations per day.

Required notice shall be submitted on this form from each person who intends to do any of the following:

1. Construct or otherwise establish a new airport or activate an airport.
2. Construct, realign, alter, or activate any runway, or other aircraft landing or takeoff area of an airport.
3. Construct, realign, alter, or activate a taxiway associated with a landing or takeoff area on a public-use airport.
4. Deactivate, discontinue using, or abandon an airport or any landing or takeoff area of an airport for a period of one year or more.
5. Deactivate, abandon, or discontinue using a taxiway associated with a landing or takeoff area on a public-use airport.
6. Change the status of an airport from private use (use by the owner or use by the owner and other persons authorized by the owner) to an airport open to the public or from public-use to another status.
7. Change status from IFR to VFR or VFR to IFR.
8. Establish or change any traffic pattern or traffic pattern altitude or direction.

The notice required shall be made by submitting this form to the nearest Federal Aviation Administration Regional Office or Airports District Office. However, in an emergency involving essential public service or when the delay arising from the 90-day advance notice requirement would result in an unreasonable hardship, you may provide notice to the appropriate FAA Airports District/Field Office by telephone in lieu of submitting this form. The FAA may require the subsequent submission of this form when necessary for safety or other reasons.

Section 901 of the Federal Aviation Act of 1958, as amended, provides that any person who violates a rule, regulation or order issued under Title III of this Act shall be subject to a civil penalty not to exceed \$ 1,000 for each violation.

GENERAL INSTRUCTIONS

1. For any project falling in categories 1, or 2 above, complete all appropriate sections.
2. For any project falling in categories 3, 4, or 5 above, complete sections A, B, D (if appropriate), and I.
3. For status change (categories 6 or 7 above), from private use to public use or from VFR to IFR, complete sections A, B, E, G, and I. For all other changes, complete sections A, B, and I.
4. For traffic pattern establishment or change (category 8) complete all appropriate sections. Traffic pattern description should be entered on the reverse side of FAA Form 7480-1.
5. Express all bearings as magnetic and mileages as nautical.
6. **Please Print or Type All Items.**

Section A - Identify Reference Datum of Coordinates (NAD 83 or NAD 27)

Section B - If the airport is to be used by the owner only, or by the owner and persons authorized by the owner, check "private". If the landing and takeoff area of the airport is publicly owned and the operator is a non-government entity, then check "private use of public lands". If the airport is to be available for use by the general public without a requirement for prior approval of the owner or operator, then check "public". If necessary, use the reverse side of the form or a separate sheet of paper to describe changes or alterations.

Section C - Airport or seaplane base: List VFR airports and heliports within 5NM, and IFR airports within 20NM. Heliports: List VFR airports and heliports within 3NM and IFR airports within 10NM.

Section D - Attach U.S. Geological Survey quadrangle map or equivalent. Plot locations of facility to the nearest second, runway alignments, associated taxiways or sealane alignments. When appropriate, use city map for heliports.

Section E - List and plot on quadrangle map or equivalent any obstructions within: 3NM of a VFR airport or a seaplane base; 5NM of an IFR airport; or 5,000 feet of a heliport.

Section F - Self-explanatory.

Section G - List schools, churches and residential communities within a 2NM radius for airports and within a 1NM radius for heliports. List all waste disposal sites within a 5NM radius.

Section H - Self-explanatory.

Notification to the FAA does not waive the requirements of any other government agency.

ADDRESSES OF THE REGIONAL OFFICES

Submit your completed form by mail to:

Western Pacific Region
AZ, CA, HI, NV, GU
Federal Aviation Administration
Airports Division, AWP-600
15000 Aviation Boulevard
Hawthorne, CA 90261
Mail Address:
P. O. Box 92007
Worldway Postal Center
Los Angeles, CA 90009
Tel. 310-725-3608 Fax: 310-725-6847

Alaskan Region
AK
Federal Aviation Administration
Airports Division, AAL-600
222 West 7th Avenue, Box 14
Anchorage, AK 99513
Tel. 907-271-5438 Fax: 907-271-2851

Eastern Region
DC, DE, MD, NJ, NY, PA, VA, WV
Federal Aviation Administration
Airports Division, AEA-600
1 Aviation Plaza
Jamaica, NY 11434-4809
Tel. 718-553-3330 Fax: 718-995-5694

Southern Region
AL, FL, GA, KY, MS, NC, SC, NT, PR, VI
Federal Aviation Administration
Airports Division, ASO-600
1701 Columbia Avenue
College Park, GA 30337
Mail Address:
P. O. Box 20636
Atlanta, GA 30320
Tel. 404-305-6700 Fax: 404-305-6730

Northwest Mountain Region
CO, ID, MT, OR, UT, WA, WY
Federal Aviation Administration
Airports Division, ANM-600
1601 Lind Avenue, S.W., Suite 315
Renton, WA 98005-4056
Tel. 425-227-2600 Fax: 425-227-1600

Great Lakes Region
IL, IN, MI, MN, ND, OH, SD, WI
Federal Aviation Administration
Airports Division, AGL-600
2300 East Devon Avenue
Des Plaines, IL 60018
Tel. 847-294-7272 Fax: 312-294-7036

Southwest Region
AR, LA, NM, OK, TX
Federal Aviation Administration
Airports Division, ASW-600
2601 Meacham Boulevard
Fort Worth, TX 76137-4298
Tel. 817-222-5600 Fax: 817-222-5984

Central Region
IA, KS, MO, NE
Federal Aviation Administration
Airports Division, ACE-625 9
01 Locust
Kansas City, MO 64106-2325
Tel. 816-329-2600 Fax: 816-329-2610

New England Region
CT, MA, ME, NH, RI, VT
Federal Aviation Administration
Airports Division, ANE-600
12 New England Executive Park
Burlington, MA 01803
Tel. 781-238-7600 Fax: 781-238-7608

APPENDIX C

PERTINENT RESOLUTIONS OF THE AIRPORT LAND USE COMMISSION



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

April 17, 2008
Agenda Item No. 1

RESOLUTION NO. 2008-1

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY APPROVING THE 2008 AMENDMENT TO THE AIRPORT ENVIRONS LAND USE PLAN FOR JOHN WAYNE AIRPORT.

On the motion of Commissioner Webb, duly seconded and carried, the following Resolution was adopted.

WHEREAS, Section 21675 (a) of the Public Utilities Code of the State of California requires the Airport Land Use Commission for Orange County to formulate a Comprehensive Land Use Plan for the areas surrounding all public airports within its jurisdiction; and

WHEREAS, Section 21675 (a) of the Public Utilities Code of the State of California requires that said Comprehensive Land Use Plan shall provide for the orderly growth of the areas surrounding airports, and shall safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general; and

WHEREAS, the Airport Land Use Commission for Orange County incorporates the Airport Land Use Plan and Safety Zones approved by the Federal Aviation Administration in March 2005 into the Airport Environs Land Use Plan for John Wayne Airport; and

WHEREAS, the Airport Environs Land Use Plan requires this Commission to review periodically the substance and adequacy of said plan; and

WHEREAS, this Commission has held numerous meetings and workshops and has conducted a public hearing and has complied with State environmental procedures regarding this Airport Environs Land Use Plan Amendment;

NOW, THEREFORE, BE IT RESOLVED that the Commission finds that the proposed project is Categorically Exempt from CEQA per Sections 15183 and 15061 of the CEQA Guidelines.

BE IT FURTHER RESOLVED that the Airport Land Use Commission for Orange County hereby approves the amendments to the Airport Environs Land Use Plan for John Wayne Airport dated April 17, 2008.

BE IT FURTHER RESOLVED that this Commission finds that pursuant to Section 711.4(c)(2)(A) of the California Fish and Game Code, this project is exempt from the required fees, as it is exempt from CEQA.

BE IT FURTHER RESOLVED that this Commission finds that the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and, therefore, will not preclude the ability to prepare an effective Subregional Natural Communities Conservation Planning (NCCP) Program.

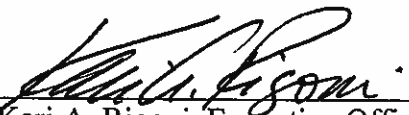
I HEREBY CERTIFY that the foregoing Resolution No. 2008-1 was adopted on April 17, 2008 by the Airport Land Use Commission by the following vote:

AYES: Don Webb, Herman Beverburg, Jerry Bresnahan, Tom O'Malley, and Rod Propst

NOES:

ABSENT: Jon Dumitru and Jim Righeimer

(ABSTAIN):


Kari A. Rigoni, Executive Officer
Airport Land Use Commission



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

Date: July 21, 2005

Agenda Item: 1

RESOLUTION NO. 2005-1

Date: July 21, 2005

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY CONFIRMING THE NONAPPLICABILITY OF AIRPORT ENVIRONS LAND USE PLAN (1995) .

On the motion of Commissioner O'Malley, duly seconded and carried, the following Resolution was unanimously adopted.

WHEREAS, Section 21675 (a) of the Public Utilities Code requires the Airport Land Use Commission for Orange County to formulate an Airport Compatibility Land Use Plan (also known as an Airport Environs Land Use Plan (AELUP)) for the areas surrounding all civilian and military airports within its jurisdiction; and

WHEREAS, the Airport Environs Land Use Plan for Marine Corps Air Station (MCAS) El Toro was originally adopted on April 17, 1975 and subsequently amended on June 16, 1977, December 20, 1979, December 20, 1984, August 15, 1985, November 29, 1990 and November 16, 1995;

WHEREAS in January 2004 the City of Irvine annexed former MCAS El Toro and subsequently zoned it for mixed uses that do not include aviation;

WHEREAS, on February 16, 2005, the auction of former MCAS El Toro was concluded with the winning bidder being a private development company, Lennar Corporation;

WHEREAS, the sale and transfer of the property of the former MCAS El Toro has occurred;

WHEREAS, the new owner of the former MCAS El Toro property does not have the legal ability or the intent to construct or operate an airport on that property;

WHEREAS, under Public Utilities Code Section 21013 the former MCAS El Toro property no longer meets the definition of an "airport";

WHEREAS, the discretion for the ALUC to continue to maintain jurisdiction over the environs of MCAS El Toro no longer exists subsequent to the transfer of the property under the circumstances;

WHEREAS, this action is not a discretionary action and is not a project under CEQA;

NOW, THEREFORE, BE IT RESOLVED that this Commission confirms that the Airport Environs Land Use Plan is no longer applicable to the MCAS El Toro property or its environs, and this AELUP no longer has any legal effect.

I HEREBY CERTIFY that the foregoing Resolution No. 2005-1 was adopted on July 21, 2005 by the Airport Land Use Commission by the following vote:

AYES: Tom O'Malley, Melody Carruth, Herman Beverburg, Patricia Campbell,
Harry Dotson, Rod Propst and Don Webb

NOES:

ABSENT:

(ABSTAIN):


Joan S. Golding, Executive Officer
Airport Land Use Commission



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.5178

RESOLUTION NO. 2002-1

December 19, 2002

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY APPROVING THE AIRPORT ENVIRONS LAND USE PLAN AMENDMENT.

On the motion of Commissioner Herman Beverburg, duly seconded and carried, the following Resolution was adopted.

WHEREAS, Section 21675 (a) of the Public Utilities Code requires the Airport Land Use Commission for Orange County to formulate a Comprehensive Land Use Plan for the areas surrounding all public airports within its jurisdiction; and

WHEREAS, Section 21675 (a) of the Public Utilities Code requires that the Comprehensive Land Use Plan shall provide for the orderly growth of the areas surrounding airports, and shall safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general;

WHEREAS, Section 21675 (b) of the Public Utilities Code permits the inclusion of the area within the jurisdiction of the Commission surrounding any federal military airport for all of the purposes specified in Section 21675 (a);

WHEREAS, the Airport Environs Land Use Plan requires this Commission to review periodically the substance and adequacy of the Comprehensive Land Use Plan; and

WHEREAS, this Commission has held numerous public meetings and workshops and has held a public hearing and has complied with State and local environmental procedures regarding this Airport Environs Land Use Plan Amendment;

WHEREAS, the Commission has received the Final Environmental Impact Statement (FEIS)/Final Environmental Impact Report (FEIR) for the Disposal and Reuse of Marine Corps Air Station (MCAS) Tustin which was certified by the City of Tustin and finds it to be adequate and complete under CEQA to disclose the environmental impacts of deleting the MCAS Tustin AELUP and concurs with the findings, statement of overriding considerations, and mitigation monitoring plan adopted by the City of Tustin.

If a court adjudicates, determines or finds that any provision of this Resolution is illegal or void, such adjudication shall not effect the validity or efficacy of the balance of this Resolution, and the balance of the Resolution is therefore severable.

NOW, THEREFORE, BE IT RESOLVED that in accordance with Section 21080 of the Public Utilities Code and CEQA Guidelines Section 15074, Negative Declaration IP 02-203, which

reflects the independent judgment of the lead agency, satisfies the requirements of CEQA and is approved for the proposed project. The Negative Declaration was considered and found adequate in addressing the environmental impacts related to the project prior to its approval. The project will not have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Airport Land Use Commission for Orange County hereby approves the amendments to the Airport Environs Land Use Plan dated November 16, 1995 for John Wayne Airport, Fullerton Municipal Airport, Joint Forces Training Base, Los Alamitos and for Heliports; such amendment creating a new and separate AELUP for each airport and for heliports.

BE IT FURTHER RESOLVED that the Airport Land Use Commission for Orange County hereby removes and deletes the Airport Environs Land Use Plan relating to and surrounding MCAS Tustin and cedes it jurisdiction pursuant to Public Utilities Code § 21675 (b) pertaining to land use planning surrounding MCAS Tustin.

BE IT FURTHER RESOLVED that the Airport Land Use Commission for Orange County takes no action with regard to amending the Airport Environs Land Use Plan dated November 16, 1995 relating to and surrounding MCAS El Toro; and directs staff to continue to monitor and review the status of the ongoing MCAS El Toro base closure process and return to the Commission at the appropriate time with its recommendations.

BE IT FURTHER RESOLVED that this Commission finds that pursuant to Section 711.4 of the California Fish and Game Code, this project is exempt from the required fees, as it has been determined that no adverse impacts to wildlife resources will result from the project.

BE IT FURTHER RESOLVED that this Commission finds that the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and, therefore, will not preclude the ability to prepare an effective Subregional Natural Communities Conservation Planning (NCCP) Program.

I HEREBY CERTIFY that the foregoing Resolution No. 2002-1 was adopted on December 19, 2002 by the Airport Land Use Commission by the following vote:

AYES: H. Beverburg, Naughton, Adams, Bresnahan, Campbell, and Houston (for Propst)

NOES: Harris

ABSENT: None

(ABSTAIN): None


Joan S. Golding, Executive Officer
Airport Land Use Commission



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3151 Airway Avenue, Building K-101
Costa Mesa, Ca. 92626

Phone: (714) 252-517

Fax: (714) 252-529

November 16, 1995

Agenda Item: 1

RESOLUTION NO. 95-1

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY ADOPTING THE AIRPORT ENVIRONS LAND USE PLAN AMENDMENT.

On the motion of Commissioner Erickson, duly seconded and carried, the following Resolution was adopted.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires the Airport Land Use Commission for Orange County to formulate a Comprehensive Land Use Plan for the areas surrounding all public airports within its jurisdiction; and

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires that said Comprehensive Land Use Plan provide for the orderly growth of the area surrounding airports and safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general; and

WHEREAS, Section 4.11 of the Airport Environs Land Use Plan requires this Commission to review periodically the substance and adequacy of said plan; and

WHEREAS, this Commission has conducted a public hearing and complied with State environmental procedures regarding this Airport Environs Land Use Plan Amendment.

NOW, THEREFORE, BE IT RESOLVED that in accordance with Section 21080(c) of the Public Resources Code and CEQA Guidelines Section 15074, Negative Declaration No. IP 95-215, which reflects the independent judgment of the lead agency, satisfies the requirements of CEQA and is approved for the proposed project. The Negative Declaration was considered and found adequate in addressing the environmental impacts related to the project prior to its approval. The project will not have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Airport Land Use Commission for Orange County hereby adopts the Airport Environs Land Use Plan dated November 16, 1995.

BE IT FURTHER RESOLVED that this Commission finds that pursuant to Section 711.4 of the California Fish and Game Code, this project is exempt from the required fees as it has been determined that no adverse impacts to wild life resources will result from the project.

BE IT FURTHER RESOLVED that this Commission finds that the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and, therefore, will not preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.

I HEREBY CERTIFY that the foregoing Resolution No 95-1 was adopted on November 16, 1995 by the Airport Land Use Commission by the following vote:

AYES: Chairman Tom Wall, Herman Beverburg, Alfred Brady for Gerald Bresnahan, Art Brown, and Joe Erickson

NOES: None

ABSENT: James Carlson, and Roland Elder

(ABSTAIN:)



Eric R. Freed, Executive Officer
Airport Land Use Commission



AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

300 N. Flower St., Rm.356, Santa Ana, Ca 92702-4048
Mailing Address: P.O.Box 4048, Santa Ana, Ca 92702-4048

Phone: (714) 834-5
Fax: (714) 834-6

December 15, 1994
Agenda Item: 2

RESOLUTION NO. 94-1

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY ADOPTING THE AIRPORT ENVIRONS LAND USE PLAN AMENDMENT.

On motion of Commissioner Erickson, duly seconded and carried, the following Resolution was adopted.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires the Airport Land Use Commission for Orange County to formulate a comprehensive Land Use Plan for the areas surrounding all public airports within its jurisdiction; and

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires that said Comprehensive Land Use Plans provide for the orderly growth of the area surrounding airports and safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general; and

WHEREAS, Section 4.12 of the Airport Environs Land Use Plan requires this Commission to review periodically the substance and adequacy of said plan; and

WHEREAS, this Commission has conducted a public hearing and complied with State environmental procedures regarding this Airport Environs Land Use Plan Amendment.

NOW, THEREFORE, BE IT RESOLVED that in accordance with Section 21080(c) of the Public Resources Code and CEQA Guidelines Section 15074, Negative Declaration No. IP 94-194, which reflects the independent judgment of the lead agency, satisfies the requirements of CEQA and is approved for the proposed project. The Negative Declaration was considered and found adequate in addressing the environmental impacts related to the project prior to its approval. The project will not have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Airport Land Use Commission for Orange County hereby adopts the Airport Environs Land Use Plan dated December 15, 1994.

BE IT FURTHER RESOLVED that this Commission finds that pursuant to Section 711.4 of the California Fish and Game Code, this project is exempt from the required fees as it has been determined that no adverse impacts to wild life resources will result from the project.

BE IT FURTHER RESOLVED that this Commission finds that the proposed project will not have a significant unmitigated impact upon Coastal Sage Scrub habitat and, therefore, will not preclude the ability to prepare an effective subregional Natural Communities Conservation Planning (NCCP) Program.


I HEREBY CERTIFY that the foregoing Resolution No. 94-1 was adopted on December 15, 1994 by the Airport Land Use Commission by the following vote:

AYES: Joe Erickson, Art Brown, Herman Beverburg, Al Brady for
Gerald Bresnahan, Roland Elder, Tom Wall

NOES: None

ABSENT: James Carlson

(ABSTAIN:)


George Britton, Executive Officer
Airport Land Use Commission

1
2
3 RESOLUTION OF THE BOARD OF SUPERVISORS OF
4 ORANGE COUNTY, CALIFORNIA

5 May 9, 1984

6 On motion of Supervisor Riley, duly seconded and carried, the
7 following Resolution was adopted:

8 WHEREAS, Section 21676 of the California Public Utilities Code,
9 requires that each local agency whose general plan includes areas covered
10 by an airport land use commission plan submit a copy of its plan or
11 cific plans to said commission and that the commission determine whether
12 the plan or plans are consistent with the commission's plans; and

13 WHEREAS, pursuant to that requirement, County General and Special
14 Plans and the County Zoning Code were submitted for review by the Orange
15 County Airport Land Use Commission (ALUC) for consistency with that
16 mission's Airport Environs Land Use Plan (AELUP); and

17 WHEREAS, the ALUC on August 19, 1983 determined that the County
18 General Plan Safety Element was inconsistent with the ALUC-adopted A
19 and

20 WHEREAS, pursuant to the Planning and Zoning Law of the State of
21 California, this Board has considered an amendment to the Safety Element
22 and County Administrative Procedures to ensure consistency with the
23 port Environs Land Use Plan; and

24 WHEREAS, in compliance with said laws, a public hearing was held
25 March 20, April 3, and April 9, 1984, by the Planning Commission on
26 proposal; and

//

28 //
Resolution No. 84-704
Hearing-Safety Element
Amendment 84-1

RECEIVED

MAY 31 1984

JOHN WAYNE AIRPORT.

1 WHEREAS, Negative Declaration No. IP 84-012 was prepared for the
2 proposal, granted on February 17, 1984, and became final on March 2,

3 NOW, THEREFORE, BE IT RESOLVED that Negative Declaration No. IP
4 84-012 satisfies the requirements of CEQA for this project and is the
5 fore approved. It was considered and found adequate in addressing th
6 environmental impacts and mitigations for the project prior to its ap
7 proval. The project will not have a significant effect on the enviro
8 ment.

9 BE IT ALSO RESOLVED that the public interest, health, comfort,
10 safety, order, and general welfare will be more adequately served by
11 project.

12 BE IT FURTHER RESOLVED that amendment of the Safety Element and
13 county administrative procedures, as set forth in the Environmental
14 Management Agency Report of April 9, 1984, is hereby adopted.

16 AYES: SUPERVISORS THOMAS F. RILEY, BRUCE NESTANDE, ROGER R. STAN
17 RALPH B. CLARK, and HARRIETT M. WIEDER


18 NOES: SUPERVISORS NONE

19 ABSENT: SUPERVISORS NONE

20 STATE OF CALIFORNIA)
21) ss.
22 COUNTY OF ORANGE)

23 I, LINDA D. ROBERTS, Clerk of the Board of Supervisors of Oran
24 County, California, hereby certify that the above and foregoing
25 Resolution was duly and regularly adopted by the said Board at a
26 regular meeting thereof held on the 9th day of May
1984, and passed by a unanimous vote of said Board.

27 IN WITNESS WHEREOF, I have hereunto set my hand and seal this
28 9th day of May, 1984.


LINDA D. ROBERTS
Clerk of the Board of Supervisors
of Orange County, California



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY - 18741 Airport Way North, Santa Ana, Cal. 92

Phone: 714 834-

June 30, 1983
Agenda Item: #3

RESOLUTION NO. 83-2

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY ADOPTING THE FIRST REVISION OF THE AIRPORT ENVIRONS LAND USE PLAN.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires the Airport Land Use Commission for Orange County to formulate a Comprehensive Land Use Plan for the areas surrounding all public airports within its jurisdiction; and

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires that above said Comprehensive Land Use Plans provide for the orderly growth of the area surrounding airports and safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general; and

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires the Airport Land Use Commission for Orange County to establish planning boundaries; and

WHEREAS, during the period of April 17 to August 7, 1975 the Airport Land Use Commission for Orange County duly adopted the several elements of the Airport Environs Land Use Plan; and

WHEREAS, Section 4.9 of the Airport Environs Land Use Plan requires this Commission to review periodically the substance and adequacy of said plan; and

WHEREAS, this Commission having done so, this Commission has prepared the First Revision of the Airport Environs Land Use Plan; and

WHEREAS; on the basis of an initial study, a Negative Declaration was prepared for this project; and

WHEREAS; the Airport Land Use Commission has received and approved the Negative Declaration;

NOW, THEREFORE, it is RESOLVED that the Airport Land Use Commission for Orange County hereby adopts the First Revision of the Airport Environs Land Use Plan; and it is hereby

RESOLVED, that the First Revision of the Airport Environs Land Use Plan shall be the primary instrument for the disposition of this Commission's mandated duties as long as the plan remains adequate to its purpose.

I, ALFRED W. BRADY Secretary to the Airport
Land Use Commission for Orange County hereby certify
and declare that the foregoing Resolution was duly
adopted by said Commission on June 30, 1983.

Executed this 30th day of June, 1983.


SECRETARY



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY - 18741 Airport Way North, Santa Ana, Cal. 92707

Phone: 714 834-1234

RESOLUTION No. 83-1

RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY AMENDING THE AIRPORT ENVIRONS LAND USE PLAN FOR FULLERTON MUNICIPAL AIRPORT.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California empowers the Airport Land Use Commission to adopt a comprehensive land use plan for the areas surrounding airports within the County of Orange; and

WHEREAS, The Airport Land Use Commission has adopted the Airport Environs Land Use Plan for Fullerton Municipal Airport; and

WHEREAS, the Airport Land Use Commission has researched, studied, and evaluated updated materials concerning the location of the 60 and 65 CNEL contours of the Airport Environs Land Use Plan for Fullerton Municipal Airport; and

WHEREAS, the Airport Land Use Commission has consulted with the two involved agencies and has held a public hearing on an Amendment to the Airport Environs Land Use Plan for Fullerton Municipal Airport; and

WHEREAS, the Airport Land Use Commission has established that the two involved agencies have each certified separate environmental impact reports which adequately and appropriately address the associated environmental impacts; and

WHEREAS, the adoption of the current 60 and 65 CNEL contours for Fullerton Municipal Airport will enhance the consistency of planning activities between the Airport Land Use Commission and the two involved agencies;

NOW, THEREFORE, the Airport Land Use Commission for Orange County amends the Airport Environs Land Use Plan for Fullerton Municipal Airport, finding:

1. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse environmental impacts and an Environmental Impact Report need not be prepared; and
2. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse impact on the inhabitants within the vicinity of the airport; and
3. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse impact on the operation of Fullerton Municipal Airport; and that it is hereby

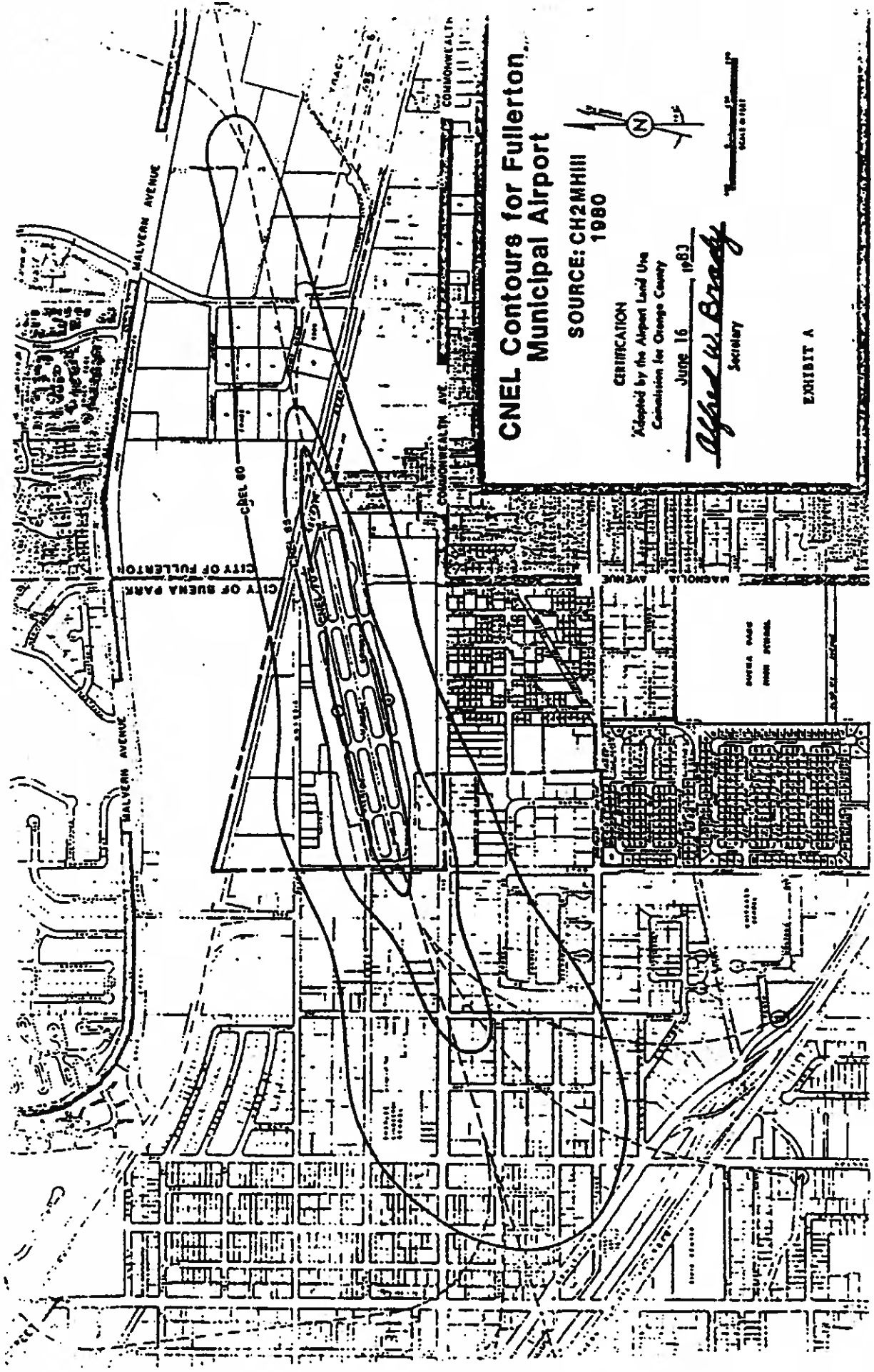
RESOLVED, that the map for Fullerton Municipal Airport, appearing in Section 3.4 of the Airport Environs Land Use Plan and appearing in Appendix D of the proposed first revision thereof, be amended to show the 60 and 65 CNEL contours as appear on the map, "Exhibit A", attached hereto.

I, Alfred W. Brady Secretary to the Airport
Land Use Commission for Orange County hereby certify and declare
that the foregoing Resolution was duly adopted by said

Commission on June 16, 1983.

Executed this 16th day of June 1983

Alfred W. Brady
SECRETARY



CNEL Contours for Fullerton Municipal Airport

SOURCE: CH2MHILL
1980

CERTIFICATION

Adopted by the Airport Land Use
Commission for Orange County

JUNE 16, 1983

Alfred W. Brady
Secretary

EXHIBIT A

RESOLUTION No. 79-1

RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY AMENDING SEGMENT "A" OF THE AIRPORT ENVIRONS LAND USE PLAN FOR EL TORO MARINE CORPS AIR STATION.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California empowers the Airport Land Use Commission to adopt a comprehensive land use plan for the areas surrounding military airports within the County of Orange; and

WHEREAS, the Airport Land Use Commission has adopted the Airport Environs Land Use Plan for El Toro Marine Corps Air Station; and

WHEREAS, the Airport Land Use Commission has researched, studied, and evaluated updated materials concerning the location of the 60 and 65 CNEI contours for Segment "A" of the Airport Environs Land Use Plan for the El Toro Marine Corps Air Station, known as the Aliso Viejo property; and

WHEREAS, the Airport Land Use Commission has held a public hearing on an Amendment to the Airport Environs Land Use Plan for El Toro Marine Corps Air Station; and

WHEREAS, the Airport Land Use Commission has evaluated this project for compliance with the California Environmental Quality Act; and

WHEREAS, on the basis of an Initial Study, a Negative Declaration was prepared for this project; and

WHEREAS, the Airport Land Use Commission has received and approved the Negative Declaration; and

WHEREAS, notice of the preparation of a Negative Declaration was posted for a period of seven days at the County Clerk and Clerk of the Board Offices, as well as published in a newspaper of general circulation, Daily Pilot, on May 5 and 9, 1979; and WHEREAS, no written statements of opposition were received;

NOW, THEREFORE, the Airport Land Use Commission for Orange County amends the Airport Environs Land Use Plan for the El Toro Marine Corps Air Station, Segment "A," the Aliso Viejo property, finding:

1. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse environmental impacts and an Environmental Impact Report need not be prepared; and
2. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse impact on the inhabitants within the vicinity of the airport; and

3. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse impact on the operation of the El Toro Marine Corps Air Station; and that it is hereby

RESOLVED, that the map for El Toro Marine Corps Air Station appearing in Section 3.4, page 13, of the Airport Environs Land Use Plan be amended to appear as the map, Exhibit A, hereto attached.

I, SHIRLI A. REITHARD Secretary to the Airport
Land Use Commission for Orange County hereby certify and
declare that the foregoing Resolution was duly adopted by
said Commission on May 17, 1979.

Executed this 17th day of MAY 1979

Shirli A. Reithard
SECRETARY

Resolution No. 79-1



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY - 18741 Airport Way North, Santa Ana, Cal. 92707

Phone: 714 833-1111

RESOLUTION No. 79-2

RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY AMENDING SEGMENT "B" OF THE AIRPORT ENVIRONS LAND USE PLAN FOR EL TORO MARINE CORPS AIR STATION.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California empowers the Airport Land Use Commission to adopt a comprehensive land use plan for the areas surrounding military airports within the County of Orange; and

WHEREAS, the Airport Land Use Commission has adopted the Airport Environs Land Use Plan for El Toro Marine Corps Air Station; and

WHEREAS, the Airport Land Use Commission has researched, studied, and evaluated updated materials concerning the location of the 60 and 65 CNEL contours for Segment "B" of the Airport Environs Land Use Plan for the El Toro Marine Corps Air Station; and

WHEREAS, the Airport Land Use Commission has held a public hearing on an Amendment to the Airport Environs Land Use Plan for El Toro Marine Corps Air Station; and

WHEREAS, the Airport Land Use Commission has evaluated this project for compliance with the California Environmental Quality Act; and

WHEREAS, on the basis of an Initial Study, a Negative Declaration was prepared for this project; and

WHEREAS, the Airport Land Use Commission has received and approved the Negative Declaration; and

WHEREAS, notice of the preparation of a Negative Declaration was posted for a period of seven days at the Clerk of the Board Office, as well as published in a newspaper of general circulation, Daily Pilot, on October 1 and 8, 1979; and WHEREAS, no written statements of opposition were received;

NOW, THEREFORE, the Airport Land Use Commission for Orange County amends the Airport Environs Land Use Plan for the El Toro Marine Corps Air Station, Segment "B" finding:

1. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse environmental impacts and an Environmental Impact Report need not be prepared; and
2. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse impact on the inhabitants within the vicinity of the airport; and

3. That as a result of the proposed Airport Environs Land Use Plan boundary modification, there will be no significant adverse impact on the operation of the El Toro Marine Corps Air Station; and that it is hereby

RESOLVED, that the map for El Toro Marine Corps Air Station appearing in Section 3.4, page 13, of the Airport Environs Land Use Plan be amended to appear as the map, Segment "B" hereto attached.

RESOLVED, that the Airport Land Use Commission for Orange County recommends that Orange County prohibit the construction of residential units within the 65 CNEL area.

RESOLVED, that the Airport Land Use Commission for Orange County recommends that Orange County limit the construction of hospitals, convalescent homes, churches, schools, and other noise sensitive uses within the 65 CNEL area.

RESOLVED, that the Airport Land Use Commission for Orange County recommends that Orange County continue "Noise Studies" within the 60-65 CNEL area for the purpose of determining sound attenuation requirements for development.

RESOLVED, that the Airport Land Use Commission for Orange County recommends that provisions be made for full disclosure of Noise Impact to initial and subsequent buyers of residential and other property in Noise Impacted areas.

RESOLVED, that the Airport Land Use Commission for Orange County recommends continued and expanded use of "Noise Impacted Area" Sign Program.

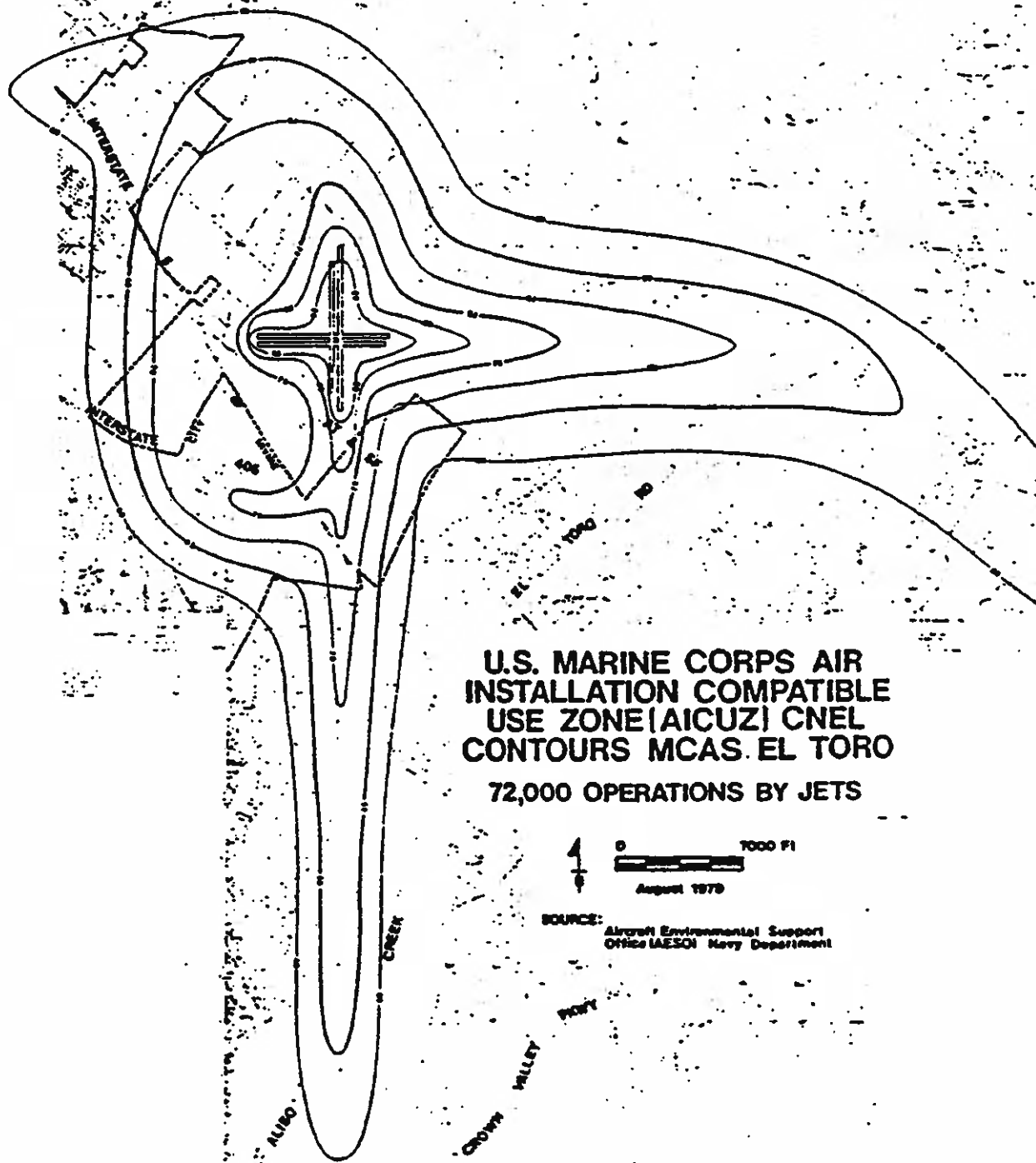
RESOLVED, that the Airport Land Use Commission for Orange County recommends continued quest of Avigational Rights/Easements for all developments which are overflowed by aircraft or are within the 65 CNEL area.

I, SHIRLI A. REITHARD Secretary to the Airport
Land Use Commission for Orange County hereby certify and declare
that the foregoing Resolution was duly adopted by said

Commission on December 20, 1979.

Executed this 21st day of December 1979

Shirli A. Reithard
SECRETARY





AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY - 18741 Airport Way North, Santa Ana, Cal. 92707

Phone: 714 833-1111

RESOLUTION No. 78-1

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY CONCERNING THE USE OF LAND WITHIN 65 CNEL NOISE CONTOUR AREAS WITHIN ORANGE COUNTY.

WHEREAS, the Airport Land Use Commission for Orange County has previously adopted a policy of no residential development within 65 CNEL noise contour areas of airports within Orange County; and

WHEREAS, the Airport Land Use Commission for Orange County has previously adopted, as a mitigation measure only, the proposed construction of low-cost housing within the 65 CNEL noise contour for the Marine Corps Air Station, El Toro; and

WHEREAS, the Airport Land Use Commission for Orange County has researched, studied, and evaluated residential development within the 65 CNEL noise contours for airports within Orange County; and

WHEREAS, the Airport Land Use Commission for Orange County has considered and rejected the following land use controls for reasons stated:

High density residential development, as high density does not preclude outdoor recreational facilities unless so restricted to exclude the expected southern California amenities of barbecue areas, swimming pools, tennis courts, and/or other outdoor facilities; and

High density residential development, sound attenuated to limit intruding noise to 45 CNEL, indoor oriented without any outdoor living areas, as sound attenuation to 45 CNEL does not preclude high SENEL disruptions that interfere with conversation and social interaction and that affect the quantity and quality of sleep; and

Low and medium density residential development, sound attenuation to limit intruding noise to 45 CNEL as such sound attenuation does not preclude high SENEL disruptions that interfere with conversation and social interaction and that affect the quantity and quality of sleep and because low and/or medium density residential development usually implies space for outdoor living and recreational facilities; and

Restricting the 65 CNEL noise areas to rental units as at some later time these may become individually owned and thereby defeating the original intent; and

(Continued)

RESOLUTION No. 78-1

Restriction to "adult only" residential units as schools and play-grounds are incompatible uses within 65 CNEL noise areas because such restriction could create hardship for persons who could ill afford to move if children become part of a formerly childless household; and

Avigational easements that would protect the County but would not protect the buyer/renter of low-cost housing from harm arising from aircraft generated noise; and

Notice to potential buyers of residential units of severe noise impaction as the current terms of description are neither realistic nor understandable and because the use of CNEL, although applicable to regularly scheduled jet flights, when applied to military airport noise is misleading, as the scheduling of military jet flights is highly variable; and

Notice to potential buyers of residential units of severe aircraft generated vibrations that disrupt television and radio reception as the extent of such disruptions may not be realistically communicated; and

Agricultural zoning because it permits four-acre parcels for residential use and with variances, it permits one-half and/or one acre parcels for residential use. Hence, it does not preclude residential use within the 65 CNEL areas; and

WHEREAS, the Airport Land Use Commission for Orange County has considered the following health problems arising from aircraft noise impaction, particularly long-term noise impaction:

Data indicating that hearing damage in children may occur in a relatively short period of time; and

Noise sensitivity of individuals varies widely and sensitivity to noise may develop upon long-term exposure to high noise impact, and extremes of noise sensitivity may occur in one family to the hardship of those who are noise sensitive; and

WHEREAS, the Airport Land Use Commission for Orange County has considered the following social problems as related to aircraft noise impaction:

Low-cost housing within 65 CNEL noise areas as it would relegate the group least able to afford housing to the least desirable area from which it could be difficult to relocate as they have the fewest alternatives; and

The concept of low-cost housing within 65 CNEL noise areas because of the possibility of compounding existing social problems and because of its discriminatory implications; and

(Continued)

RESOLUTION No. 78-1

The buyer/renter expectation of outdoor living in Orange County as reasonable; and

The expectation of families with children of outdoor play areas in Orange County as reasonable; and

The quality of living as measured by expectations of outdoor living for residents of Orange County as reasonable; and

WHEREAS, the Airport Land Use Commission for Orange County has considered and rejected the following presumptions and found them wanting for reasons stated:

A renter is free to move if dissatisfied. There may not be a reasonable alternative due to the scarcity of low-cost units; and

Renters are likely to spend less time in their residences. Such persons may not have the physical and/or financial capacity to go elsewhere; and

The less affluent are less noise sensitive than the more affluent. Affluence has not been found to be a determinative factor of noise sensitivity; and

Renters are less noise sensitive than owners. Renter/owner relationship has not been found to be a determinative factor of noise sensitivity; and

NOW, THEREFORE, it is RESOLVED, that the Airport Land Use Commission for Orange County recommends that no residential units, including low-cost or affordable, be constructed within the 65 CNEL noise contour areas of airports within Orange County.

I, George E. Perry, Secretary to the Airport Land Use Commission for Orange County hereby certify and declare that the foregoing resolution was duly adopted by said Commission on December 21, 1978

Executed this 5th day of January 1979


Secretary

RESOLUTION NO. 77-1

RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY ADOPTING AN AMENDMENT TO THE AIRPORT ENVIRONS LAND USE PLAN AND APPROVING THE ENVIRONMENTAL IMPACT REPORT FOR THAT AMENDMENT.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California empowers the Airport Land Use Commission to adopt a comprehensive land use plan for the areas surrounding military airports within the County of Orange; and

WHEREAS, the Airport Land Use Commission has an adopted Airport Environs Land Use Plan for El Toro Marine Corps Air Station; and

WHEREAS, the Airport Land Use Commission has held public hearings on an Amendment to the Airport Environs Land Use Plan for El Toro Marine Corps Air Station; and

WHEREAS, this Amendment is a project in terms of the California Environmental Quality Act and an EIR was reviewed and considered by the Airport Land Use Commission;

NOW, THEREFORE, the Airport Land Use Commission for Orange County finds that the EIR is complete and adequately addresses the environmental impacts of the Amendment and that;

- a) Election of the No Project Option presented in the EIR would not adequately fulfill the spirit of the ALUC's legislative mandate. Inhabitants near the air station would not be adequately protected by local jurisdiction planning which allows residential construction in identified high noise impact areas as documented in the EIR;
- b) The ALUC has considered other noise disturbance criteria but has chosen the 65 CNEL standard for the reasons stated in the Commission's Airport Environs Land Use Plan;
- c) The Commission has chosen the 60 and 65 CNEL contours developed by Ultrasystems as the best estimates available;
- d) The Commission has not chosen to use alternative project designs (a), (b), (c), (d), or (e) as presented in the EIR because each of these would allow some number of persons to be adversely affected by aircraft noise;
- e) Substantial discretion is allowed to local jurisdictions to minimize the impacts of this project by (1) redesigning residential units to limit noise disturbance and (2) replanning areas to replace incompatible uses within the impact area with compatible uses from outside the impact area;

(Continued)

f) The following were identified in the EIR as significant effects:

1. The loss of available dwellings,
2. the economic impact to land owners,
3. the increase in the cost of housing,
4. the loss of low and moderate income dwellings,
5. the loss of employment in the building and trade industry,
6. the outflow of dollars from Orange County,
7. the shifting of population,
8. the increased vehicle emissions and,
9. the economic loss within utility assessment districts.

As to each of the above significant effects, the changes or alterations which could mitigate or avoid their impact are within the jurisdiction of other public agencies and such changes can be adopted by the other agencies, if other agencies take advantage of the provisions within the AELUP which allow for sound attenuated, indoor oriented residential construction. The land use guidelines within the AELUP allow apartment like structures with central air conditioning to be located within high noise impact areas. The Commission finds that the replacement of single family units with such multiple family units would eliminate many of the adverse impacts enumerated in the EIR.

- g) The AELUP contains implementation procedures which minimize delays in processing. The prolongation of the planning and developing process which will result from the adoption of this Amendment to the AELUP is a necessary consequence of the fulfillment of the ALUC's legislative mandate to protect the airport and the inhabitants near the airport.

NOW, THEREFORE, BE IT RESOLVED THAT THE Airport Land Use Commission for Orange County amends Section 2.2.1 of the Airport Environs Land Use Plan to read as follows:

(Continued)

2.2.1 Marine Corps Air Station, El Toro

The original plan adopted on April 17, 1975 was amended by the Commission on June 16, 1977.

CNEL CONTOURS - The Commission utilized the average annual CNEL contours depicted in "An Update of the Noise Contours for El Toro Marine Corps Air Station" prepared by Ultrasystems, Inc., for the Board of Supervisors, County of Orange, dated May, 1976.

These contours were developed on the basis of 1975 and 1976 operations data and the latest available information concerning noise characteristics of military aircraft.* Both the 60 CNEL and 65 CNEL contours depicted on the map in section 3 were the products of the Ultrasystems' report.

ACCIDENT POTENTIAL ZONES - An analysis of the ten year accident history and the operational characteristics of MCAS, El Toro, was conducted in accordance with the adopted AICUZ methodology. The analysis revealed no justification for extending the limits of Accident Potential Zone "B" farther than 10,000 feet from the runway ends. No Accident Potential Zone "A" was placed at the end of Runway 3/21 because it is not presently in use nor are there any plans for its use. The AICUZ methodology was strictly observed on all other runways. This analysis was based on the same operations data which appears in the Ultrasystems' noise contour report discussed above.

PLANNING AREA - The Commission expanded the planning area adopted April 17, 1975 to include all that area embraced by the Ultrasystems' 1976 average annual 60 CNEL contour.

TWENTY YEAR FUTURE - (This section will not be drafted until a statement is received from the Marine Corps regarding future plans for El Toro. However, it is assumed that a continuation of present operations is a reasonable requirement for adoption of this plan.)

* Aerospace Medical Division, "Community Noise Exposure Resulting from Aircraft Operations: Acquisition and Analysis of Aircraft Noise and Performance Data," Wright-Patterson Air Force Base, Ohio, and Bolt Beranek and Newman, Inc., Canoga Park, California, AHRM-TR-73-107, August, 1975.

(Continued)

and that is hereby

RESOLVED, that the map for El Toro Marine Corps Air Station appearing in Section 3.4 of the Airport Environs Land Use Plan be amended to appear as the map hereto attached, and that it is hereby

RESOLVED, that for purposes of implementation of the amended Airport Environs Land Use Plan for El Toro Marine Corps Air Station, all that area within the City of Irvine which is regulated by the North Irvine (Northwood II) Planned Community Regulations adopted November 11, 1975 by the City Council of the City of Irvine be considered already devoted to incompatible uses by the Airport Land Use Commission.

AYES: Ablott, Beverburg, Doan, Dostal, Foringer, Hudson

NOES: Bresnahan

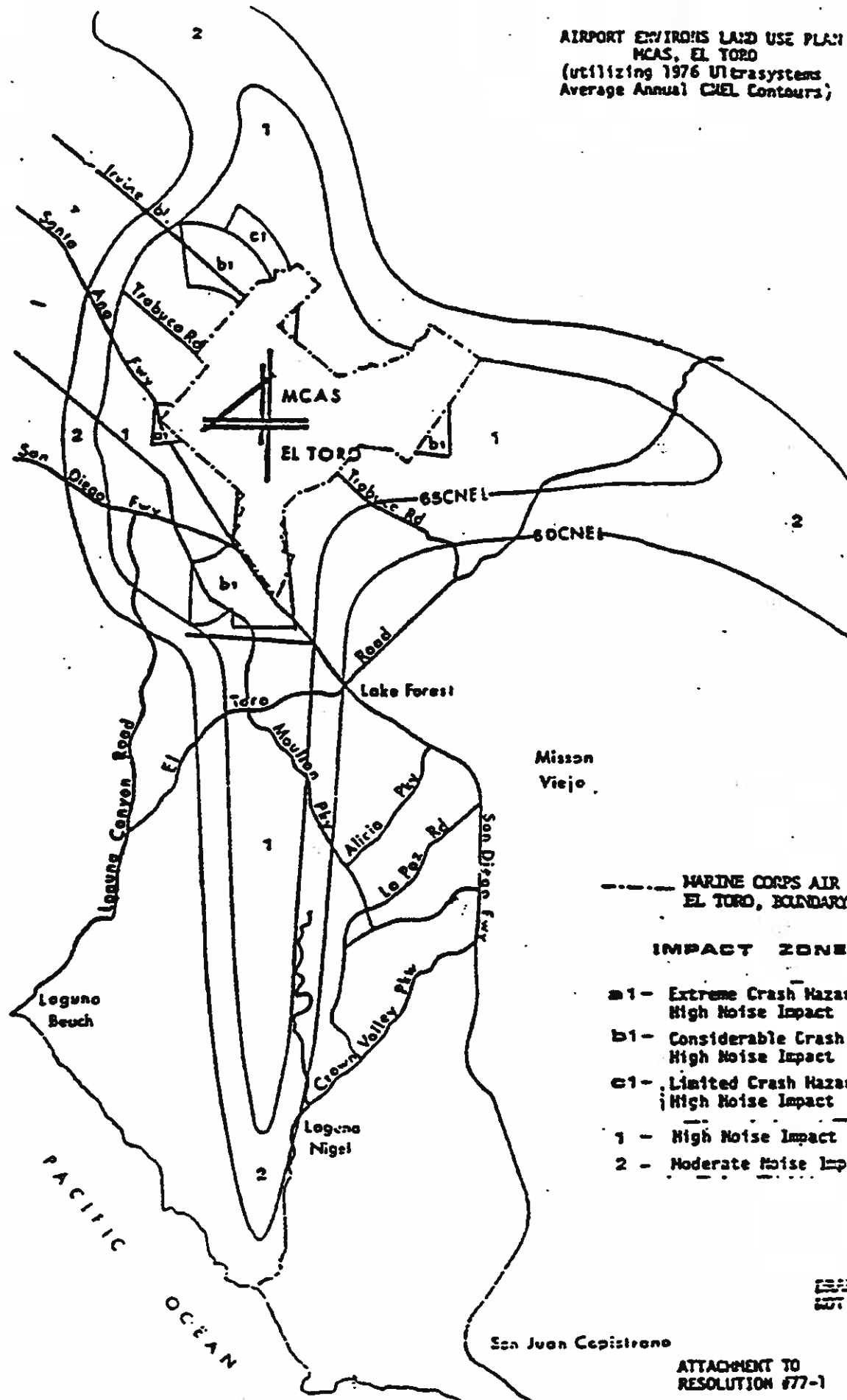
ABSTENTIONS: None

I, KENNETH J. DELIND, Secretary to the Airport Land Use Commission for Orange County hereby certify and declare that the foregoing resolution was duly adopted by said Commission on June 16, 1977.

Executed this 17th day of June 1977


SECRETARY

**AIRPORT ENVIRONMENTAL LAND USE PLAN
MCAS, EL TORO
(utilizing 1976 Ultrasonics
Average Annual CIEL Contours)**



----- MARINE CORPS AIR
EL TORO, BOUNDARY

IMPACT ZONE

- a1 - Extreme Crash Hazard
High Noise Impact
- b1 - Considerable Crash
Hazard High Noise Impact
- c1 - Limited Crash Hazard
High Noise Impact
- 1 - High Noise Impact
- 2 - Moderate Noise Impact

RESOLUTION NO. 75-1

RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY ADOPTING STANDARDS AND CRITERIA FOR THE ESTABLISHMENT OF PLANNING BOUNDARIES FOR USE IN COMPREHENSIVE LAND USE PLANS.

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires the Airport Land Use Commission for Orange County to formulate a Comprehensive Land Use Plan for the areas surrounding all public airports within its jurisdiction; and

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires that above said Comprehensive Land Use Plans provide for the orderly growth of the area surrounding airports and safeguard the general welfare of the inhabitants within the vicinity of airports and the public in general; and

WHEREAS, Section 21675 of the Public Utilities Code of the State of California requires the Airport Land Use Commission for Orange County to establish planning boundaries; and

WHEREAS, the Airport Land Use Commission for Orange County has researched, studied, and evaluated available materials concerning guidelines for the establishment of above said planning boundaries; and

WHEREAS, the Airport Land Use Commission for Orange County held a public hearing and invited the participation of affected jurisdictions and persons in the process of determining standards and criteria for the establishment of planning boundaries;

NOW, THEREFORE, the Airport Land Use Commission for Orange County hereby adopts the following standards and criteria for establishing planning boundaries; and therefore it is hereby

RESOLVED, that aircraft noise emanating from airports may be incompatible with the general welfare of the inhabitants within the vicinity of an airport and in order to measure the impact of aircraft noise on the inhabitants within the vicinity of an airport, the Airport Land Use Commission for Orange County adopts the Community Noise Equivalent Level methodology as specified in the Noise Standards for California Airports (Title Four, California Administrative Code); and it is hereby

RESOLVED, that the potentiality of aircraft accidents outside the boundary of an airport may be incompatible with the general welfare of the inhabitants within the vicinity of an airport and in order to designate such accident potential zones near military airports the Airport Land Use Commission for Orange County adopts the Department of the Navy, Aircraft Installation Compatible Use Zone Program methodology as attached; and it is hereby

(Continued)

RESOLVED; that objects affecting navigable airspace within the vicinity of airports is incompatible with the safety of air navigation and in order to limit such obstructions, the Airport Land Use Commission for Orange County adopts the regulations regarding Notices of Proposed Construction or Alteration as contained in Federal Aviation Regulations Part 77; and it is hereby

RESOLVED, that the delineation of the Planning Area of the Airport Land Use Commission for Orange County will generally include those areas embraced by the 60 dB CNEL contours and accident potential zones.

I, BRIAN DOUGLASS, Secretary to the Airport Land Use Commission for Orange County hereby certify and declare that the foregoing resolution was duly adopted by said Commission on JANUARY 9, 1975.

Executed this 9th day of January, 1975


SECRETARY

RESOLUTION #75-3

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY CONCERNING ACCIDENT
POTENTIAL ZONES AROUND CIVIL AIRPORTS.

WHEREAS, the Airport Land Use Commission for Orange County has previously resolved that the potentiality of aircraft accidents outside the boundary of an airport may be incompatible with the general welfare of the inhabitants within the vicinity of an airport; and

WHEREAS, the Airport Land Use Commission for Orange County has researched, studied, and evaluated accident data for civil aircraft operating in California; and

WHEREAS, the aircraft operations at the civil airports in Orange County are relatively typical of aircraft operations throughout California; and

WHEREAS, the Airport Land Use Commission for Orange County has studied and evaluated the aircraft accident data for civil airports within Orange County; and

WHEREAS, the data for civil aircraft accidents in California indicates that the locations of off-airport accidents are in no discernible pattern; and

WHEREAS, the accident data studied indicates that there is no relationship between overall accident locations and accident locations around individual airports;

NOW, THEREFORE, it is RESOLVED, that the Airport Land Use Commission for Orange County shall designate accident potential zones around civil airports on the basis of study and evaluation of each airport's accident history and operational characteristics.

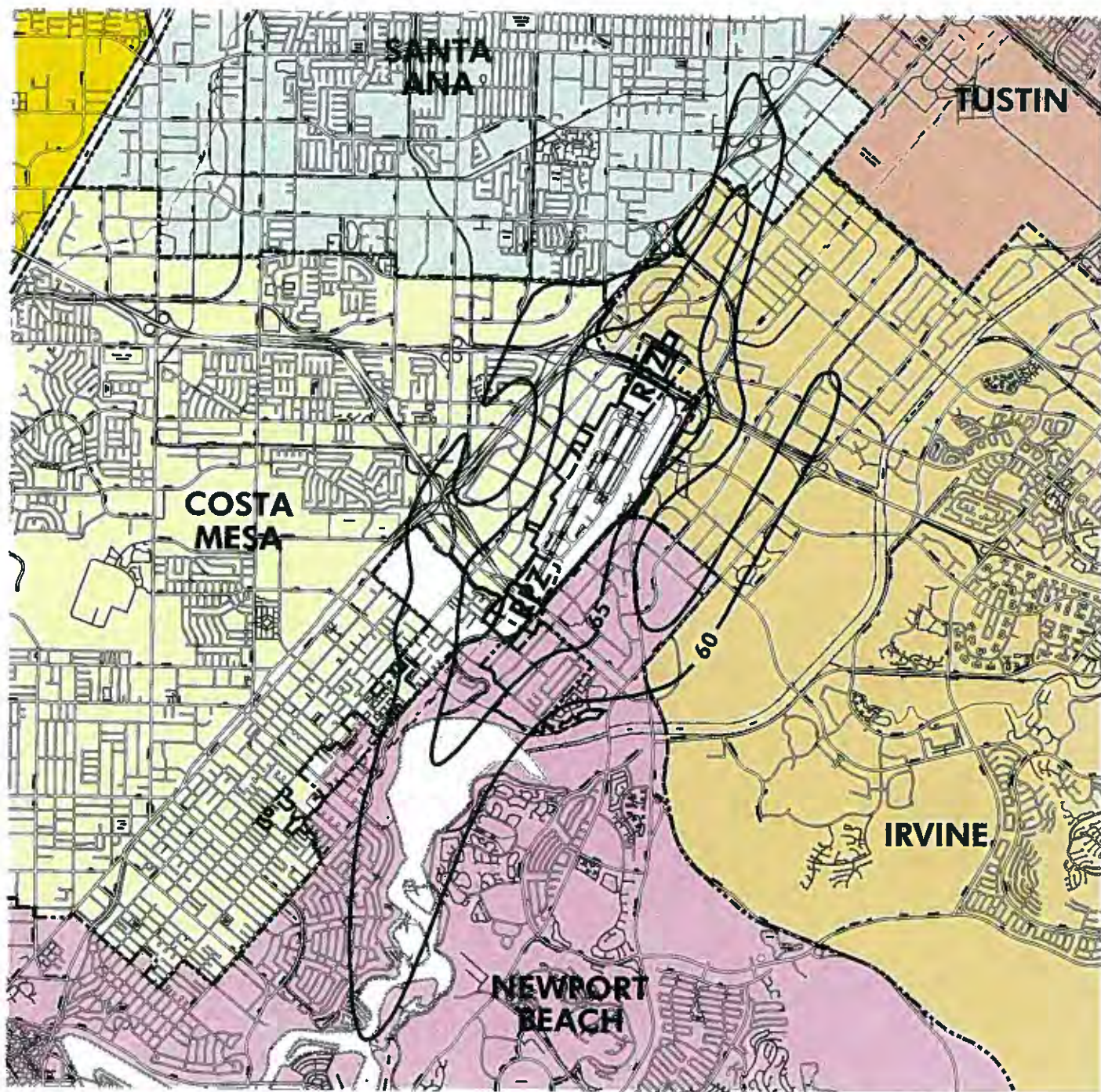
I, Brian Douglas Secretary to the Airport Land Use Commission
for Orange County hereby certify and declare that the foregoing resolution
was duly adopted by said Commission on April 3 19

Executed this 3 day of April, 19

Brian Douglas
SECRETARY

APPENDIX D

- **IMPACT ZONES MAP**
- **AELUP NOTIFICATION AREA FOR JWA**
- **IMAGINARY SURFACES MAP**
- **AIRPORT LAND USE PLAN & SAFETY ZONES (Approved JWA ALP March 2005)**
- **JWA SAFETY ZONE REFERENCE MAP**
- **TABLE 9B SAFETY COMPATIBILITY QUALITIES (*California Airport Land Use Planning Handbook*, State of California Department of Transportation, Division of Aeronautics, January 2002)**



Note: County Unincorporated areas are shown in white.

John Wayne Airport Impact Zones

LEGEND

- 60— CNEL CONTOUR
- RUNWAY PROTECTION ZONE
- CITY BOUNDARIES
- AIRPORT BOUNDARIES



0 500 1000 1500 2000
Scale in Feet

Composite contour from
John Wayne Airport Project
Case-1990 and 2005
(see section 2.2.1)

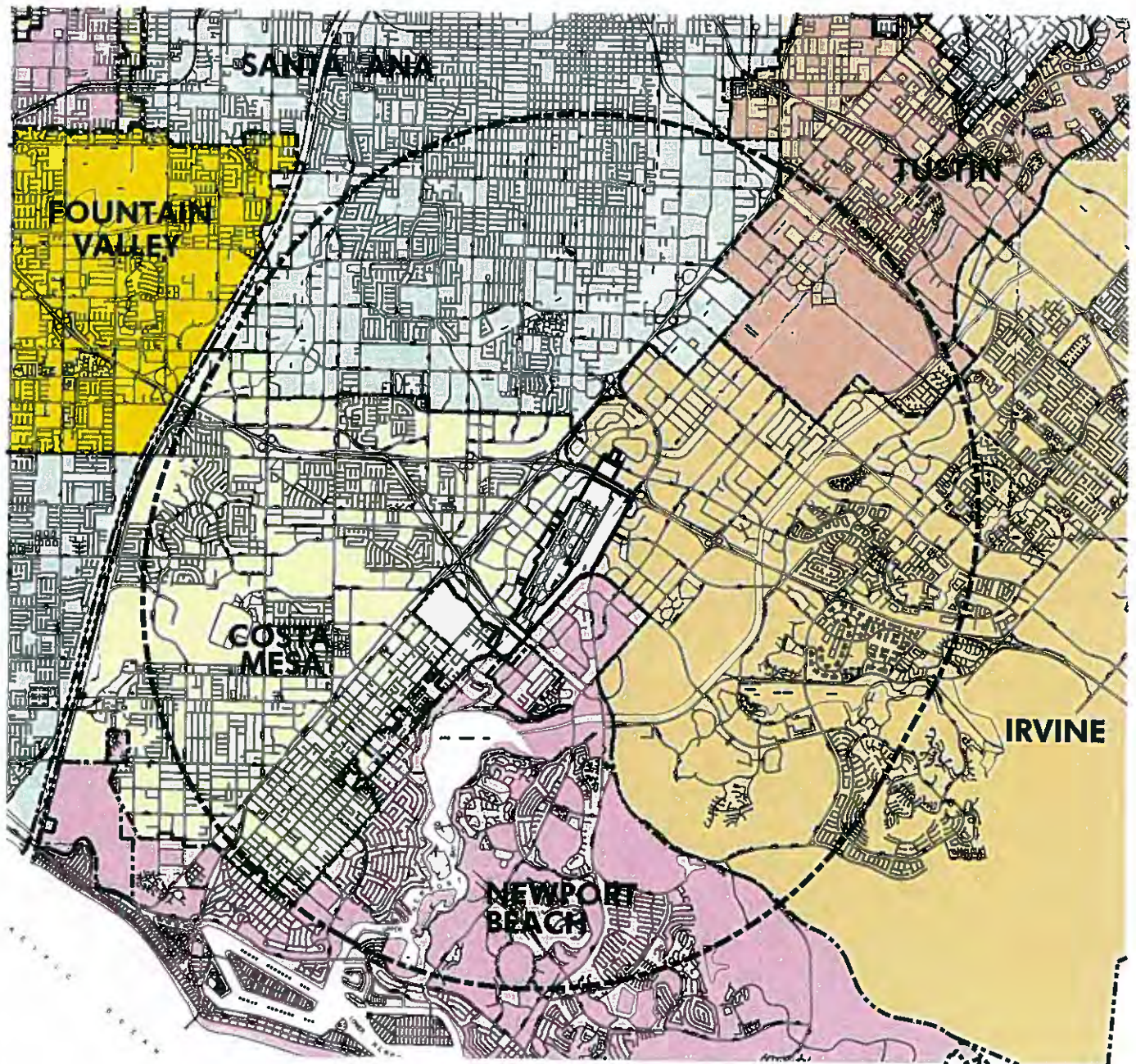
CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

Kari A. Rigoni
Kari A. Rigoni, Executive Officer

April 17, 2008
Date

AELUP Notification Area for JWA



Note: County Unincorporated areas are shown in white.

FAR PART 77

Notification Area for John Wayne Airport: 20,000' Radius at 100:1 Slope

LEGEND

- 20,000' Radius
- CITY BOUNDARIES
- AIRPORT BOUNDARIES

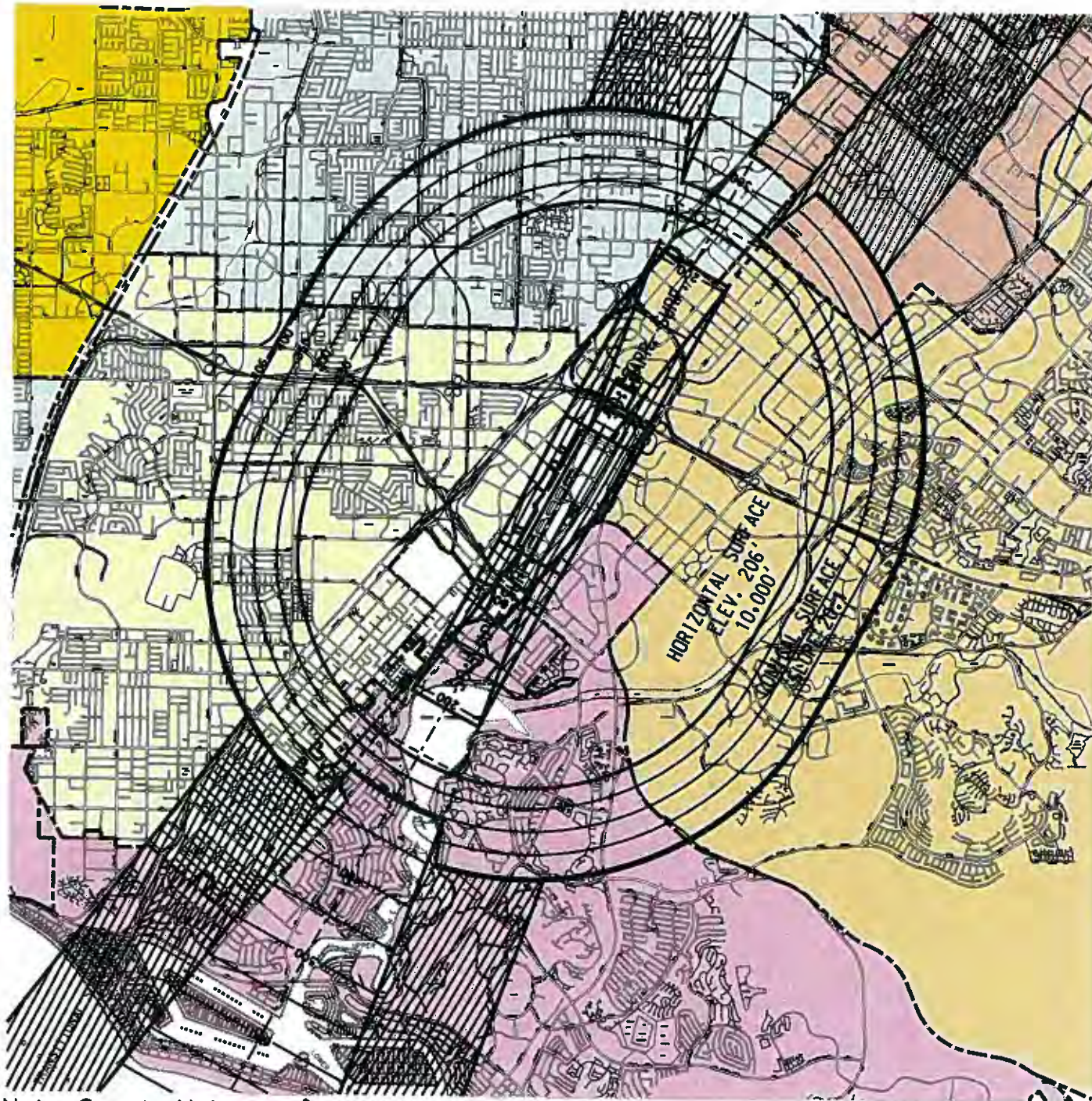


CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

Kari A. Rigoni
Kari A. Rigoni, Executive Officer

April 17, 2008
Date



Note: County Unincorporated areas are shown in white.

FAR PART 77

John Wayne Airport Obstruction Imaginary Surfaces

LEGEND

- CITY BOUNDARIES
- AIRPORT BOUNDARIES

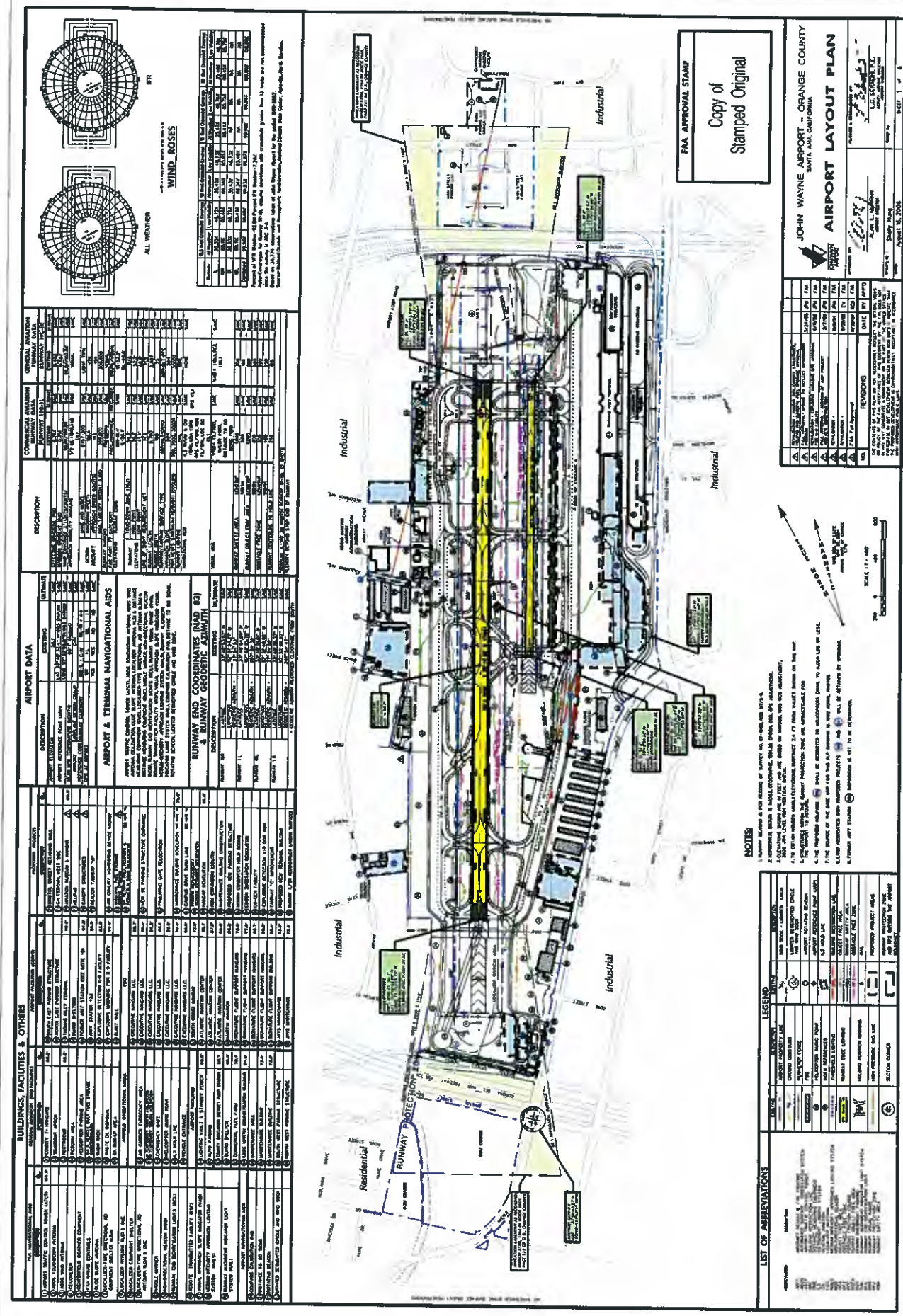


0 1000 2000 3000 4000 5000 7500
Scale In Feet

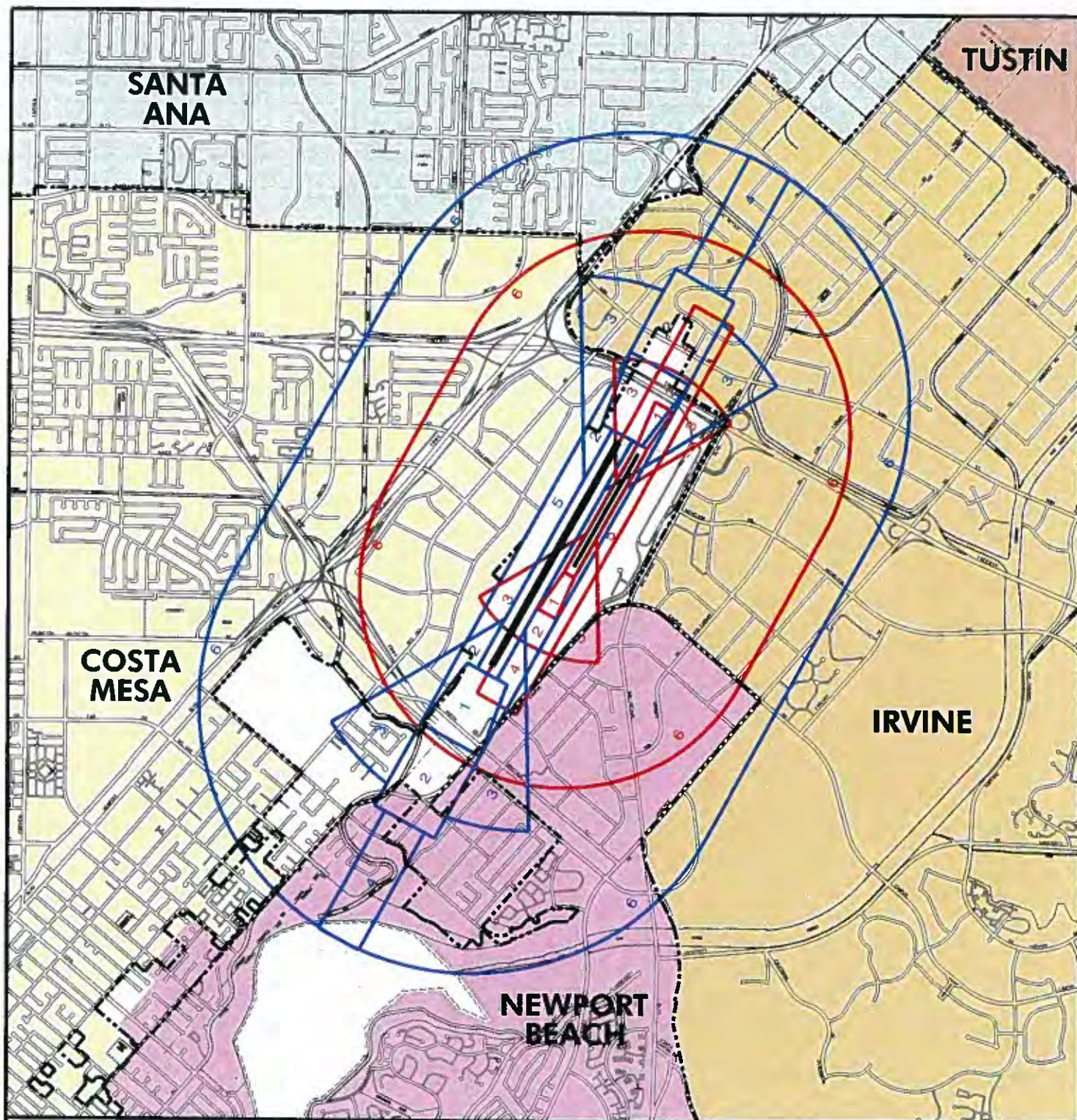
CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

Kari A. Rigoni April 17, 2008
Kari A. Rigoni, Executive Officer Date



Contact the ALUC office at 949.252.5170 to view this exhibit.



John Wayne Airport Safety Zone Reference Map

LEGEND

- 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



SAFETY COMPATIBILITY ZONES FOR RUNWAY 1L & 19R (A MEDIUM GENERAL AVIATION RUNWAY AS DESCRIBED IN THE CALIFORNIA AIRPORT LAND USE PLANNING HANDBOOK, JANUARY 2002 EDITION)



SAFETY COMPATIBILITY ZONES FOR RUNWAY 1R & 19L (A SHORT GENERAL AVIATION RUNWAY AS DESCRIBED IN THE CALIFORNIA AIRPORT LAND USE PLANNING HANDBOOK, JANUARY 2002 EDITION)



Scale in Feet
0 500 1000 2000

CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

Kari A. Rigoni April 17, 2008
Kari A. Rigoni, Executive Officer Date

Zone 1: Runway Protection Zone

Risk Factors / Runway Proximity

- Very high risk
- Runway protection zone as defined by FAA criteria
- For military airports, clear zones as defined by AICUZ criteria

Basic Compatibility Qualities

- Airport ownership of property encouraged
- Prohibit all new structures
- Prohibit residential land uses
- Avoid nonresidential uses except if very low intensity in character and confined to the sides and outer end of the area

Zone 2: Inner Approach/Departure Zone

Risk Factors / Runway Proximity

- Substantial risk: RPZs together with inner safety zones encompass 30% to 50% of near-airport aircraft accident sites (air carrier and general aviation)
- Zone extends beyond and, if RPZ is narrow, along sides of RPZ
- Encompasses areas overflown at low altitudes — typically only 200 to 400 feet above runway elevation

Basic Compatibility Qualities

- Prohibit residential uses except on large, agricultural parcels
- 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)
- Prohibit children's schools, day care centers, hospitals, nursing homes
- Prohibit hazardous uses (e.g. aboveground bulk fuel storage)

Zone 3: Inner Turning Zone

Risk Factors / Runway Proximity

- Zone primarily applicable to general aviation airports
- 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
- 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

Basic Compatibility Qualities

- Limit residential uses to very low densities (if not deemed unacceptable because of noise)
- 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)
- Prohibit children's schools, large day care centers, hospitals, nursing homes
- Avoid hazardous uses (e.g. aboveground bulk fuel storage)

TABLE 9B

Basic Safety Compatibility Qualities

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)

TABLE 9B CONTINUED

APPENDIX E

(Information in this appendix is provided as a reference source to assist the users of the AELUP.)

FEDERAL AVIATION ADMINISTRATION ADVISORY CIRCULAR 150/5190-4A

A MODEL ZONING ORDINANCE

The model ordinance defines and provides language governing the establishment of various zones in the vicinity of airports. It prescribes height limitations for each zone as required to prevent the creation or establishment of objects which would interfere with the operation of an airport. These zones will vary depending on the type, size, and layout of the runways. The model ordinance, therefore, leaves the specific zone measurements to be inserted by the political subdivision adopting the ordinance as appropriate for its particular airport.

If you would like to obtain a copy, please contact one of the following:

U.S. Government Bookstore
Arco Plaza, C Level
505 South Flower Street
Los Angeles, CA 90071-2181
(213) 239-9844
(213) 239-9848 Fax

Federal Aviation Administration
Public Affairs
15000 Aviation Blvd.
Hawthorne, CA 90261
(310) 725-3580

You may also obtain the document online at:

http://www.faa.gov/airports_airtraffic/airports/resources/advisory_circulars/media/150-5190-4A/150_5190_4A.PDF

APPENDIX F

(Information in this appendix is provided as a reference source to assist the users of the AELUP.)

AIRPORT AND HELIPORT REGULATIONS

The attached regulations may be obtained online at:

http://www.dot.ca.gov/hq/planning/aeronaut/documents/Regs_pub.pdf

California Code of Regulations

Title 21 Sections 3525 through 3560

AIRPORTS AND HELIPORTS

ARTICLE 1. DEFINITIONS

3525. PREAMBLE

The following rules and regulations are promulgated in accordance with Public Utilities Code, State Aeronautics Act. These rules and regulations do not supersede any of the regulations of the Federal Aviation Administration (FAA). The term "airport" shall apply equally to heliports unless specified for "airports only" or "heliports only".

3526. GENERAL

(a) These regulations are intended to be used in conjunction with relevant FAA Advisory Circulars (ACs); Title 14, Code of Federal Regulations [(CFRs); also referred to as Federal Aviation Regulations (FARs)]; and California Public Utilities Code (PUC), State Aeronautics Act, Sections 21001 et seq.

(b) Variations in proposed sites may justify the Department of Transportation's (Department's) reasonable deviations from the basic requirements contained herein through variances. Any justification for deviation must be balanced against the effect it would have on the safe use of the airport when compared to other advantages of the site.

(c) The Department hereby incorporates by reference pertinent sections of the following FAA ACs, all readily available from the FAA:

AC 70/7460-1J, "Obstruction Marking and Lighting", 1/1/96;
AC 150/5300-13, "Airport Design", 9/29/89, including through Change 4, 11/10/94;
AC 150/5325-4A, "Runway Length Requirements for Airport Design", 1/29/90,
including through Change 1, 3/11/91;
AC 150/5340-1G, "Standards for Airport Markings", 9/27/93;
AC 150/5340-5B, "Segmented Circle Airport Marker System", 12/21/84,
including through Change 1, 2/25/85;
AC 150/5340-24, "Runway & Taxiway Edge Lighting Systems", 9/3/75,
including through Change 1, 11/25/77;
AC 150/5390-2A, "Heliport Design", 1/20/94.

3527. DEFINITIONS

Except as provided in this section, the terms in these regulations are defined in the FARs; FAA ACs; and the PUC, State Aeronautics Act, Sections 21001 et seq.

(a) **Agricultural Airport:** An airport restricted to use only by agricultural aerial applicator aircraft (FAR Part 137 operators).

(b) **Approach Surface:** A surface which begins at the end of the primary surface, with the same width as the primary surface, and extends outward and upward for a horizontal distance, width, and slope in accordance with FAR 77.25(d) for airports only and FAR 77.29(b) for heliports only.

(c) **Approach/Takeoff Path:** The flight track, centered within an approach surface, which helicopters follow when landing at or taking off from a heliport.

(d) **Commercial Activities:** Those activities which may offer a facility, service or commodity for sale, hire, profit, or any other business purpose. Examples of commodities for sale are: food, lodging, entertainment, real estate, petroleum products, parts and equipment. Examples of services are: flight training, charter flights, maintenance, aircraft storage and tie-down. Examples of a facility used for a business purpose are: facility used for the transport of persons for a corporate business purpose and a facility used to transport persons for compensation or hire.

(e) **Design Helicopter:** A generic helicopter which, for helicopters expected to operate at a heliport, reflects the maximum of the following design characteristics: weight, overall length, main rotor diameter, height, and length/width of the undercarriage.

(f) **Displaced Threshold:** A threshold at the approach end of a runway, not located at the physical end of a runway, which designates the beginning of the portion of the runway usable for landing.

(g) **Emergency Medical Services (EMS) Landing Site:** A site used for the landing and taking off of EMS helicopters that is located at or as near as practical to a medical emergency or at or near a medical facility and

(1) has been designated an EMS landing site by an officer authorized by a public safety agency, as defined in PUC Section 21662.1, using criteria that the public safety agency has determined is reasonable and prudent for the safe operation of EMS helicopters and

(2) is used, over any twelve month period, for no more than an average of six landings per month with a patient or patients on the helicopter, except to allow for adequate medical response to a mass casualty event even if that response causes the site to be used beyond these limits, and

(3) is not marked as a permitted heliport as described in Section 3554 of these regulations and

(4) is used only for emergency medical purposes.

(h) Emergency Use Facility: An area for accommodating helicopters in support of emergency public safety agency operations, but it is not used as a heliport for any other purpose.

(i) Final Approach and Takeoff Area (FATO): The area of a heliport over which the final phase of the approach to a hover or a landing is completed and from which the takeoff is initiated.

(j) Heliport: An area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters.

(k) Obstruction to Air Navigation: Any object that is higher than any of the heights defined in FAR 77.23.

(l) Offshore Oil Platform: A structure in the ocean, not connected to the shore by pier, bridge, wharf, dock or breakwater, used in the support of petroleum exploration or production.

(m) Operation: Either the landing or takeoff of an aircraft.

(n) Owner: The person with the authority to possess the facility, which may be in “fee simple” or a leasehold for a period of at least one year.

(o) Personal-Use Airport: An airport limited to the noncommercial activities of an individual owner or family and occasional invited guests.

(p) Primary Surface:

(1) For airports only: A surface longitudinally centered on a runway with a width and length determined in accordance with FAR 77.25(c).

(2) For heliports only: The area of the primary surface, in accordance with FAR 77.29(a), coincides in size and shape with the designated FATO of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

(q) Public-Use Airport: An airport that is open for aircraft operations to the general public and is listed in the current edition of the Airport/Facility Directory that is published by the National Ocean Service of the U.S. Department of Commerce.

(r) Relocated Threshold: Defines the start of the usable portion of a runway, but is not located at the physical end of a runway.

(s) Runway (airports only): A defined rectangular area on an airport prepared for the landing and takeoff of aircraft.

(t) Safety Area:

(1) For airports only: A defined surface surrounding the runway or taxiway prepared or suitable for reducing the risk of damage to airplanes in the event of an undershoot, overshoot, or excursion from the runway or taxiway.

(2) For heliports only: A defined area on a heliport surrounding the FATO which is free of objects at or above the elevation of the closest point of the TLOF, other than those required for air navigation purposes, and is intended to reduce the risk of damage to helicopters accidentally diverging from the FATO. Objects required for air navigation purposes within this area shall be on frangible mounts and shall not penetrate the approach or transitional surfaces by more than two inches.

(u) Seaplane Landing Site: An area of water used, or intended for use, for landing and takeoff of seaplanes.

(v) Site Approval Permit: A written approval issued by the Department authorizing construction of an airport in accordance with approved plans, specifications, and conditions.

(w) Special-Use Airport: An airport not open to the general public, access to which is controlled by the owner in support of commercial activities, public service operations and/or personal use.

(x) Taxiway: A designated, but not necessarily paved, path or route for aircraft to taxi from one airport area to another.

(y) Temporary Helicopter Landing Site: A site, other than an emergency medical service landing site at or near a medical facility, which is used for landing and taking off of helicopters and

(1) is used or intended to be used for less than one year, except for recurrent annual events, and

(2) is not marked or lighted to be distinguishable as a heliport and

(3) is not used exclusively for helicopter operations.

(z) Threshold: The beginning of that portion of the runway available and suitable for landing of aircraft.

(aa) Touchdown and Liftoff Area (TLOF): The load bearing area of a heliport that is centered within the FATO and upon which a helicopter lands or takes off.

(bb) Transitional Surface: Surface which extends outward and upward from the lateral boundaries of the primary surface and from the approach surfaces in accordance with FAR 77.25(e) for airports only or FAR 77.29(c) for heliports only.

ARTICLE 2. PERMITS

3530. PERMIT REQUIREMENTS

(a) No person may hold an airport open for use, unless otherwise exempted, without first applying for and obtaining an appropriate permit or authorization as required by the Department.

(b) No aircraft takeoff or landing may be made at a site that is not permitted, exempted, or authorized in accordance with these regulations.

(c) A separate heliport permit is not required for a designated heliport located within the boundaries of a permitted airport if the heliport meets heliport design standards as described in Article 4 of these regulations.

(d) Any permit issued by the Department shall continue in effect so long as the airport meets the conditions under which the permit is issued or until action is taken by the Department to revoke or suspend the permit.

(e) When airport ownership changes, the new airport owner shall submit an application [an Amended/Corrected Airport Permit-Application (DOA-0103 (Rev. 10/96) for airports only) or a Corrected Heliport Permit-Application (DOA-0202 (Rev. 10/96) for heliports only)] and documentation showing who owns the airport to the Department within 30 days of such change.

(f) Before physical or operational changes are made which affect conditions which have been imposed upon operation of the airport, the airport owner shall submit an application [an Amended/Corrected Airport Permit Application (DOA-0103 (Rev. 10/96) for airports only) or a Corrected Heliport Permit Application (DOA-0202 (Rev. 10/96) for heliports only)] and supporting documentation identified on the applicable form to the Department to remove, add or amend the conditions. The application and supporting documentation shall be submitted to the Department by the airport owner at least 30 working days prior to the physical or operational change.

3532. TEMPORARY AIRPORT AUTHORIZATION

(a) No person may make aircraft landings and takeoffs from a nonpermitted or nonexempt site without first applying for and obtaining a temporary airport authorization from the Department to conduct such operations.

(b) For a temporary airport authorization other than for helicopter operations within 1000 feet of a school, a person shall apply for a temporary airport authorization by submitting a letter to the Department. Information to be submitted with the letter, for the application to be complete, is as follows:

- (1) Name of person applying and name of the aircraft operator;
- (2) Site location (latitude and longitude or other descriptive information which will assist in locating site);
- (3) Local area map with site plotted on map (United States Geological Survey, city map, etc.);
- (4) Type(s) of aircraft to use the site;
- (5) Period and expected number of operations (landings and takeoffs);
- (6) Purpose and description of operations;
- (7) Letter or notice of approval from local governing body (city or county); and
- (8) Letter or notice of approval by landowner.

(c) For a temporary airport authorization for helicopter operations within 1000 feet of a school:

(1) No person may takeoff or land a helicopter within 1000 feet of the boundary of any public or private school that maintains kindergarten classes or any classes in grades 1 through 12, unless at a permitted heliport or an EMS landing site, without first applying for and obtaining a Helicopter Landing Authorization (HLA) from the Department or from a public safety agency (PSA) designated by the Department.

(2) To apply for an HLA, a person shall submit to the Department, or to a PSA designated by the Department, a completed Helicopter Landing Authorization-Application [Form DOA-0204 (Rev. 10/96)]. The application shall include the following:

(A) a signed statement from the administration of each school that is within 1000 feet of the proposed helicopter operations stating that the administration does not object to the proposed helicopter operations at the site and the administration waives its right to demand a public hearing in accordance with PUC Section 21662.5 and

(B) a signed statement approving the helicopter operations from the landing site's owner, if the helicopter operations will not be on school property.

(d) The Department shall evaluate temporary airport sites on the basis of the airport design standards in Articles 3 and 4 of these regulations. Variances may be granted from design standards when safety of flight or the interests of the general public are not jeopardized.

(e) Temporary airport authorizations are for specific events and specified time periods.

3533. EXEMPTIONS

(a) All airports in the State of California, except those owned or operated by the United States Government, are subject to the permitting requirements of these regulations.

(b) The following classes of airport are exempt from the permitting requirements of these regulations pursuant to PUC Section 21661:

- (1) Agricultural airports;
- (2) Seaplane landing sites;
- (3) Personal-use airports in unincorporated areas which meet the requirements of Article 5 of these regulations;
- (4) Any airport which has heretofore been established and which is currently being used pursuant to exemption granted under previous regulations of the Department. Such airports shall continue to be exempt, provided the use and conditions pertaining to such exemption continue to be met. Such airports shall be marked in accordance with Section 3560(e) of these regulations;
- (5) Heliports established on offshore oil platforms;
- (6) Temporary helicopter landing sites that are not within 1000 feet of the boundary of a public or private school maintaining kindergarten classes or any classes in grades 1 through 12;
- (7) Emergency medical services (EMS) landing sites; and
- (8) Emergency use facilities.

(c) An owner of an exempt airport may apply for a permit under these regulations.

(d) The above listed exemptions do not supersede or negate any requirements of Federal agencies or local government jurisdictions.

(e) An airport's exemption ceases if the airport's owner no longer operates the airport within the limitations of the exemption.

3534. APPLICATIONS FOR AN AIRPORT PERMIT

(a) Application to construct or establish an airport for which a permit is required in accordance with these regulations shall, prior to the construction or establishment of the proposed airport, be submitted to the Department for approval on a Site Approval Permit Application form [DOA-0100, (Rev. 10/96) for airports only or DOA-0201, (Rev. 10/96) for heliports only].

(b) For the Department to consider an application complete, the following items shall be submitted as a part of the Site Approval Permit Application:

(1) Two copies of scaled drawings of the airport and adjoining areas that show:

(A) the airport meets or exceeds the design standards established in Article 3 (for airports only) or Article 4 (for heliports only) of these regulations, unless the Department has granted a variance to a specific standard;

(B) arrows for magnetic and true north;

(C) magnetic alignment of the centerline of each approach surface; for a heliport that has multiple, consecutive approach surfaces which create a sector, include the magnetic alignment of each approach surface which defines the limits of the sector;

(D) locations and heights of structures, highways, railways, above ground wires, above ground cables, poles, fences, vegetation, and other potential obstructions that underlie the airport's imaginary surfaces as defined in FAR Part 77.25 (for airports only) or 77.29 (for heliports only); and

(E) additional information that is pertinent to the safe use of the airport;

(2) Topographic map that shows the location and altitude of the aircraft traffic patterns relative to the airport (for airports only) or the location of the approach surfaces relative to the heliport (for heliports only);

(3) Local area map or drawing depicting the airport and the location of schools, places of public gatherings, and residential areas within two miles of the centerline of a proposed runway or within 1,000 feet of the center of a proposed FATO;

(4) Documentation of approval of the plan for construction by either the Board of Supervisors of the county or the City Council of the city (as appropriate) in which the airport is to be located;

(5) Documentation of action by the Airport Land Use Commission of the county in which the airport is to be located (as appropriate);

Act;

(6) Documentation of compliance with the California Environmental Quality

(7) Documentation showing ownership of the airport; and

(8) FAA Airspace Determination for the airport.

(c) Upon completion of the airport, the airport owner shall notify the Department and request an airport permit authorizing the airport to be opened for operations. The Department shall inspect the airport. If the airport meets all the conditions of the Site Approval Permit, the Department shall issue the airport permit.

(d) Examples of the various application forms are found in the Appendix of these regulations.

3535. PROCESSING TIME

(a) Within 10 working days after receipt of an application for a permit or temporary airport authorization, the Department shall notify the person applying in writing if the application is incomplete. An incomplete application cannot be processed. A complete application will initiate the permitting or authorization process.

(b) The Department's time periods for processing any complete application or notification per Section 3534(c) of these regulations from receipt to the final decision regarding issuance or denial of a permit or authorization are as follows:

- (1) minimum time: 15 working days;
- (2) median time: 30 working days; and
- (3) maximum time: 45 working days, depending on proceedings/outcome of a public hearing or other problems.

3536. REVOCATION AND SUSPENSION

An airport owner may request, by notification in writing to the Department, that the Department suspend or revoke the airport permit.

ARTICLE 3. DESIGN STANDARDS, AIRPORTS ONLY

3540. GENERAL

(a) The information and standards included in this Article establish minimum standards for a permitted airport suitable for airplanes with a design approach speed of less than 91 knots, a wingspan of less than 49 feet, and a maximum certificated takeoff weight of 12,500 pounds or less.

(b) Design standards for runways and taxiways shall be in accordance with FAA ACs.

(c) Obstruction standards and designation of imaginary surfaces related to airports shall be in accordance with FAR Part 77.

(d) The Department may grant variances to these design and obstruction standards. These variances may be granted where reasonable conditions exist and the interests of the general public will not be compromised.

(e) The Department may require flight demonstrations by the airport's owner to assist in determining whether requested variances would affect safety.

3542. AIRPORT DESIGN STANDARDS

As a minimum, the following items are required for a permitted airport:

(a) runway and runway safety area;

(b) a wind cone;

(c) a segmented circle with traffic pattern indicators if:

(1) the airport has right traffic to any runway and

(2) the airport does not have an operational air traffic control tower during all airport operating hours;

(d) runway and taxiway markings in accordance with Section 3543(a) of these regulations;

(e) clear 20:1 approach surfaces to each end of each runway's primary surface or to its displaced threshold;

(f) clear 7:1 transitional surfaces to each runway's primary surface and approach surfaces; and

(g) if night use is planned, airport lighting in accordance with Section 3543(b) of these regulations.

3543. MARKING, LIGHTING, AND VISUAL AIDS

(a) AIRPORT MARKING. Airport markings are as follows:

(1) runway and taxiway markings:

(A) markings for paved runways and taxiways shall be in accordance with FAA AC 150/5340-1G and shall include runway designation numbers, centerline, runway holding position, and, if applicable, displaced or relocated threshold markings. Additionally, a runway that is not open to the general public shall be marked with the letter "R" at each runway end. The "R" shall be at least 20 feet in height and 11 feet in width. Line width shall be 30 inches. The marking is to be painted white and it shall be kept in a clearly distinguishable condition.

(B) markings for unpaved runways shall include delineation of runway ends and, if applicable, displaced threshold bars. Additionally, an unpaved runway that is not open to the general public shall be marked with the letter "R". The "R" shall be located adjacent to the runway as near as practical to either the runway mid-point or each end of the runway, and in a location that is not a hazard to aircraft operations. The "R" shall be at least 20 feet in height and 11 feet in width. Line width shall be 30 inches. The marking shall be a color that provides contrast with the ground and it shall be kept in a clearly distinguishable condition. Any materials used to delineate features on a runway or taxiway or to construct the "R" shall be constructed such that they are not a hazard to aircraft operations.

(2) markings of a closed or abandoned runway shall be in accordance with FAA AC 150/5340-1G.

(b) AIRPORT LIGHTING. An airport lighting system is required for night operations. An airport lighting system consists of the following:

(1) runway edge and threshold lights in accordance with FAA AC 150/5340-24;

(2) a lighted wind cone;

(3) if traffic pattern indicators are required in accordance with Section 3542(c) of these regulations, they shall be illuminated;

(4) if a runway is lighted and it is not open to the general public, at least one "R", as required in Section 3543(a) of these regulations, shall be illuminated; and

(5) obstruction lights as follows:

(A) at a public-use airport, any obstruction to air navigation as defined in FAR 77.23 shall be lighted in accordance with FAA AC 70/7460-1J, unless the FAA has conducted an aeronautical study and determined that the lighting is not necessary for safety and the Department concurs.

(B) at an airport that is not for public-use, the airport owner shall survey the airport area and shall identify objects that are obstructions to air navigation as defined in FAR 77.23. The Department shall evaluate the obstructions and determine whether obstruction lighting is required.

ARTICLE 4. DESIGN STANDARDS, HELIPORTS ONLY

3550. GENERAL

(a) The information and standards included in this Article establish minimum standards for a permitted heliport suitable for a design helicopter.

(b) Design standards for a permitted heliport shall be in accordance with FAA ACs.

(c) Obstruction standards and designation of imaginary surfaces related to heliports shall be in accordance with FAR Part 77.

(d) The Department may grant variances to these design and obstruction standards. These variances may be granted where reasonable conditions exist and the interests of the general public will not be compromised.

(e) The Department may require flight demonstrations by the heliport's owner to assist in determining whether requested variances would affect safety.

3551. HELIPORT DESIGN STANDARDS

As a minimum, the following items are required for a permitted heliport:

(a) final approach and takeoff area (FATO) with:

(1) a length and width or diameter that is at least one and one half times the overall length of the design helicopter. This area shall be free of objects, to include safety nets and guard rails, at or above the closest point of the touchdown and lift-off area (TLOF);

(2) a safety area, surrounding the FATO, that is the greater of one third times the main rotor diameter of the design helicopter or ten feet; and

(3) a load bearing portion that:

(A) is centered within the FATO and, if the entire FATO is not load bearing, is delineated as a TLOF. A delineated TLOF shall be at least 1.5 times the undercarriage length or width, whichever is greater, of the design helicopter;

(B) is free of objects and surface irregularities; and

(C) has a grade that does not exceed 2%. If approved by the Department, the grade may exceed 2% to allow for a curb around the edges so long as the curb is tapered so that it does not present a sharp lip that could create a pivot point for a helicopter's landing gear. If allowed, this curb shall not exceed two inches in height;

(b) a wind cone;

(c) at least one clear 8:1 approach surface to the FATO, centered along an approach/takeoff path;

(d) heliport markings as described in Section 3554(a) of these regulations;

(e) clear 2:1 transitional surfaces to the FATO and approach surfaces; and

(f) if night use is planned, heliport lighting in accordance with Section 3554(b) of these regulations.

3554. MARKING, LIGHTING, AND VISUAL AIDS

(a) HELIPORT MARKING. All markings, except for FATO and TLOF boundary markings, shall be oriented to be legible when flying toward the heliport using the primary approach/takeoff path. Heliport markings are as follows:

(1) an underlined letter "H" that shall be centered within the FATO and it shall be at least 10 feet in height. If the heliport is at a medical facility, the underlined letter "H" shall be red and it shall be imposed in the middle of a 30' white cross. A heliport not open to the public may utilize a company logo or some other marking in lieu of the "H" if approved by the Department;

(2) either FATO or TLOF boundary markings in accordance with Chapter 3 of FAA AC 150/5390-2A. A heliport may have both FATO and TLOF boundary markings;

(3) a heliport not open to the public shall be marked with the letters "PVT" in letters at least 5 feet in height that are located on the FATO;

(4) a heliport that is restricted to helicopters under a certain weight (e.g., rooftop heliport) shall be marked with a weight limit marking, in thousands of pounds, that is located on the FATO;

(5) a landing direction arrow shall be used when an approach/takeoff path is constrained by environmental or safety concerns which require the precise navigation that the arrow affords. An arrow shall not be used for a curved approach; and

(6) markings of a closed or abandoned heliport shall be in accordance with AC 150/5390-2A.

(b) **HELIPORT LIGHTING.** A heliport lighting system is required for night operations. No lights may penetrate the heliport's primary, approach, or transitional surfaces by more than two inches. Any lighting fixture used shall present a low profile to minimize interference with ground maneuvering and flight operations. A heliport lighting system consists of the following:

(1) perimeter lighting in accordance with Chapter 3 of FAA AC 150/5390-2A. Floodlights may be used in lieu of perimeter lights if approved by the Department. If approved by the Department, floodlights shall be located and oriented so they do not interfere with the pilot's ability to see clearly during takeoff, landing, or taxiing;

(2) a lighted wind cone;

(3) if a landing direction arrow is required in Section 3554(a)(5) of these regulations, the arrow shall have landing direction lights centered within it; and

(4) obstruction lights as follows:

(A) at a public-use heliport, any obstruction to air navigation as defined in FAR 77.23 shall be lighted in accordance with FAA AC 70/7460-1J, unless the FAA has conducted an aeronautical study and determined that the lighting is not necessary for safety and the Department concurs.

(B) at a heliport that is not for public-use, the heliport owner shall survey the heliport area to identify objects that are obstructions to air navigation as defined in FAR 77.23. The Department shall evaluate the obstructions and determine whether obstruction lighting is required.

ARTICLE 5. PERSONAL-USE AIRPORTS

3560. GENERAL

Many elements in the design of Personal-Use airports are at the discretion of the owner. However, the Department requires at least the following:

(a) a runway length and width or FATO dimensions adequate to enable aircraft to operate safely, considering airport location and the performance data of the most demanding aircraft to utilize the airport;

(b) the ends of each runway shall be at least 200 feet from the airport property line or the closest point of each FATO shall be at least 80 feet from the airport property line;

(c) the distance from the runway centerline to the property line of another owner shall be at least 50 feet;

(d) the distance from the taxiway centerline to the property line of another owner shall be at least 50 feet; and

(e) if the airport is identifiable as an airport from the air, it shall be marked with the letter “R” in accordance with Section 3543(a) [for airports only] or the letters “PVT” in accordance with Section 3554(a)(3) [for heliports only]. If an airport lighting system is installed, it shall illuminate the required markings. The Department shall determine whether or not the airport is identifiable from the air if there is a dispute.

APPENDIX

(Sample Application Forms)

APPENDIX G

(Information in this appendix is provided as a reference source to assist the users of the AELUP and may be obtained online at <http://www.dot.ca.gov/hq/planning/aeronaut/htmlfile/avnoise.php>)

NOISE STANDARDS FOR CALIFORNIA AIRPORTS

California Code of Regulations

Title 21(Div.2.5, Ch. 6) Sections 5000 through 5090

APPENDIX H

AIRPORT LAND USE COMMISSION – REFERRAL CONFIRMATION NOTICE

APPENDIX H

Date: _____

Name: _____

Title: _____

Agency: _____

Address: _____

Subject: Referral Confirmation Notice: _____

Dear _____:

This is to confirm that the Airport Land Use Commission (ALUC) staff has received the (Agency) _____ referral request of your project entitled: _____.

Your referral, being complete and sufficient for a review and consistency determination by the Commission, is hereby accepted as of (date) _____ and will be agendaized for the Commission meeting of (date) _____.

A copy of the staff report regarding your item will be provided to you prior to the Commission meeting. It would be helpful if you or a member of your staff could be at the Commission's meeting.

I can be reached at (949) 252-5170 or at (insert email address).

Sincerely,

Executive Officer
Airport Land Use Commission

APPENDIX I

SAMPLE AVIGATION EASEMENTS AND DEED NOTICE

- Sample Avigation Easement and Deed Notice from the State of California Department of Transportation (Caltrans)/Division of Aeronautics *California Airport Land Use Planning Handbook, Appendix D* (January 2002).
- Sample Grant of Avigation Easement for John Wayne Airport

The information below is derived from the Caltrans Division of Aeronautics *California Code of Regulations Title 21, Subchapter 6 Noise Standards, Section 5037*: (The entire document may be found online at <http://www.dot.ca.gov/hq/planning/aeronaut/htmlfile/forms.php>).

Suggested Methodology for Controlling and Reducing Noise Problems

The methods whereby the impact of airport noise may be controlled and reduced include, but are not limited to, the following:

- (a) Encouraging use of the airport by aircraft classes with lower noise level characteristics and discouraging use by higher noise level aircraft classes;
- (b) Encouraging approach and departure flight paths and procedures to minimize the noise in residential areas;
- (c) Planning runway utilization schedules to take into account adjacent residential areas, noise characteristics of aircraft, and noise sensitive time periods;
- (d) Reduction of the flight frequency, particularly in the most noise sensitive periods and by the noisier aircraft;
- (e) Employing shielding for advantage, using natural terrain, buildings, and other obstructions to noise; and
- (f) Development of compatible land uses within the noise impact boundary through rezoning, acquisition of avigation easements for noise (voluntarily in exchange for acoustical insulation, an agreed fee, or by eminent domain), application of acoustical insulation, or acquisition of property as examples.

Preference shall be given to actions which reduce the impact of airport noise on existing communities. Land use conversion involving existing residential communities shall normally be considered the least desirable action for achieving compliance with these regulations.

Sample Implementation Documents

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

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

County of Orange
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

Attn: _____

EXEMPT FROM FILING FEES, CAL. GOV'T CODE § 6103

(Space Above Line for Recorder's Use)

GRANT OF AVIGATION EASEMENT

(John Wayne Airport)

ASSESSOR PARCEL # _____

RECITALS:

1. [Insert property owner name], ("Grantor"), is the owner, as a limited liability company for [insert other defining information, as applicable], of the fee simple estate in and to that certain real property situated in the County of Orange, State of California, commonly described as: [insert name of project] at [insert location of project], and more particularly described in Exhibit "A," attached hereto and incorporated by this reference ("Subject Property");

2. It is the desire of Grantor, for itself, its heirs, administrators, executors, successors, assigns, tenants, guests, and other persons in or using the Subject Property with the implied or express consent of Grantor, to grant to the County of Orange, a political subdivision of the State of California ("the County"), an air and avigation easement, also known as a perpetual air, flight or noise easement, on, upon, over, across, above, or in the vicinity of the Subject Property, and to all of the Airspace (as hereinafter defined) above the Subject Property, whereby Grantor relinquishes certain rights relative to the Subject Property, as described in this Grant of Avigation Easement ("Avigation Easement");

3. The purpose of this Avigation Easement, and its acceptance by the County, includes granting the County an Avigation Easement permitting the unencumbered and unrestricted flight of aircraft to or from John Wayne Airport ("JWA"), owned and operated by the County, without liability to the County, to the aircraft operator, or to any other person lawfully operating aircraft to or from JWA in the navigable airspace of the United States (as defined at 49 U.S.C.S. §40102(a)(30)), and as that section of the United States Code (and the referenced regulations) existed on the effective date of this Avigation Easement, and in accordance with relevant regulations of the United States of America and the State of California,

SAMPLE

pursuant to the authority granted to the County by the people and the State of California. As agreed upon by the parties, this Avigation Easement is calculated by reference to the Airport Environs Land Use Plan ("AELUP") for JWA Years 1990/2005 "Project Case" noise contours (as depicted in Appendix D of the AELUP for JWA dated December 19, 2002) plus 1.5 decibels ("dB") Community Noise Equivalent Level ("CNEL").

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged:

WARRANTIES AND COVENANTS:

Grantor warrants and covenants to the County that as of the date hereof:

1. Grantor holds the entire fee simple interest in the Subject Property;
2. Grantor shall not convey its interest in the Subject Property, or execute, deliver, or permit hereafter recordation of any interest in the Subject Property, or any lien or encumbrance against the Subject Property (or any interest therein), until the earlier of the following events: (i) this Avigation Easement has been properly executed by Grantor, accepted by the County, and recorded by the Orange County Recorder; or (ii) thirty (30) days have elapsed after Grantor has delivered this Avigation Easement to the County, properly and fully executed and notarized.
3. If the person executing this Avigation Easement is other than the Grantor, the person executing this Avigation Easement has represented to the County, in documentation separate from this grant, that he/she has been duly and lawfully authorized by Grantor to execute this Avigation Easement on behalf of Grantor.

GRANT OF AVIGATION EASEMENT

4. The Grantor, individually and for their heirs, administrators, executors, tenants, guests, agents, successors, assigns, and other persons in or using the property with the implied or express consent of Grantor, hereby grants, conveys and assigns to the County, its successors, and assigns, a perpetual non-exclusive and assignable Avigation Easement and the right to enter or penetrate into or transmit through the Airspace above, on or in the vicinity of the Subject Property for the unobstructed use, passage or operation of all types of aircraft and the right to create or generate all things and consequences to the Subject Property that may be, or may be alleged to be, incident to or resulting from the use and enjoyment of said Airspace and any and all related aircraft and airport operations, including, but not limited to, those impacts and effects described in Section 5.

5. This Avigation Easement shall be for air navigation, airport operations, aircraft sound and noise, aircraft avigation and flight in, to, over and through the Airspace above the Subject Property, as well as the imposition in, on, over, upon or in the vicinity of the Subject Property of noise, sound, vibration, fumes, fuel particles, dust, discomfort or other environmental effects incident to such aircraft operations and any and all resulting annoyance, inconvenience,

or other interference with the use and enjoyment of the Subject Property and any consequent reduction in market value, all due to the operation of aircraft to and/or from JWA, including landing at, taking off from, taxiing, maintenance, or other aircraft or related facility operations at or on JWA.

6. This Avigation Easement is for the use of such airspace by any aircraft, present or future, in whatever form or type, during operations at, on, to, or from JWA, including any future change to or increase in JWA's boundaries and/or in the volume or pattern of aircraft traffic or aircraft noise, by all existing or future types of aircraft, up to and including the AELUP for JWA Years 1990/2005 "Project Case" noise contours (as depicted in the AELUP for JWA, Appendix D) plus 1.5 dB CNEL, including the imposition on the surface of the Subject Property and on any and all structures on the Subject Property of such noise, vibration, fumes, fuel particles, dust, discomfort or other environmental effects incident to such aircraft operations and any and all resulting annoyance, nuisance, inconvenience, taking of or damage to the Subject Property, or any portion of the Subject Property, or other interference with the use and enjoyment of the Subject Property and any consequent reduction in market value. This Avigation Easement shall continue notwithstanding any future changes or increases in the type, volume, frequency, duration, or location of operations to, from or at JWA up to and including the AELUP for JWA Years 1990/2005 "Project Case" noise contours (as depicted in the AELUP for JWA, Appendix D) plus 1.5 dB CNEL.

7. This Avigation Easement also includes all things that may be alleged to be incident to or resulting from the use and enjoyment of this Easement, including, but not limited to, the Grantee's continuing right to prevent, prohibit, clear and keep clear from the Airspace above the Property any buildings, portions of buildings, structures or improvements of any kind, and of trees, vegetation, or other objects that may cause interference with aircraft navigation and/or operations at JWA, including the right to remove or demolish those portions of such buildings, structures, improvements, trees, vegetation, or other objects which extend into the Airspace and, in the reasonable judgment of the Grantee, may cause interference with aircraft navigation and/or operations at JWA, and, at the reasonable discretion of the Grantee, the right to mark and light, or cause or require to be marked and lighted, as obstructions or hazards to air navigation or aircraft operations, any and all buildings, structures, or other improvements, and trees, vegetation, or other objects, which extend into the Airspace above the Property. This Avigation Easement also includes the Grantee's right of ingress to, passage within, and egress from the Property to inspect the Property, improvements or vegetation of any type on the Property and, to remove any building, structure, other improvement, tree or vegetation (or portion thereof) which extends into the Airspace in violation of this Section, or to install such lighting, or marking of any such improvement or vegetation as permitted by this Section; and for all other purposes described in this Section at reasonable times and after reasonable notice. Grantee shall use reasonable efforts to minimize any disturbance of the occupants of the Subject Property in exercising its rights hereunder. If any building, structure, other improvement, tree or vegetation (or portion thereof) extends into the Airspace in violation of this Avigation Easement, Grantee shall so notify Grantor, or its successors, of such violation and the requested corrective measure, which may include, but not be limited to, the installation of such lighting, or marking of any such improvement or vegetation, as required by law. If the Grantor, or its successors, do not

correct such violation within thirty (30) days, or such shorter time period as may be required by Grantee due to an emergency or some other circumstance requiring more immediate action, the Grantee shall have the right of ingress to, passage within, and egress from the Property to remove any building, structure, other improvement, tree or vegetation (or portion thereof) which extends into the Airspace in violation of this Avigation Easement, or to install such lighting, or marking of any such improvement or vegetation, as required by law or as reasonably required by Grantee.

8. The cost to remove any building, structure, other improvement, tree or vegetation (or portion thereof) which extends into the Airspace in violation of this Avigation Easement, or to install such lighting, or marking of any such improvement or vegetation as permitted by Section 7; and for all other purposes described Section 7 shall be borne exclusively by Grantor.

9. As used in this Avigation Easement, the term "aircraft" shall mean any and all types of aircraft, whether now in existence or hereafter manufactured and developed, to include, but not be limited to, jet aircraft, propeller drawn aircraft, aircraft powered by other means, civil aircraft, military aircraft, commercial aircraft, helicopters and all types of aircraft or vehicles now in existence or hereafter developed for the purpose of transporting persons or property through the air, by whomever owned or operated.

10. As used in this Avigation Easement, the term "Airspace" shall mean the entire area above those certain imaginary surfaces over the ground surface of the Property that are within the Federal Aviation Regulations ("FAR") Part 77 Surfaces, as specified in Advisory Circulars 70/7460-2K (height criteria) and 70/7460-1H (standards for marking and lighting) and any and all successor revisions or regulations by the Federal Aviation Administration, any successor agency, or any other agency of the federal, state or local government of the United States of America exercising comparable authority except that additional area below those certain imaginary surfaces over the ground surface of the Property particularly described in Exhibit "A" attached hereto.

11. It is expressly intended by Grantor and the County that this Avigation Easement shall not supersede or impair any existing prescriptive, avigation, or other easements, rights, or interests of the County, in or applicable to the Subject Property, if any, all of which easements, rights, interests, and any remedies related thereto are expressly reserved by the County.

12. In furtherance of this Avigation Easement, and rights herein granted, Grantor, and the heirs, administrators, executors, agents, successors, and assigns of Grantor, hereby covenant at all times hereafter, that it will not take any action or knowingly cause any electronic, light or other transmissions or emissions, construct or grow any obstruction, or discharge any fumes, dust or smoke on the Subject Property which would conflict or interfere with or infringe on the County's rights herein granted, or to otherwise impair the usability or function of JWA.

13. The rights, easements, benefits, restrictions, covenants and agreements granted herein, including this Avigation Easement, shall continue notwithstanding any increase or other change in the type, boundaries, volume of operations, frequency, duration, noise, or pattern, location of air traffic to, from or at JWA. This Avigation Easement may not be modified, amended, terminated, or abandoned except by execution and delivery of an instrument executed

and acknowledged by the County, or its agents, successors, and assigns, and Grantor agrees that, in the absence of such an instrument, no conduct or use of the Subject Property by Grantor for any period of time shall be construed to establish prescriptive rights in Grantor or its successors or assigns, nor shall any conduct by the County, or its agents, successors and assigns, or increase, diminution, or change in use of this Avigation Easement, or the operation or use of JWA by Grantee constitute an overburdening of this Avigation Easement or a termination or abandonment of this Avigation Easement.

14. The parties to this Avigation Easement acknowledge and agree that the easement, and all the rights, easements, benefits, restrictions, covenants and agreements set forth herein shall run with the land of the Grantor and the County, and any grantee, heir, agent, successor or assign of the Grantor who acquires any estate or interest in or right to use the Subject Property shall be bound by this Avigation Easement for the benefit of JWA and the County, and its agents, successors and assigns, including, without limitation, the tenants and licensees of the County, and all users of JWA. This Avigation Easement and all rights pertaining hereto is hereby vested in the Grantee, its successors and assigns, forever and without limit in time, and shall be binding upon the successors and assigns of Grantor.

15. Grantor, and the grantees, heirs, agents, successors, and assigns of Grantor, hereby fully waive and forever release, and covenant not to assert or bring any right or cause of action, which it or they might now have, or which it or they may have in the future, against the County, its agents, successors, and assigns, or against the tenants, licensees, permittees, or users of JWA, caused by or relating to the use of this Avigation Easement or the exercise of rights under this Avigation Easement. This grant of this easement shall not operate to deprive the Grantor, its heirs, agents, successors, and assigns, of any rights which may from time to time arise against any air carrier or private operator for negligent or unlawful operation of aircraft.

16. In the event that any one or more covenant, condition, right or other provision contained in this Avigation Easement is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Avigation Easement and shall in no way affect, impair, or invalidate any other covenant, condition, right or other provision contained in this Avigation Easement.

17. This Avigation Easement constitutes an enforceable restriction pursuant to the provisions of California law, including, but not limited to, Section 21652 of the California Public Utilities Code, and shall bind Grantor and the grantees, heirs, administrators, executors, lessees, tenants, permittees, agents, successors, and assigns of Grantor, and each and all of them, and shall be appurtenant to, and for the benefit of, the real property commonly known as JWA, which is more particularly described John Wayne Airport, approximately 504 total acres, in the

SAMPLE

unincorporated area of the County of Orange to, from and on which aviation activities take place, generally south of Interstate 405, north of State Route 73, west of MacArthur Boulevard and Campus Drive, and east of Red Hill Avenue.

GRANTOR:

[Insert owner name]

Date: _____

By: _____

Name: _____

Title: _____

CERTIFICATE OF ACCEPTANCE

In accordance with Section 27281 of the California Government Code, this is to certify that the interest in real property conveyed by this Grant of Avigation Easement, dated _____ from _____ to the COUNTY OF ORANGE, a political subdivision of the State of California, is hereby accepted by the undersigned officer on behalf of the Board of Supervisors of the County of Orange, and the Grantee consents to recordation thereof by its duly authorized officer.

DATED: _____

COUNTY OF ORANGE

By _____

ACKNOWLEDGMENT

STATE OF CALIFORNIA)

) ss.

COUNTY OF ORANGE)

On _____, 20__, before me _____

personally appeared _____

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

SAMPLE

EXHIBIT "A"

(Subject Property Legal Description)