

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 235

HOUSE BILL 2140

AN ACT

AMENDING SECTION 9-461.05, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 1; AMENDING SECTION 9-461.06, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 2; AMENDING SECTION 11-806, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 4; AMENDING SECTION 11-824, ARIZONA REVISED STATUTES; AMENDING SECTION 28-8461, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 9; AMENDING SECTION 28-8481, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 11; AMENDING SECTION 28-8482, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 12; AMENDING SECTION 32-2113, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 13; AMENDING SECTION 37-102, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 111, SECTION 18; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-1512 AND 41-1512.01; REPEALING SECTION 41-3005.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3014.01; REPEALING TITLE 41, CHAPTER 29, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO MILITARY AIRPORT PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-461.05, Arizona Revised Statutes, as amended by
3 Laws 2004, chapter 111, section 1, is amended to read:

4 9-461.05. General plans; authority; scope

5 A. Each planning agency shall prepare and the governing body of each
6 municipality shall adopt a comprehensive, long-range general plan for the
7 development of the municipality. The planning agency shall coordinate the
8 production of its general plan with the creation of the state land department
9 conceptual land use plans under title 37, chapter 2, article 5.1 and shall
10 cooperate with the state land department regarding integrating the conceptual
11 state land use plans into the municipality's general land use plan. The
12 general plan shall include provisions that identify changes or modifications
13 to the plan that constitute amendments and major amendments. The plan shall
14 be adopted and readopted in the manner prescribed by section 9-461.06.

15 B. The general plan shall be so prepared that all or individual
16 elements of it may be adopted by the governing body and that it may be made
17 applicable to all or part of the territory of the municipality.

18 C. The general plan shall consist of a statement of community goals
19 and development policies. It shall include maps, any necessary diagrams and
20 text setting forth objectives, principles, standards and plan proposals. The
21 plan shall include the following elements:

22 1. A land use element that:

23 (a) Designates the proposed general distribution and location and
24 extent of such uses of the land for housing, business, industry, agriculture,
25 recreation, education, public buildings and grounds, open space and other
26 categories of public and private uses of land as may be appropriate to the
27 municipality.

28 (b) Includes a statement of the standards of population density and
29 building intensity recommended for the various land use categories covered by
30 the plan.

31 (c) Identifies specific programs and policies that the municipality
32 may use to promote infill or compact form development activity and locations
33 where those development patterns should be encouraged.

34 (d) Includes consideration of air quality and access to incident solar
35 energy for all general categories of land use.

36 (e) Includes policies that address maintaining a broad variety of land
37 uses including the range of uses existing in the municipality when the plan
38 is adopted, readopted or amended.

39 (f) For cities and towns with territory in the vicinity of a military
40 airport or ancillary military facility as defined in section 28-8461,
41 includes consideration of military airport or ancillary military facility
42 operations. ON OR BEFORE DECEMBER 31, 2005, IF A CITY OR TOWN INCLUDES LAND
43 IN A HIGH NOISE OR ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461, THE
44 CITY OR TOWN SHALL IDENTIFY THE BOUNDARIES OF THE HIGH NOISE OR ACCIDENT
45 POTENTIAL ZONE IN ITS GENERAL PLAN FOR PURPOSES OF PLANNING LAND USES IN THE
46 HIGH NOISE OR ACCIDENT POTENTIAL ZONE THAT ARE COMPATIBLE WITH THE OPERATION

1 OF THE MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY PURSUANT TO SECTION
2 28-8481, SUBSECTION J.

3 2. A circulation element consisting of the general location and extent
4 of existing and proposed freeways, arterial and collector streets, bicycle
5 routes and any other modes of transportation as may be appropriate, all
6 correlated with the land use element of the plan.

7 D. For cities and towns having a population of more than two thousand
8 five hundred persons but less than ten thousand persons and whose population
9 growth rate exceeded an average of two per cent per year for the ten year
10 period before the most recent United States decennial census and for cities
11 and towns having a population of ten thousand or more persons according to
12 the most recent United States decennial census, the general plan shall
13 include, and for other cities and towns the general plan may include:

14 1. An open space element that includes:

15 (a) A comprehensive inventory of open space areas, recreational
16 resources and designations of access points to open space areas and
17 resources.

18 (b) An analysis of forecasted needs, policies for managing and
19 protecting open space areas and resources and implementation strategies to
20 acquire additional open space areas and further establish recreational
21 resources.

22 (c) Policies and implementation strategies designed to promote a
23 regional system of integrated open space and recreational resources and a
24 consideration of any existing regional open space plans.

25 2. A growth area element, specifically identifying those areas, if
26 any, that are particularly suitable for planned multimodal transportation and
27 infrastructure expansion and improvements designed to support a planned
28 concentration of a variety of uses, such as residential, office, commercial,
29 tourism and industrial uses. This element shall include policies and
30 implementation strategies that are designed to:

31 (a) Make automobile, transit and other multimodal circulation more
32 efficient, make infrastructure expansion more economical and provide for a
33 rational pattern of land development.

34 (b) Conserve significant natural resources and open space areas in the
35 growth area and coordinate their location to similar areas outside the growth
36 area's boundaries.

37 (c) Promote the public and private construction of timely and
38 financially sound infrastructure expansion through the use of infrastructure
39 funding and financing planning that is coordinated with development activity.

40 3. An environmental planning element that contains analyses, policies
41 and strategies to address anticipated effects, if any, of plan elements on
42 air quality, water quality and natural resources associated with proposed
43 development under the general plan. The policies and strategies to be
44 developed under this element shall be designed to have community-wide
45 applicability and shall not require the production of an additional

1 environmental impact statement or similar analysis beyond the requirements of
2 state and federal law.

3 4. A cost of development element that identifies policies and
4 strategies that the municipality will use to require development to pay its
5 fair share toward the cost of additional public service needs generated by
6 new development, with appropriate exceptions when in the public interest.
7 This element shall include:

8 (a) A component that identifies various mechanisms that are allowed by
9 law and that can be used to fund and finance additional public services
10 necessary to serve the development, including bonding, special taxing
11 districts, development fees, in lieu fees, facility construction, dedications
12 and service privatization.

13 (b) A component that identifies policies to ensure that any mechanisms
14 that are adopted by the municipality under this element result in a
15 beneficial use to the development, bear a reasonable relationship to the
16 burden imposed on the municipality to provide additional necessary public
17 services to the development and otherwise are imposed according to law.

18 5. A water resources element that addresses:

19 (a) The known legally and physically available surface water,
20 groundwater and effluent supplies.

21 (b) The demand for water that will result from future growth projected
22 in the general plan, added to existing uses.

23 (c) An analysis of how the demand for water that will result from
24 future growth projected in the general plan will be served by the water
25 supplies identified in subdivision (a) of this paragraph or a plan to obtain
26 additional necessary water supplies.

27 E. The general plan shall include for cities of fifty thousand persons
28 or more and may include for cities of less than fifty thousand persons the
29 following elements or any part or phase of the following elements:

30 1. A conservation element for the conservation, development and
31 utilization of natural resources, including forests, soils, rivers and other
32 waters, harbors, fisheries, wildlife, minerals and other natural resources.
33 The conservation element may also cover:

34 (a) The reclamation of land.

35 (b) Flood control.

36 (c) Prevention and control of the pollution of streams and other
37 waters.

38 (d) Regulation of the use of land in stream channels and other areas
39 required for the accomplishment of the conservation plan.

40 (e) Prevention, control and correction of the erosion of soils,
41 beaches and shores.

42 (f) Protection of watersheds.

43 2. A recreation element showing a comprehensive system of areas and
44 public sites for recreation, including the following and, if practicable,
45 their locations and proposed development:

46 (a) Natural reservations.

- (b) Parks.
- (c) Parkways and scenic drives.
- (d) Beaches.
- (e) Playgrounds and playfields.
- (f) Open space.
- (g) Bicycle routes.
- (h) Other recreation areas.

3. The circulation element provided for in subsection C, paragraph 2 of this section shall also include for cities of fifty thousand persons or more and may include for cities of less than fifty thousand persons recommendations concerning parking facilities, building setback requirements and the delineations of such systems on the land, a system of street naming and house and building numbering and other matters as may be related to the improvement of circulation of traffic. The circulation element may also include:

(a) A transportation element showing a comprehensive transportation system, including locations of rights-of-way, terminals, viaducts and grade separations. This element of the plan may also include port, harbor, aviation and related facilities.

(b) A transit element showing a proposed system of rail or transit lines or other mode of transportation as may be appropriate.

4. A public services and facilities element showing general plans for police, fire, emergency services, sewage, refuse disposal, drainage, local utilities, rights-of-way, easements and facilities for them.

5. A public buildings element showing locations of civic and community centers, public schools, libraries, police and fire stations and other public buildings.

6. A housing element consisting of standards and programs for the elimination of substandard dwelling conditions, for the improvement of housing quality, variety and affordability and for provision of adequate sites for housing. This element shall contain an identification and analysis of existing and forecasted housing needs. This element shall be designed to make equal provision for the housing needs of all segments of the community regardless of race, color, creed or economic level.

7. A conservation, rehabilitation and redevelopment element consisting of plans and programs for:

(a) The elimination of slums and blighted areas.

(b) Community redevelopment, including housing sites, business and industrial sites and public building sites.

(c) Neighborhood preservation and revitalization.

(d) Other purposes authorized by law.

8. A safety element for the protection of the community from natural and artificial hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths according to function, clearances around structures and geologic hazard mapping in areas of known geologic hazards.

1 9. A bicycling element consisting of proposed bicycle facilities such
2 as bicycle routes, bicycle parking areas and designated bicycle street
3 crossing areas.

4 F. The water resources element of the general plan does not require:

5 1. New independent hydrogeologic studies.

6 2. The city or town to be a water service provider.

7 G. The policies and strategies to be developed under these elements
8 shall be designed to have community-wide applicability and this section does
9 not authorize the imposition of dedications, exactions, fees or other
10 requirements that are not otherwise authorized by law.

11 Sec. 2. Section 9-461.06, Arizona Revised Statutes, as amended by Laws
12 2004, chapter 111, section 2, is amended to read:

13 9-461.06. Adoption and amendment of general plan; expiration
14 and readoption

15 A. IN MUNICIPALITIES THAT HAVE TERRITORY IN A HIGH NOISE OR ACCIDENT
16 POTENTIAL ZONE AS DEFINED IN SECTION 28-8461, THE LEGISLATURE FINDS THAT IN
17 GENERAL PLANS AND AMENDMENTS TO GENERAL PLANS LAND USE COMPATIBILITY WITH THE
18 CONTINUED OPERATION OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS
19 DEFINED IN SECTION 28-8461 IS A MATTER OF STATEWIDE CONCERN.

20 ~~A.~~ B. The general plan and any amendment to such plan shall be
21 adopted or readopted in the manner provided in this article.

22 ~~B.~~ C. The governing body shall:

23 1. Adopt written procedures to provide effective, early and continuous
24 public participation in the development and major amendment of general plans
25 from all geographic, ethnic and economic areas of the municipality. The
26 procedures shall provide for:

27 (a) The broad dissemination of proposals and alternatives.

28 (b) The opportunity for written comments.

29 (c) Public hearings after effective notice.

30 (d) Open discussions, communications programs and information
31 services.

32 (e) Consideration of public comments.

33 2. Consult with, advise and provide an opportunity for official
34 comment by public officials and agencies, the county, school districts,
35 associations of governments, public land management agencies, the military
36 airport if the municipality has territory in the vicinity of a military
37 airport or ancillary military facility as defined in section 28-8461, other
38 appropriate government jurisdictions, public utility companies, civic,
39 educational, professional and other organizations, property owners and
40 citizens generally to secure maximum coordination of plans and to indicate
41 properly located sites for all public purposes on the general plan.

42 ~~C.~~ D. At least sixty days before the general plan or an element or
43 major amendment of a general plan is noticed pursuant to subsection ~~D~~ E of
44 this section, the planning agency shall transmit the proposal to the planning
45 commission, if any, and the governing body and shall submit a copy for review
46 and further comment to:

1 1. The planning agency of the county in which the municipality is
2 located.

3 2. Each county or municipality that is contiguous to the corporate
4 limits of the municipality or its area of extraterritorial jurisdiction.

5 3. The regional planning agency within which the municipality is
6 located.

7 4. The department of commerce or any other state agency that is
8 subsequently designated as the general planning agency for this state.

9 5. The department of water resources for review and comment on the
10 water resources element, if a water resources element is required.

11 6. If the general plan or an element or amendment of the general plan
12 is applicable to territory in the vicinity of a military airport or ancillary
13 military facility as defined in section 28-8461, the military airport.

14 7. IF THE GENERAL PLAN OR AN ELEMENT OR MAJOR AMENDMENT OF THE GENERAL
15 PLAN IS APPLICABLE TO PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE
16 OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION
17 28-8461, THE ATTORNEY GENERAL. FOR THE PURPOSES OF THIS PARAGRAPH, "MAJOR
18 AMENDMENT" MEANS A SUBSTANTIAL ALTERATION OF THE MUNICIPALITY'S LAND USE
19 MIXTURE OR BALANCE AS ESTABLISHED IN THE MUNICIPALITY'S EXISTING GENERAL PLAN
20 LAND USE ELEMENT.

21 ~~7.~~ 8. Any person or entity that requests in writing to receive a
22 review copy of the proposal.

23 ~~D.~~ E. If the municipality has a planning commission, after
24 considering any recommendations from the review required under subsection ~~E~~
25 D of this section the planning commission shall hold at least one public
26 hearing before approving a general plan or any amendment to such plan. When
27 the general plan or any major amendment is being adopted, planning
28 commissions in municipalities having populations over twenty-five thousand
29 persons shall hold two or more public hearings at different locations within
30 the municipality to promote citizen participation. Notice of the time and
31 place of a hearing and availability of studies and summaries related to the
32 hearing shall be given at least fifteen and not more than thirty calendar
33 days before the hearing by:

34 1. Publication at least once in a newspaper of general circulation
35 published or circulated in the municipality, or if there is none, the notice
36 shall be posted in at least ten public places in the municipality.

37 2. Such other manner in addition to publication as the municipality
38 may deem necessary or desirable.

39 ~~E.~~ F. Action by the planning commission on the general plan or any
40 amendment to the plan shall be transmitted to the governing body of the
41 municipality.

42 ~~F.~~ G. Before adopting the general plan, or any amendment to it, the
43 governing body shall hold at least one public hearing. Notice of the time
44 and place of the hearing shall be given in the time and manner provided for
45 the giving of notice of the hearing by the planning commission as specified
46 in subsection ~~D~~ E of this section.

1 ~~G.~~ H. The adoption or readoption of the general plan or any amendment
2 to such plan shall be by resolution of the governing body of the
3 municipality, after notice as provided for in subsection ~~D~~ E of this
4 section. The adoption or readoption of or a major amendment to the general
5 plan shall be approved by affirmative vote of at least two-thirds of the
6 members of the governing body of the municipality. All major amendments to
7 the general plan proposed for adoption by the governing body of a
8 municipality shall be presented at a single public hearing during the
9 calendar year the proposal is made. The general plan, or any amendment to
10 the plan, shall be endorsed in the manner provided by the governing body to
11 show that it has been adopted by the governing body. IF THE MUNICIPALITY
12 INCLUDES PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY
13 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461, THE
14 GOVERNING BODY OF THE MUNICIPALITY SHALL SEND NOTICE OF THE APPROVAL,
15 ADOPTION OR READOPTION OF THE GENERAL PLAN OR MAJOR AMENDMENT TO THE GENERAL
16 PLAN TO THE ATTORNEY GENERAL BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
17 WITHIN THREE BUSINESS DAYS AFTER THE APPROVAL, ADOPTION OR READOPTION. IF
18 THE ATTORNEY GENERAL DETERMINES THE APPROVAL, ADOPTION OR READOPTION OF THE
19 GENERAL PLAN OR MAJOR AMENDMENT TO THE GENERAL PLAN IS NOT IN COMPLIANCE WITH
20 SECTION 28-8481, SUBSECTION J, THE ATTORNEY GENERAL SHALL NOTIFY THE
21 MUNICIPALITY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE
22 DETERMINATION OF NONCOMPLIANCE. THE MUNICIPALITY SHALL RECEIVE THE NOTICE
23 FROM THE ATTORNEY GENERAL WITHIN TWENTY-FIVE DAYS AFTER THE NOTICE FROM THE
24 MUNICIPALITY TO THE ATTORNEY GENERAL IS MAILED PURSUANT TO THIS SUBSECTION.
25 THE EFFECTIVE DATE OF ANY APPROVAL, ADOPTION OR READOPTION OF, OR MAJOR
26 AMENDMENT TO, THE GENERAL PLAN SHALL BE THIRTY DAYS AFTER THE GOVERNING
27 BODY'S RECEIPT OF THE ATTORNEY GENERAL'S DETERMINATION OF NONCOMPLIANCE.
28 WITHIN THIRTY DAYS AFTER THE RECEIPT OF A DETERMINATION OF NONCOMPLIANCE BY
29 THE ATTORNEY GENERAL AS PRESCRIBED BY THIS SECTION, THE GOVERNING BODY OF THE
30 MUNICIPALITY SHALL RECONSIDER ANY APPROVAL, ADOPTION OR READOPTION OF, OR
31 MAJOR AMENDMENT TO, THE GENERAL PLAN THAT IMPACTS PROPERTY IN THE HIGH NOISE
32 OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY
33 FACILITY AS DEFINED IN SECTION 28-8461. IF THE GOVERNING BODY REAFFIRMS A
34 PRIOR ACTION SUBJECT TO AN ATTORNEY GENERAL'S DETERMINATION OF NONCOMPLIANCE
35 PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION
36 PURSUANT TO SECTION 28-8481, SUBSECTION L. IF THE GOVERNING BODY TIMELY
37 SENDS NOTICE PURSUANT TO THIS SUBSECTION AND THE ATTORNEY GENERAL FAILS TO
38 TIMELY NOTIFY THE GOVERNING BODY OF A DETERMINATION OF NONCOMPLIANCE, THE
39 GENERAL PLAN OR MAJOR AMENDMENT TO THE GENERAL PLAN SHALL BE DEEMED TO COMPLY
40 WITH SECTION 28-8481, SUBSECTION J. If the motion to adopt or readopt a
41 general plan or an amendment to the general plan fails to pass, the governing
42 body may reconsider the motion in any manner allowed by the governing body's
43 rules of procedure, but any subsequent motion for the adoption or readoption
44 of the general plan or a major amendment to the general plan must be approved
45 by an affirmative vote of at least two-thirds of the members of the governing
46 body. For THE purposes of this subsection, "major amendment" means a

1 substantial alteration of the municipality's land use mixture or balance as
 2 established in the municipality's existing general plan land use
 3 element. The municipality's general plan shall define the criteria to
 4 determine if a proposed amendment to the general plan effects a substantial
 5 alteration of the municipality's land use mixture or balance as established
 6 in the municipality's existing general plan land use element.

7 ~~H.~~ I. If the municipality does not have a planning commission, the
 8 only procedural steps required for the adoption of the general plan, or any
 9 amendment to such plan, shall be those provided in this article for action by
 10 the governing body.

11 ~~I.~~ J. A copy of the adopted general plan of a municipality shall be
 12 sent to the planning agency of the county within which the municipality is
 13 located, and such plan or any portion of the plan may be adopted as a part of
 14 the county general plan.

15 ~~J.~~ K. A general plan, with any amendments, is effective for up to ten
 16 years from the date the plan was initially adopted and ratified pursuant to
 17 subsection ~~L~~ M of this section, or until the plan is readopted pursuant to
 18 this subsection and ratified pursuant to subsection ~~L~~ M of this section or a
 19 new plan is adopted pursuant to this subsection and ratified pursuant to
 20 subsection ~~L~~ M of this section, and becomes effective. On or before the
 21 tenth anniversary of the plan's most recent adoption, the governing body of
 22 the municipality shall either readopt the existing plan for an additional
 23 term of up to ten years or shall adopt a new general plan as provided by this
 24 article.

25 ~~K.~~ L. Except for general plans that are required to be submitted to
 26 the voters for ratification pursuant to subsection ~~L~~ M of this section, the
 27 adoption or readoption of a general plan, and any amendment to a general
 28 plan, shall not be enacted as an emergency measure and is subject to
 29 referendum as provided by article IV, part 1, section 1, subsection (8),
 30 Constitution of Arizona, and title 19, chapter 1, article 4.

31 ~~L.~~ M. The governing body of a city or town having a population of
 32 more than two thousand five hundred persons but less than ten thousand
 33 persons and whose population growth rate exceeded an average of two per cent
 34 per year for the ten year period before the most recent United States
 35 decennial census, and any city or town having a population of ten thousand or
 36 more persons, shall submit each new general plan adopted pursuant to
 37 subsection ~~J~~ K of this section to the voters for ratification at the next
 38 regularly scheduled municipal election or at a special election scheduled at
 39 least one hundred twenty days after the governing body adopted the plan
 40 pursuant to section 16-204. The governing body shall include a general
 41 description of the plan and its elements in the municipal election pamphlet
 42 and shall provide public copies of the plan in at least two locations that
 43 are easily accessible to the public and may include posting on the
 44 municipality's official internet web site. If a majority of the qualified
 45 electors voting on the proposition approves the new plan, it shall become
 46 effective as provided by law. If a majority of the qualified electors voting

on the proposition fails to approve the new plan, the current plan remains in effect until a new plan is approved by the voters pursuant to this subsection. The governing body shall either resubmit the proposed new plan, or revise the new plan as provided by this section, for subsequent submission to the voters at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body readopted the new or revised new plan. All subsequent adoptions and submissions of the new plan or revised plans must comply with the procedures prescribed by this section until the plan is ratified.

~~M.~~ N. In applying an open space element or a growth element of a general plan a municipality shall not designate private land or state trust land as open space, recreation, conservation or agriculture unless the municipality receives the written consent of the landowner or provides an alternative, economically viable designation in the general plan or zoning ordinance, allowing at least one residential dwelling per acre. If the landowner is the prevailing party in any action brought to enforce this subsection, a court shall award fees and other expenses to the landowner. A municipality may designate land as open space without complying with the requirements of this subsection if the land was zoned as open space and used as a golf course pursuant to a zoning ordinance adopted pursuant to article 6.1 of this chapter before May 1, 2000 and the designation does not impose additional conditions, limitations or restrictions on the golf course, unless the land is state trust land that was not planned and zoned as open space pursuant to title 37, chapter 2, article 5.1.

Sec. 3. Section 11-806, Arizona Revised Statutes, as amended by Laws 2004, chapter 111, section 4, is amended to read:

11-806. Powers and duties: comprehensive plan

A. The commission shall act in an advisory capacity to the board and may from time to time, and shall, when requested by the board, make a report or recommendation in connection with any matter relating to the development of the county under the jurisdiction of the board. The commission shall make such investigations, maps, reports and recommendations in connection therewith as seem desirable within the limits of the funds available.

B. The commission shall prepare and recommend to the board a comprehensive plan of the area of jurisdiction of the county in the manner prescribed by article 2 of this chapter. The purpose of the plan is to bring about coordinated physical development in accordance with the present and future needs of the county. The comprehensive plan shall be developed so as to conserve the natural resources of the county, to ensure efficient expenditure of public funds, and to promote the health, safety, convenience, and general welfare of the public. Such comprehensive plan may include but not be limited to, among other things, studies and recommendations relative to the location, character and extent of highways, railroads, bus and other transportation routes, bicycle facilities, bridges, public buildings, public services, schools, parks, open space, housing quality, variety and affordability, parkways, hiking and riding trails, airports, forests,

1 wildlife areas, dams, projects affecting conservation of natural resources,
2 air quality, water quality and floodplain zoning. For counties with
3 territory in the vicinity of a military airport or ancillary military
4 facility as defined in section 28-8461, the commission shall also consider
5 military airport or ancillary military facility operations AND, ON OR BEFORE
6 DECEMBER 31, 2005, SHALL IDENTIFY THE BOUNDARIES OF ANY HIGH NOISE OR
7 ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461 IN ITS COMPREHENSIVE
8 PLAN FOR PURPOSES OF PLANNING LAND USES IN THE HIGH NOISE OR ACCIDENT
9 POTENTIAL ZONE THAT ARE COMPATIBLE WITH THE OPERATION OF THE MILITARY AIRPORT
10 OR ANCILLARY MILITARY FACILITY PURSUANT TO SECTION 28-8481, SUBSECTION J.
11 Such comprehensive plan shall be a public record, but its purpose and effect
12 shall be primarily as an aid to the county planning and zoning commission in
13 the performance of its duties.

14 C. After considering any recommendations from the review required
15 under subsection H of this section, the planning commission shall hold at
16 least one public hearing. Notice of the time and place of a hearing and
17 availability of studies and summaries related to the hearing shall be given
18 at least fifteen and not more than thirty calendar days before the hearing
19 by:

20 1. Publication at least once in a newspaper of general circulation in
21 the county.

22 2. Such other manner in addition to publication as the county may deem
23 necessary or desirable.

24 D. The board shall adopt a comprehensive plan and subsequently amend
25 or extend the adopted plan as provided by article 2 of this chapter. Before
26 the adoption, amendment or extension of the plan, the board shall hold at
27 least one public hearing on the plan.

28 E. The board of supervisors shall:

29 1. Adopt written procedures to provide effective, early and continuous
30 public participation in the development and major amendment of comprehensive
31 plans from all geographic, ethnic and economic areas of the county. The
32 procedures shall provide for:

33 (a) The broad dissemination of proposals and alternatives.

34 (b) The opportunity for written comments.

35 (c) Public hearings after effective notice.

36 (d) Open discussions, communications programs and information
37 services.

38 (e) Consideration of public comments.

39 2. Consult with, advise and provide an opportunity for official
40 comment by public officials and agencies, municipalities, school districts,
41 associations of governments, public land management agencies, the military
42 airport if the county's area of jurisdiction includes territory in the
43 vicinity of a military airport or ancillary military facility as defined in
44 section 28-8461, other appropriate government jurisdictions, public utility
45 companies, civic, educational, professional and other organizations, property

1 owners and citizens generally to secure the maximum coordination of plans and
2 to indicate properly located sites for all public purposes on the plan.

3 3. In counties having a population of less than four hundred thousand
4 persons, receive petitions to form a rural planning area that are signed by
5 persons who own real property in any specific portion of the county outside
6 the corporate boundaries of any cities and towns. The petitions must be
7 signed by owners of a majority of the acres of real property in the proposed
8 planning area. Participation in the rural planning area is voluntary, and
9 any person may withdraw real property owned by the person from the planning
10 area. The board of supervisors shall encourage voluntary participation in
11 the planning area and shall aid the planning areas in providing a sound
12 factual and policy basis for planning. The recommendations of rural planning
13 areas shall emphasize voluntary, nonregulatory incentives for compliance and
14 accommodation of continuing traditional rural and agricultural
15 enterprises. Rural planning areas shall transmit their recommendations to
16 the board of supervisors for its consideration for inclusion in the county
17 comprehensive plan.

18 F. In any county having a population of less than four hundred
19 thousand persons, any cities and towns and the county sharing a
20 multijurisdictional area with a combined population of more than fifty
21 thousand but less than one hundred thousand persons, according to the most
22 recent department of economic security estimates, may voluntarily form rural
23 planning zones to develop coordinated and comprehensive regional plans.

24 G. The commission shall confer with the state land department and the
25 governing bodies and planning commissions of cities and towns in the county
26 for the purpose of guiding and accomplishing a coordinated, adjusted and
27 harmonious development of the county, of zoning districts, of urban growth
28 and of public improvements and utilities which do not begin and terminate
29 within the boundaries of any single city or town and which will, in
30 accordance with the present and future needs of the county, best promote with
31 efficiency and economy the health, safety, morals, order, convenience or
32 general welfare of the public.

33 H. At least sixty days before the comprehensive plan or an element or
34 major amendment of a comprehensive plan is noticed pursuant to subsection C
35 of this section, the commission shall transmit the proposal to the board of
36 supervisors and submit a copy for review and further comment to:

- 37 1. Each municipality in the county.
- 38 2. Each other county that is contiguous to the county.
- 39 3. The regional planning agency in the county.
- 40 4. The department of commerce or any other state agency that is
41 subsequently designated as the general planning agency for this state.
- 42 5. The department of water resources for review and comment on the
43 water resources element, if a water resources element is required.
- 44 6. If the comprehensive plan or an element or amendment of the
45 comprehensive plan is applicable to territory in the vicinity of a military

1 airport or ancillary military facility as defined in section 28-8461, the
2 military airport.

3 7. IF THE COMPREHENSIVE PLAN OR AN ELEMENT OR MAJOR AMENDMENT OF THE
4 COMPREHENSIVE PLAN IS APPLICABLE TO PROPERTY IN THE HIGH NOISE OR ACCIDENT
5 POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS
6 DEFINED IN SECTION 28-8461, THE ATTORNEY GENERAL. FOR THE PURPOSES OF THIS
7 PARAGRAPH, "MAJOR AMENDMENT" MEANS A SUBSTANTIAL ALTERATION OF THE COUNTY'S
8 LAND USE MIXTURE OR BALANCE AS ESTABLISHED IN THE COUNTY'S EXISTING
9 COMPREHENSIVE PLAN LAND USE ELEMENT FOR THAT AREA OF THE COUNTY.

10 ~~7-~~ 8. Any person or entity that requests in writing to receive a
11 review copy of the proposal.

12 I. IF A COUNTY'S AREA OF JURISDICTION INCLUDES LAND IN A HIGH NOISE OR
13 ACCIDENT POTENTIAL ZONE AS DEFINED IN SECTION 28-8461, IN ORDER TO FACILITATE
14 DEVELOPMENT IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE THAT CONFORMS TO THE
15 COMPATIBLE USES PRESCRIBED IN SECTION 28-8481, SUBSECTION J, THE COUNTY MAY
16 APPROVE THE TRANSFER OF DEVELOPMENT RIGHTS AND ENTER INTO INTERGOVERNMENTAL
17 AGREEMENTS WITH ANY CITY OR TOWN OR OTHER COUNTY.

18 Sec. 4. Section 11-824, Arizona Revised Statutes, is amended to read:

19 ~~11-824.~~ Adoption and amendment of county plan by board of
20 supervisors; expiration and readoption

21 A. The board of supervisors may adopt the county comprehensive plan as
22 a whole, or by successive actions adopt separate parts of the plan. The
23 adoption or readoption of the comprehensive plan or any amendment to the plan
24 shall be by resolution of the board. If the motion to adopt or readopt the
25 plan or an amendment to the plan fails to pass, the board may reconsider the
26 motion in any manner allowed by the board's rules of procedure, but any
27 subsequent motion for the adoption or readoption of the plan or a major
28 amendment to the plan must be approved by an affirmative vote of at least
29 two-thirds of the members of the board.

30 B. A county comprehensive plan, with any amendments, is effective for
31 up to ten years from the date the plan was initially adopted or until the
32 plan is readopted or a new plan is adopted pursuant to this subsection and
33 becomes effective. On or before the tenth anniversary of the plan's most
34 recent adoption, the board shall either readopt the existing plan for an
35 additional term of up to ten years or shall adopt a new county plan as
36 provided by this article.

37 C. The adoption or readoption of, or a major amendment to, the county
38 comprehensive plan shall be approved by the affirmative vote of at least
39 two-thirds of the members of the board. All major amendments proposed for
40 adoption to the comprehensive plan by the board shall be presented at a
41 single public hearing during the calendar year the proposal is made. The
42 adoption or readoption of a county plan, and any major amendment to a county
43 plan, shall not be enacted as an emergency measure and is subject to
44 referendum as provided by article IV, part 1, section 1, subsection (8),
45 Constitution of Arizona, and title 19, chapter 1, article 4. IF THE COUNTY'S
46 AREA OF JURISDICTION INCLUDES PROPERTY IN THE HIGH NOISE OR ACCIDENT

1 POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS
2 DEFINED IN SECTION 28-8461, THE BOARD SHALL SEND NOTICE OF THE APPROVAL,
3 ADOPTION OR READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE
4 COMPREHENSIVE PLAN TO THE ATTORNEY GENERAL BY CERTIFIED MAIL, RETURN RECEIPT
5 REQUESTED, WITHIN THREE BUSINESS DAYS AFTER THE APPROVAL, ADOPTION OR
6 READOPTION. IF THE ATTORNEY GENERAL DETERMINES THE APPROVAL, ADOPTION OR
7 READOPTION OF THE COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE
8 PLAN IS NOT IN COMPLIANCE WITH SECTION 28-8481, SUBSECTION J, THE ATTORNEY
9 GENERAL SHALL NOTIFY THE COUNTY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
10 OF THE DETERMINATION OF NONCOMPLIANCE. THE BOARD SHALL RECEIVE THE NOTICE
11 FROM THE ATTORNEY GENERAL WITHIN TWENTY-FIVE DAYS AFTER THE NOTICE FROM THE
12 BOARD TO THE ATTORNEY GENERAL IS MAILED PURSUANT TO THIS SUBSECTION. THE
13 EFFECTIVE DATE OF ANY APPROVAL, ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT
14 TO, THE COMPREHENSIVE PLAN SHALL BE THIRTY DAYS AFTER THE BOARD'S RECEIPT OF
15 THE ATTORNEY GENERAL'S DETERMINATION OF NONCOMPLIANCE. WITHIN THIRTY DAYS
16 AFTER THE RECEIPT OF A DETERMINATION OF NONCOMPLIANCE BY THE ATTORNEY GENERAL
17 AS PRESCRIBED BY THIS SECTION, THE BOARD SHALL RECONSIDER ANY APPROVAL,
18 ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT TO, THE COMPREHENSIVE PLAN THAT
19 IMPACTS PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY
20 AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461. IF THE
21 BOARD REAFFIRMS A PRIOR ACTION SUBJECT TO AN ATTORNEY GENERAL'S DETERMINATION
22 OF NONCOMPLIANCE PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY INSTITUTE
23 A CIVIL ACTION PURSUANT TO SECTION 28-8481, SUBSECTION L. IF THE BOARD
24 TIMELY SENDS NOTICE PURSUANT TO THIS SUBSECTION AND THE ATTORNEY GENERAL
25 FAILS TO TIMELY NOTIFY THE BOARD OF A DETERMINATION OF NONCOMPLIANCE, THE
26 COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE COMPREHENSIVE PLAN SHALL BE
27 DEEMED TO COMPLY WITH SECTION 28-8481, SUBSECTION J. If the board fails to
28 adopt or readopt the plan, the current plan remains in effect until a new
29 plan is adopted. The board shall either reconsider the proposed plan or
30 consider a revised plan within one year and shall continue to do so until one
31 is adopted. All subsequent considerations of a new or revised plan must
32 comply with the procedures prescribed by this article. For THE purposes of
33 this subsection, "major amendment" means a substantial alteration of the
34 county's land use mixture or balance as established in the county's existing
35 comprehensive plan land use element for that area of the county. The
36 county's comprehensive plan shall define the criteria to determine if a
37 proposed amendment to the comprehensive plan effects a substantial alteration
38 of the county's land use mixture or balance as established in the county's
39 existing comprehensive plan land use element for that area of the county.

40 D. Upon adoption or readoption, the plan, or any part of the plan,
41 shall be the official guide for the development of the area of jurisdiction.

42 E. Any change, amendment, extension or addition of the county plan may
43 be made only in accordance with the provisions of this chapter.

44 F. In applying an open space element or a growth element of a
45 comprehensive plan a county shall not designate private or state land as open
46 space, recreation, conservation or agriculture unless the county receives the

1 written consent of the landowner or provides an alternative, economically
2 viable designation in the comprehensive plan or zoning ordinance, allowing at
3 least one residential dwelling per acre. If the landowner is the prevailing
4 party in any action brought to enforce this subsection, a court shall award
5 fees and other expenses to the landowner. Each county shall incorporate this
6 subsection into its comprehensive plan and provide a process for a landowner
7 to resolve discrepancies relating to this subsection.

8 Sec. 5. Section 28-8461, Arizona Revised Statutes, as amended by Laws
9 2004, chapter 111, section 9, is amended to read:

10 28-8461. Definitions

11 In this article, unless the context otherwise requires:

12 1. "Accident potential zone one" means an area three thousand feet
13 wide by five thousand feet long that starts at the end of each clear zone and
14 that is centered and measured on the extended runway centerline, terminating
15 eight thousand feet from the end of each runway and, for an ancillary
16 military facility DESCRIBED IN PARAGRAPH 7 OF THIS SECTION, includes an area
17 delineated as accident potential zone one in the map described in paragraph 7
18 of this section.

19 2. "Accident potential zone two" means an area three thousand feet
20 wide by seven thousand feet long that starts at the end of each accident
21 potential zone one and that is centered and measured on the extended runway
22 centerline, terminating fifteen thousand feet from the end of each runway,
23 except that, for ~~political subdivisions described in paragraph 9, subdivision~~
24 ~~(a) of this section~~ LUKE AIR FORCE BASE, accident potential zone two extends
25 thirty thousand feet southwest from the end of each runway and, for an
26 ancillary military facility DESCRIBED IN PARAGRAPH 7 OF THIS SECTION,
27 includes an area delineated as accident potential zone two in the map
28 described in paragraph 7 of this section.

29 3. "Airport" means an area of land or water that is designed and set
30 aside for the landing and taking off of aircraft and that is utilized or to
31 be utilized in the interest of the public for those purposes.

32 4. "Airport hazard" means a structure, tree or use of land that
33 obstructs the air space required for flight of aircraft in taking off or
34 landing at an airport or that is otherwise hazardous to aircraft taking off
35 or landing.

36 5. "Airport hazard area" means an area of land or water on which an
37 airport hazard might be established if not prevented as provided in this
38 article.

39 6. "Airstrip" means a strip of ground that is artificially or
40 naturally surfaced and that is designed and used at an airport or landing
41 field for the landing and takeoff of aircraft.

42 7. "Ancillary military facility" means: ~~—~~

43 (a) For political subdivisions described in paragraph 9, subdivision
44 (a) of this section, the military auxiliary airfield that is identified on
45 the map that is designated as Luke air force base auxiliary airfield #1, that
46 is dated March 1, 2004 and that is on file in printed format at the state

land department on the effective date of this amendment to this section pursuant to section 37-102.

(b) FOR LUKE AIR FORCE BASE IN MARICOPA COUNTY, THE MILITARY AUXILIARY FIELD THAT IS LOCATED IN THE TOWN OF GILA BEND, THAT IS USED TO TRAIN SPECIFIC MILITARY AIRCRAFT MANEUVERS OR TO PERFORM A SPECIFIC MILITARY AIRPORT FUNCTION, THAT MAY OR MAY NOT HAVE A PAVED RUNWAY FROM WHICH AIRCRAFT MAY OR MAY NOT LAND, THAT IS RECOGNIZED BY THE MILITARY AIRPORT AND POLITICAL SUBDIVISIONS IN MARICOPA COUNTY OR THE REPORT OF A COOPERATIVE LAND USE PLANNING EFFORT AMONG AFFECTED POLITICAL SUBDIVISIONS AND THE MILITARY AIRPORT IN MARICOPA COUNTY AND THAT IS IDENTIFIED ON A MAP THAT IS PREPARED BY THE STATE LAND DEPARTMENT AND KEPT ON FILE WITH THE STATE LAND DEPARTMENT AND THE STATE REAL ESTATE DEPARTMENT PURSUANT TO SECTION 37-102.

(c) FOR YUMA MARINE CORPS AIR STATION IN YUMA COUNTY, THE MILITARY AUXILIARY FIELD THAT IS RECOGNIZED BY THE MILITARY AIRPORT AND POLITICAL SUBDIVISIONS IN YUMA COUNTY OR THE REPORT OF A COOPERATIVE LAND USE PLANNING EFFORT AMONG AFFECTED POLITICAL SUBDIVISIONS AND THE MILITARY AIRPORT IN YUMA COUNTY AND THAT IS IDENTIFIED ON A MAP THAT IS PREPARED BY THE STATE LAND DEPARTMENT AND KEPT ON FILE WITH THE STATE LAND DEPARTMENT AND THE STATE REAL ESTATE DEPARTMENT PURSUANT TO SECTION 37-102.

8. "Clear zone" means an area three thousand feet long measured along the extended runway centerline beginning at the end of all main military runways and three thousand feet wide centered on and measured at right angles to the extended runway centerline and, for an ancillary military facility DESCRIBED IN PARAGRAPH 7 OF THIS SECTION, includes an area delineated as a clear zone in the map described in paragraph 7 of this section.

9. "High noise or accident potential zone" means any property located in the following zones:

(a) ~~In political subdivisions located in a county with a population of two million or more persons~~ FOR LUKE AIR FORCE BASE IN MARICOPA COUNTY, within the 1988 noise contours developed and recognized by the regional planning agency in that county that includes the arrival and departure corridor that is the accident potential zone one and accident potential zone two plus the land area described as follows: starting two hundred feet from the south end of the westernmost runway at a width of one thousand five hundred feet west and two thousand five hundred feet east, measured perpendicular to the centerline of the runway, and extending southwesterly parallel to the runway for a distance of thirty thousand feet.

(b) ~~In political subdivisions located in a county with a population of more than eight hundred thousand persons but less than two million persons~~ FOR DAVIS-MONTHAN AIR FORCE BASE IN PIMA COUNTY, the area southeast of the runway within the noise contours, ACCIDENT POTENTIAL ZONE ONE AND ACCIDENT POTENTIAL ZONE TWO AS established by the most recent air installation compatible use zone report ~~recognized by the military airport and political subdivisions in that county, including the arrival and departure corridor that is the accident potential zone one and accident potential zone two plus the land area described as follows: starting two hundred feet from the~~

~~southeast runway end at a width of two thousand feet and extending outward thirty thousand feet to a width of ten thousand four hundred feet~~ ISSUED BY THE UNITED STATES DEPARTMENT OF DEFENSE OR THE ZONES ESTABLISHED IN THE COMPATIBLE LAND USE PLAN IN THE JOINT LAND USE STUDY COMPLETED IN FEBRUARY 2004.

(c) ~~In political subdivisions located in a county with a population of eight hundred thousand persons or less~~ FOR YUMA MARINE CORPS AIR STATION AND LAGUNA ARMY AIRFIELD IN YUMA COUNTY AND LIBBY ARMY AIRFIELD IN COCHISE COUNTY, within the noise contours established by the most recent air installation compatible use zone report RECOGNIZED BY THE MILITARY AIRPORT AND POLITICAL SUBDIVISIONS IN THAT COUNTY OR THE REPORT OF A COOPERATIVE LAND USE PLANNING EFFORT AMONG AFFECTED POLITICAL SUBDIVISIONS AND THE MILITARY AIRPORT recognized by the military airport and political subdivisions in that county, including the arrival and departure corridor that is the accident potential zone one and accident potential zone two plus the land area described as follows: starting two hundred feet from the end points of the main runways and at a width of three thousand feet and symmetrical about a centerline between the runways extending outward to a point thirty thousand feet from the point of beginning. The outer width is seventeen thousand five hundred feet.

(d) For ~~an~~ THE ancillary military facility DESCRIBED IN PARAGRAPH 7, SUBDIVISION (a) OF THIS SECTION, the land area inside the F-16 noise contour lines and the arrival and departure corridors designated as the accident potential zone one and the accident potential zone two on the map described in paragraph 7, SUBDIVISION (a) of this section.

(e) FOR THE ANCILLARY MILITARY FACILITIES DESCRIBED IN PARAGRAPH 7, SUBDIVISIONS (b) AND (c) OF THIS SECTION, THE LAND AREAS DESIGNATED AS THE HIGH NOISE OR ACCIDENT POTENTIAL ZONES AND THE ARRIVAL AND DEPARTURE CORRIDORS DESIGNATED AS THE ACCIDENT POTENTIAL ZONE ONE AND THE ACCIDENT POTENTIAL ZONE TWO ON THE MAP OF EACH ANCILLARY MILITARY FACILITY DESCRIBED IN PARAGRAPH 7, SUBDIVISIONS (b) AND (c) OF THIS SECTION.

10. "Military airport" means an airport that is operated by an armed force of the United States and that is primarily used for military fixed wing aircraft operations, excluding a runway or airstrip that is not immediately adjacent to facilities primarily used for operational control, maintenance and permanent parking of aircraft.

11. "Occupied building" means any building where people live, work or are otherwise received.

12. "Person" means an individual, firm, partnership, corporation, company, association, joint stock association or body politic, including any trustee, receiver, assignee or other representative of a trustee, receiver or assignee.

13. "Political subdivision" means a city, town or county and includes a school district.

~~14. "Previous reporting period" means from July 1 of the year before the report is due through June 30 of the year the report is due.~~

1 ~~15.~~ 14. "Runway" means an artificially surfaced strip of ground that
2 is designed and used at an airport for the landing and takeoff of aircraft.

3 ~~16.~~ 15. "School" means any public institution established for the
4 purposes of offering instruction to pupils in programs for preschool children
5 with disabilities, kindergarten programs or any combination of grades one
6 through twelve.

7 ~~17.~~ 16. "School district" means a political subdivision of this state
8 with geographic boundaries organized for the purpose of the administration,
9 support and maintenance of the public schools or an accommodation school.

10 ~~18.~~ 17. "School district development plan" means any proposal to build
11 or expand a school but does not include repairing, maintaining or remodeling
12 an existing school.

13 ~~19.~~ 18. "Structure" means an object that is constructed or installed
14 by a human including a building, tower, smokestack or overhead transmission
15 line.

16 ~~20.~~ 19. "Territory in the vicinity" means any property located in the
17 following zones:

18 (a) ~~In counties that have a population of two million or more persons~~
19 FOR LUKE AIR FORCE BASE IN MARICOPA COUNTY, the zone is ten miles to the
20 north, south and west and four miles to the east parallel from the center of
21 the main runway of a military airport.

22 (b) ~~In counties that have a population of more than eight hundred~~
23 ~~thousand but less than two million persons~~ FOR DAVIS-MONTHAN AIR FORCE BASE
24 IN PIMA COUNTY, the zone is five miles to the northwest along a line
25 extending from the end of the northwest runway, one and one-half miles to the
26 southwest, six and one-half miles to the northeast and perpendicular to the
27 runway centerline and ten miles to the southeast along a line extending from
28 the end of the southeast runway of a military airport.

29 (c) ~~In counties that have a population of eight hundred thousand~~
30 ~~persons or less~~ FOR YUMA MARINE CORPS AIR STATION AND LAGUNA ARMY AIRFIELD IN
31 YUMA COUNTY AND LIBBY ARMY AIRFIELD IN COCHISE COUNTY, the zone is five miles
32 to the north, south and west and ten miles to the east of the center of the
33 main runway of a military airport.

34 (d) For an ancillary military facility DESCRIBED IN PARAGRAPH 7,
35 SUBDIVISION (a) OF THIS SECTION, the land AREA designated as the territory in
36 the vicinity ~~of a military airport in~~ ON the map described in paragraph 7,
37 SUBDIVISION (a) of this section.

38 (e) FOR THE ANCILLARY MILITARY FACILITIES DESCRIBED IN PARAGRAPH 7,
39 SUBDIVISIONS (b) AND (c) OF THIS SECTION, THE LAND AREAS DESIGNATED AS THE
40 TERRITORY IN THE VICINITY ON THE MAP OF EACH ANCILLARY MILITARY FACILITY
41 DESCRIBED IN PARAGRAPH 7, SUBDIVISIONS (b) AND (c) OF THIS SECTION.

42 ~~21.~~ 20. "Tree" means an object of natural growth.

43 Sec. 6. Section 28-8481, Arizona Revised Statutes, as amended by Laws
44 2004, chapter 111, section 11, is amended to read:

1 28-8481. Planning and zoning: military airport and ancillary
2 military facility's operation compatibility:
3 compliance review; penalty; definitions

4 A. A political subdivision that has territory in the vicinity of a
5 military airport or ancillary military facility that includes property in a
6 high noise or accident potential zone shall adopt comprehensive and general
7 plans and school district development plans, if applicable, for property in
8 the high noise or accident potential zone to assure development compatible
9 with the high noise and accident potential generated by military airport and
10 ancillary military facility operations that have or may have an adverse
11 effect on public health and safety. Each political subdivision, excluding
12 school districts, shall adopt and enforce zoning regulations for property in
13 the high noise or accident potential zone to assure development compatible
14 with the high noise and accident potential generated by military airport and
15 ancillary military facility operations that have or may have an adverse
16 effect on public health and safety.

17 B. A political subdivision that has territory in the vicinity of a
18 military airport or ancillary military facility shall incorporate sound
19 attenuation standards pursuant to section 28-8482 into any building code in
20 existence on or adopted after July 1, 2001 or after July 1 of the year in
21 which the land becomes territory in the vicinity of a military airport or
22 ancillary military facility. This section does not affect or require the
23 modification of any building permit issued before July 1, 2001 or before July
24 1 of the year in which the land becomes territory in the vicinity of a
25 military airport or ancillary military facility.

26 C. A political subdivision that has territory in the vicinity of a
27 military airport or ancillary military facility that includes property in a
28 high noise or accident potential zone shall adopt, administer and enforce the
29 zoning regulations or school district development plans authorized by
30 subsection A of this section in the same manner as the comprehensive zoning
31 ordinance or school district development plans of the political subdivision
32 as provided by law, except that a variance shall not be granted without a
33 specific finding that the purpose of military airport or ancillary military
34 facility compatibility is preserved.

35 D. This section does not affect the existing authority of a political
36 subdivision to plan and zone on the basis of noise or accident potential in
37 the vicinity of an airport owned or controlled by the political subdivision
38 or to adopt restrictions or limitations in addition to those required by this
39 section applicable to territory in the vicinity of a military airport or
40 ancillary military facility.

41 E. This section does not restrict, limit or modify, or authorize or
42 require any political subdivision to restrict, limit or modify, the right of
43 a landowner to undertake and complete development and use of any property
44 under the terms and conditions of a development plan or school district
45 development plan approved on or before December 31, 2000, or on or before
46 December 31 of the year in which the development's property becomes territory

1 in the vicinity of a military airport or ancillary military facility or
2 pursuant to a written determination of compatibility issued by the military
3 airport or ancillary military facility on or before December 31, 2004, by the
4 political subdivision in whose territory or area of jurisdiction the property
5 is located, except that the development must comply with the sound
6 attenuation standards and specifications incorporated into any building code
7 adopted pursuant to section 28-8482 by the political subdivision in whose
8 territory or area of jurisdiction the development is located.

9 F. This section does not restrict, limit or modify, or authorize or
10 require any political subdivision to restrict, limit or modify, the right of
11 a landowner to undertake and complete development and use of any property
12 located in a high noise or accident potential zone that is appurtenant to an
13 ancillary military facility under the terms and conditions of a development
14 plan or school district development plan approved on or before December 31,
15 2004 by the political subdivision in whose territory or area of jurisdiction
16 the property is located or pursuant to a written determination of
17 compatibility issued by the military airport or ancillary military facility
18 on or before December 31, 2004, except that the development shall comply with
19 the sound attenuation standards and specifications incorporated into any
20 building code adopted pursuant to section 28-8482 by the political
21 subdivision in whose territory or area of jurisdiction the development is
22 located.

23 G. On or after July 1, 2001 or on or after December 31 of the year in
24 which the property becomes territory in a high noise or accident potential
25 zone, a political subdivision that has ~~territory~~ PROPERTY in a high noise or
26 accident potential zone shall notify the owner or owners of property in the
27 high noise and accident potential zone of any additions or changes under this
28 section to the general plan, comprehensive plan, zoning regulations or school
29 district development plan of the political subdivision applicable to property
30 in the high noise or accident potential zone. The political subdivision
31 shall provide a notice of such additions or changes by publication as
32 provided in section 9-462.04, subsection A or section 11-829, subsection C,
33 including a statement that the property is located in a high noise or
34 accident potential zone, at least thirty days before final approval of the
35 addition to or change in the general plan, permitted land uses, zoning
36 regulation or school district development plan and within thirty days
37 following the final approval of such an addition to or change in the general
38 plan, permitted land uses, zoning regulation or school district development
39 plan.

40 H. Any property owner described in subsection G of this section shall
41 notify potential purchasers of the property and any potential lessees or
42 renters that the property is located in a high noise and accident potential
43 zone and is subject to the requirements of this section.

44 ~~I. On or before August 15 of each year, each political subdivision~~
45 ~~that has territory that includes property in a high noise or accident~~
46 ~~potential zone or that is otherwise subject to the requirements of section~~

~~28-8482 shall file with the attorney general, and with each political subdivision that has territory in the vicinity of the military airport or ancillary military facility, a report that demonstrates compliance with this section and section 28-8482 during the previous reporting period. Compliance shall be determined with regard to the law in effect on June 30 of the year in which the report is due. The report shall include the following information regarding the territory in the high noise or accident potential zone, except the school district's report shall not include the information in paragraphs 1, 2, 3, 4 and 7 of this subsection:~~

~~1. Zoning map amendments within the high noise or accident potential zone.~~

~~2. Zoning or subdivision ordinance or regulation text amendments applicable to property within the high noise or accident potential zone.~~

~~3. Preliminary and final plat approvals for property within the high noise or accident potential zone.~~

~~4. Variances from zoning or subdivision ordinances for property within the high noise or accident potential zone.~~

~~5. Comprehensive, general or specific plan or school district development plan amendments for property within the high noise or accident potential zone.~~

~~6. A statement that the political subdivision complied with the notification requirements of subsection G of this section.~~

~~7. A statement that the political subdivision adopted or amended building code provisions pursuant to section 28-8482.~~

~~J. If the attorney general has not received a report or affidavit from a political subdivision that is required to file a report pursuant to subsection I of this section within thirty days after the date the report or affidavit was required to be filed pursuant to subsection I or K of this section, the attorney general shall send a written notice by certified mail, return receipt requested, to the political subdivision stating that the attorney general has not received the report or affidavit as required by this section.~~

~~K. If a political subdivision that is required to file a report pursuant to subsection I of this section has previously filed a report in compliance with subsection I of this section and that political subdivision has not taken any of the actions described in subsection I of this section since filing that report, the political subdivision shall file with the attorney general an affidavit stating that no actions were taken by the political subdivision during that period.~~

I. IF A POLITICAL SUBDIVISION INCLUDES PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY, THE POLITICAL SUBDIVISION SHALL SEND NOTICE TO THE ATTORNEY GENERAL OF ANY APPROVAL, ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT TO, THE GENERAL OR COMPREHENSIVE PLAN THAT IMPACTS PROPERTY IN THE HIGH NOISE OR ACCIDENT POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY WITHIN THREE BUSINESS DAYS AFTER THE APPROVAL, ADOPTION OR READOPTION. IF THE

1 ATTORNEY GENERAL DETERMINES THE APPROVAL, ADOPTION OR READOPTION OF THE
 2 GENERAL OR COMPREHENSIVE PLAN OR THE MAJOR AMENDMENT TO THE GENERAL OR
 3 COMPREHENSIVE PLAN IS NOT IN COMPLIANCE WITH SUBSECTION J OF THIS SECTION,
 4 THE ATTORNEY GENERAL SHALL NOTIFY THE POLITICAL SUBDIVISION BY CERTIFIED
 5 MAIL, RETURN RECEIPT REQUESTED, OF THE DETERMINATION OF
 6 NONCOMPLIANCE. WITHIN THIRTY DAYS AFTER THE RECEIPT OF A DETERMINATION OF
 7 NONCOMPLIANCE BY THE ATTORNEY GENERAL AS PRESCRIBED BY THIS SECTION, THE
 8 GOVERNING BODY OF THE POLITICAL SUBDIVISION SHALL RECONSIDER ANY APPROVAL,
 9 ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT TO, THE GENERAL OR
 10 COMPREHENSIVE PLAN THAT IMPACTS PROPERTY IN THE HIGH NOISE OR ACCIDENT
 11 POTENTIAL ZONE OF A MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY. IF THE
 12 GOVERNING BODY REAFFIRMS A PRIOR ACTION SUBJECT TO AN ATTORNEY GENERAL'S
 13 DETERMINATION OF NONCOMPLIANCE PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL
 14 MAY INSTITUTE A CIVIL ACTION PURSUANT TO SUBSECTION L OF THIS SECTION. IF A
 15 POLITICAL SUBDIVISION TIMELY SENDS NOTICE PURSUANT TO THIS SUBSECTION AND THE
 16 ATTORNEY GENERAL FAILS TO TIMELY NOTIFY THE POLITICAL SUBDIVISION OF A
 17 DETERMINATION OF NONCOMPLIANCE, THE GENERAL OR COMPREHENSIVE PLAN OR MAJOR
 18 AMENDMENT TO THE GENERAL OR COMPREHENSIVE PLAN SHALL BE DEEMED TO COMPLY WITH
 19 SUBSECTION J OF THIS SECTION.

20 ~~J.~~ J. The attorney general shall determine compliance with this
 21 section in accordance with the following requirements applicable to zoning
 22 and development in a high noise or accident potential zone and to zoning and
 23 development in accident potential zone one and accident potential zone two.
 24 Compliance with respect to territory located in the arrival and departure
 25 corridor but outside the accident potential zone one, two and noise contour
 26 lines as described in section 28-8461, paragraph 9, ~~subdivisions (b) and~~
 27 SUBDIVISION (c) shall be determined in accordance with the requirements
 28 applicable to territory located in the 65-69 day-night sound level as listed
 29 below. ~~This subsection shall not preclude a determination of compliance if~~
 30 COMPLIANCE WITH RESPECT TO THE PROPERTY DESCRIBED IN SECTION 28-8461,
 31 PARAGRAPH 9, SUBDIVISION (b) SHALL BE DETERMINED IN ACCORDANCE WITH THE
 32 COMPATIBLE LAND USE PLAN IN THE JOINT LAND USE STUDY COMPLETED IN FEBRUARY
 33 2004. IF the political subdivision and the military airport ~~or ancillary~~
 34 ~~military facility~~ mutually agree that an individual use is compatible and
 35 consistent with the high noise or accident potential of the military airport
 36 or ancillary military facility, as applicable, THE USE SHALL BE DEEMED TO
 37 COMPLY WITH THIS SUBSECTION. Alternatively, for an individual use or a plan
 38 for development submitted to a military airport or ancillary military
 39 facility before December 31, 2004, this subsection does not preclude the
 40 military airport from determining that the individual use or plan for
 41 development is compatible and consistent with the high noise or accident
 42 potential zone of the military airport or ancillary military facility.

	Day-night sound level in decibels high noise or accident potential zone (18)						
	65-69 APZ	70-74	75-79	80-84	85 or over	APZ one	
1							
2							
3							
4	Zoning and development in high						
5	noise or accident potential						
6	zone						
7							
8							
9							
10	<u>Residential</u>						
11	No ⁽¹³⁾	No ⁽¹³⁾	No ⁽¹³⁾	No ⁽¹³⁾	No	No	No
12	the residential uses listed						
13	below						
14	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	No ⁽¹³⁾	No ⁽¹³⁾	No	No ⁽¹³⁾
15	that is the subject of						
16	zoning approved on or						
17	before December 31, 2000,						
18	or on or before December 31						
19	of the year in which the						
20	property becomes territory						
21	in the vicinity of a						
22	military airport,						
23	that permits one dwelling						
24	unit per acre or less						
25	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	No ⁽¹³⁾	No	No ⁸
26	that is the primary residence						
27	for persons engaging in						
28	agricultural use and						
29	ancillary residential						
30	buildings incident to the						
31	primary agricultural use						
32	<u>Transportation, communications</u>						
33	<u>and utilities</u>						
34	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	
35	Yes ⁽¹⁵⁾						
36	Yes	Yes	Yes	Yes	Yes	Yes	Yes
37	Yes	Yes	Yes	Yes	Yes	Yes ⁽¹⁵⁾	Yes ⁽¹⁵⁾
38	Yes	Yes ⁽²⁾	Yes ⁽³⁾	No	No	Yes ⁽¹⁵⁾	Yes ⁽¹⁵⁾
39	(noise sensitive)						
40	Yes	Yes	Yes	No	No	Yes ⁽¹⁵⁾	Yes ⁽¹⁵⁾
41	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	Yes ⁽⁸⁾	Yes ⁽¹⁵⁾	Yes ⁽¹⁵⁾
42	communications and utilities						
43	<u>Commercial/retail trade</u>						
44	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
45	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
46	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	N

1	Food-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	N
2	Automotive and marine	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	No/Yes ⁽¹⁷⁾
3	Apparel and accessories-retail	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	N
4	Eating and drinking places	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	N
5	Furniture and home	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No/Yes ⁽¹⁷⁾
6	furnishings-retail							
7	Other retail trade	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	N
8	<u>Personal and business services</u>							
9	Finance, insurance and real estate	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
10	Personal services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
11	Business services	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	Yes
12	Repair services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes
13	Contract construction services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
14	Indoor recreation services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
15	Other services	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	Yes
16	<u>Industrial/manufacturing</u>							
17	Food and kindred products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
18	Textile mill products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
19	Apparel	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
20	Lumber and wood products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
21	Furniture and fixtures	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
22	Paper and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
23	Printing and publishing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
24	Chemicals and allied products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	N
25	Petroleum refining and	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	N
26	related industries							
27	Rubber and miscellaneous plastic	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
28	Stone, clay and glass products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
29	Primary metal industries	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
30	Fabricated metal products	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
31	Professional, scientific and	Yes	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	N
32	controlling instruments							
33	Miscellaneous manufacturing	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	Yes ⁽⁸⁾
34	<u>Public and quasi-public</u>							
35	<u>services</u>							
36	Government services	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽²⁾	No	No	No	Yes ⁽⁸⁾
37	Cultural activities,	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
38	including churches							
39	Medical and other health							
40	services	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	N
41	Cemeteries	Yes ⁽⁵⁾	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	Yes
42	Nonprofit organizations	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes
43	Correctional facilities	Yes ⁽¹⁾	Yes ⁽²⁾	Yes ⁽³⁾	Yes ⁽⁴⁾	No	No	Yes
44	Other public and quasi-public	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	Yes ⁽⁸⁾
45	services							

1	<u>Outdoor recreation</u>							
2	Playgrounds and neighborhood							
3	parks	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
4	Community and regional	Yes	Yes	No	No	No	Yes ⁽¹⁵⁾	Yes
5	Nature exhibits	Yes	No	No	No	No	No	No
6	Spectator sports, including							
7	arenas	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No	N
8	Golf courses and riding stables	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	Yes ⁽¹⁵⁾	Yes
9	Water based recreational areas	Yes	Yes ⁽⁵⁾	Yes ⁽⁶⁾	No	No	No	N
10	Resort and group camps	Yes ⁽¹⁾	Yes ⁽²⁾	No	No	No	No	No
11	Auditoriums and concert halls	Yes ⁽⁶⁾	Yes ⁽⁷⁾	No	No	No	No	N
12	Outdoor amphitheaters and	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	N
13	music shells							
14	Other outdoor recreation	Yes	Yes ⁽¹⁴⁾	Yes ⁽¹⁴⁾	No	No	No	No
15	<u>Resource production,</u>							
16	<u>extraction and open space</u>							
17	Agriculture (except livestock)	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
18	Livestock farming and animal	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹¹⁾	Yes ⁽¹²⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾
19	breeding							
20	Forestry activities	Yes ⁽⁹⁾	Yes ⁽¹⁰⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	Yes ⁽¹³⁾	No	Yes
21	Fishing activities and	Yes	Yes	No	No	No	No	No
22	related services							
23	Mining activities	Yes	Yes	Yes	Yes	Yes	No	Yes ⁽¹³⁾
24	Permanent open space	Yes	Yes	Yes	Yes	Yes	Yes	Yes
25	Water areas (not incidental to	Yes	Yes	No	No	No	No	N
26	farming)							

(1) Measures to achieve an outdoor to indoor noise reduction level of twenty-five decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(2) Measures to achieve an outdoor to indoor noise reduction level of thirty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(3) Measures to achieve an outdoor to indoor noise reduction level of thirty-five decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of the approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(4) Measures to achieve an outdoor to indoor noise reduction level of forty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the

1 political subdivision must make an express finding, as part of the approval,
2 that use of noise reduction level criteria will not alleviate outdoor noise.

3 (5) Measures to achieve an outdoor to indoor noise reduction level of
4 twenty-five decibels must be incorporated into the design and construction of
5 portions of buildings where the public is received, office areas, noise
6 sensitive areas or where normal noise level is low.

7 (6) Measures to achieve an outdoor to indoor noise reduction level of
8 thirty decibels must be incorporated into the design and construction of
9 portions of buildings where the public is received, office areas, noise
10 sensitive areas or where normal noise level is low.

11 (7) Measures to achieve an outdoor to indoor noise reduction level of
12 thirty-five decibels must be incorporated into the design and construction of
13 portions of buildings where the public is received, office areas, noise
14 sensitive areas or where normal noise level is low.

15 (8) Measures to achieve an outdoor to indoor noise reduction level of
16 forty decibels must be incorporated into the design and construction of
17 portions of buildings where the public is received, office areas, noise
18 sensitive areas or where normal noise level is low.

19 (9) Measures to achieve an outdoor to indoor noise reduction level of
20 twenty-five decibels must be incorporated into the design and construction of
21 new residential buildings or expansions of existing residential buildings.

22 (10) Measures to achieve an outdoor to indoor noise reduction level of
23 thirty decibels must be incorporated into the design and construction of new
24 residential buildings or expansions of existing residential buildings.

25 (11) Measures to achieve an outdoor to indoor noise reduction level of
26 thirty-five decibels must be incorporated into the design and construction of
27 new residential buildings or expansions of existing residential buildings.

28 (12) Measures to achieve an outdoor to indoor noise reduction level of
29 forty decibels must be incorporated into the design and construction of new
30 residential buildings or expansions of existing residential buildings.

31 (13) No new residential buildings or expansions of existing residential
32 buildings are permitted.

33 (14) Compatible if special sound reinforcement systems are installed.

34 (15) No aboveground buildings or structures.

35 (16) No new buildings or improvements or expansion of nonagriculture
36 buildings or improvements for uses that result in the release of any
37 substance into the air that would impair visibility or otherwise interfere
38 with operating aircraft, such as any of the following:

39 (a) Steam, dust and smoke.

40 (b) Direct or indirect reflective light emissions.

41 (c) Electrical emissions that would interfere with aircraft and air
42 force communications or navigational aid systems or aircraft navigational
43 equipment.

44 (d) The attraction of birds or waterfowl such as operation of sanitary
45 landfills or maintenance of feeding stations.

46 (e) Explosives facilities or similar activities.

1 (17) If located in the extended portion of accident potential zone two
2 in territory of a political subdivision described in section 28-8461,
3 paragraph 9, subdivision (a).

4 (18) Uses not listed are presumed to not be compatible. ~~This does not~~
5 ~~preclude a determination of compliance~~ If the political subdivision and the
6 military airport mutually agree that an individual use is compatible and
7 consistent with the high noise or accident potential of the military airport
8 or ancillary military facility, **THE USE SHALL BE PRESUMED TO BE COMPATIBLE.**

9 ~~M.~~ **K. PURSUANT TO SUBSECTION I OF THIS SECTION,** the attorney general
10 shall notify a political subdivision by certified mail, return receipt
11 requested, if, ~~from the content of the report filed by the political~~
12 ~~subdivision pursuant to subsection I of this section or other evidence,~~ the
13 attorney general has probable cause to believe that the political subdivision
14 has not complied with the requirements set forth in subsection ~~A, C, G or L~~ **J**
15 of this section ~~or section 28-8482~~. Nothing in this section shall authorize
16 or permit a finding of probable cause of noncompliance with respect to
17 ~~territory~~ **PROPERTY** that is the subject of a development plan. ~~as described~~
18 ~~in subsection E or F of this section except under section 28-8482 if~~
19 ~~applicable. A political subdivision that receives a notice from the attorney~~
20 ~~general pursuant to this subsection shall demonstrate compliance with~~
21 ~~subsection A, C, G or L of this section or section 28-8482 within forty-five~~
22 ~~days after receipt of the notice. If a political subdivision fails to~~
23 ~~demonstrate compliance with subsection A, C, G or L of this section or~~
24 ~~section 28-8482 within forty-five days after receipt of the notice, the~~
25 ~~attorney general shall bring an enforcement action under this section.~~

26 ~~N.~~ The attorney general shall provide to all political subdivisions
27 with territory in the vicinity of a military airport or ancillary military
28 facility a copy of the report prepared and submitted by the attorney general
29 pursuant to subsection ~~T~~ of this section indicating those political
30 subdivisions that are in compliance or noncompliance with subsection ~~A, C, G~~
31 ~~or L~~ of this section and section 28-8482. If a political subdivision files
32 in a timely manner a report or affidavit required under subsection ~~I or K~~ of
33 this section and any zoning map amendment, zoning or subdivision ordinance or
34 regulation text amendment, final plat approval, variance from zoning or
35 subdivision ordinance or comprehensive, general or specific plan or school
36 district development plan amendment that has occurred during the reporting
37 period is consistent with subsection ~~L~~ of this section and the political
38 subdivision provided the notice required pursuant to subsection ~~G~~ of this
39 section or the attorney general fails to provide notice of probable cause of
40 noncompliance pursuant to subsection ~~M~~ of this section on or before November
41 15 of that year, the political subdivision is deemed to have complied with
42 the requirements of this section and section 28-8482 during the period
43 covered by the report or affidavit.

44 ~~O.~~ If any owner of property that is the subject of a report filed
45 pursuant to subsection ~~I~~ of this section or political subdivision that is
46 required to file a report pursuant to subsection ~~I~~ of this section disagrees

1 ~~with a determination of the attorney general of probable cause of~~
2 ~~noncompliance pursuant to subsection M of this section, the owner of property~~
3 ~~or political subdivision may appeal the determination of the attorney general~~
4 ~~to the superior court in the county in which the affected property or~~
5 ~~territory is located within thirty days after providing the attorney general~~
6 ~~written notice of the appeal by certified mail.~~

7 ~~P.~~ L. The following apply to enforcement actions brought under this
8 section:

9 1. The attorney general may institute a civil action in the name of
10 this state in the superior court in the county of the alleged violation
11 against a political subdivision that is required to ~~file a report~~ NOTIFY THE
12 ATTORNEY GENERAL pursuant to subsection I of this section to restrain,
13 enjoin, correct or abate a violation of this section ~~or section 28-8482~~, to
14 collect a civil penalty ordered pursuant to this section and to collect
15 attorney fees and costs ordered pursuant to this section if ~~any of the~~
16 ~~following applies:~~

17 ~~(a) The political subdivision fails to file a report or affidavit~~
18 ~~required by this section within thirty days after the political subdivision~~
19 ~~receives the written notice from the attorney general that a report has not~~
20 ~~been filed.~~

21 ~~(b) From the content of the report filed by the political subdivision,~~
22 ~~or other evidence, the attorney general has determined that there is probable~~
23 ~~cause to believe that the political subdivision has not complied with the~~
24 ~~requirements set forth in subsection A, C, G or L of this section or section~~
25 ~~28-8482 and forty five days have passed since the political subdivision~~
26 ~~received written notice from the attorney general pursuant to subsection M of~~
27 ~~this section.~~

28 ~~(c) the attorney general has probable cause to believe that any~~
29 ~~change, variance or exemption~~ AN ACTION TO REAFFIRM AN APPROVAL, ADOPTION OR
30 READOPTION OF, OR MAJOR AMENDMENT TO, THE GENERAL OR COMPREHENSIVE PLAN made
31 by a political subdivision ~~that is required to file a report pursuant to~~
32 ~~subsection I of this section to its general plan, comprehensive plan or~~
33 ~~school district development plan applicable to property within the high noise~~
34 ~~or accident potential zone violates this section and forty five days have~~
35 ~~passed since the political subdivision received written notice from the~~
36 ~~attorney general pursuant to subsection M of this section~~ IS NOT IN
37 COMPLIANCE WITH SUBSECTION J OF THIS SECTION.

38 2. IF THE ATTORNEY GENERAL INSTITUTES A CIVIL ACTION PURSUANT TO
39 SUBSECTION I OF THIS SECTION, THE CIVIL ACTION SHALL BE FILED WITHIN THIRTY
40 DAYS AFTER THE ACTION TO REAFFIRM AN APPROVAL, ADOPTION OR READOPTION OF, OR
41 MAJOR AMENDMENT TO, THE GENERAL PLAN OR COMPREHENSIVE PLAN.

42 ~~2.~~ 3. The court shall award reasonable attorney fees and other costs
43 in favor of the prevailing party for any civil enforcement action brought
44 under this section. If the attorney general prevails, monies awarded
45 pursuant to this paragraph shall be retained by the attorney general and are
46 continuously appropriated.

1 ~~3-~~ 4. The court may assess civil penalties in favor of this state to
2 be deposited in the state general fund. ~~as follows-~~

3 ~~(a) For failure of a political subdivision to file a report or~~
4 ~~affidavit required by subsection I or K of this section within thirty days~~
5 ~~after receiving notice from the attorney general, the political subdivision~~
6 ~~is liable for a civil penalty of up to two hundred dollars for each day after~~
7 ~~the first thirty days and up to three hundred dollars for each subsequent day~~
8 ~~up to a maximum of ten thousand dollars.~~

9 ~~(b) For failure of a political subdivision that is required to file a~~
10 ~~report pursuant to subsection I of this section to comply with the~~
11 ~~requirements of subsection A, C, G or L of this section or section 28-8482,~~
12 The political subdivision ~~is~~ MAY BE liable for a civil penalty of up to five
13 hundred dollars for each day for the first ten days and up to five thousand
14 dollars for each subsequent day up to a maximum of fifty thousand dollars. ~~If~~
15 ~~the political subdivision demonstrates compliance with subsections A, C, G~~
16 ~~and L of this section and section 28-8482 within forty-five days after~~
17 ~~receipt of a notice of noncompliance from the attorney general pursuant to~~
18 ~~subsection M of this section, the accrued penalties shall be waived. If the~~
19 ~~political subdivision demonstrates a good faith effort to comply with~~
20 ~~subsections A, C, G and L of this section and section 28-8482, as applicable,~~
21 ~~within forty-five days after receipt of a notice of noncompliance from the~~
22 ~~attorney general pursuant to subsection M of this section, the attorney~~
23 ~~general may waive accrued penalties.~~

24 ~~Q-~~ M. A political subdivision that has territory in the vicinity of a
25 military airport or ancillary military facility that includes property in a
26 high noise or accident potential zone shall submit any proposed
27 comprehensive, ~~OR~~ general ~~or school district development~~ plan ~~or~~ amendments
28 that are applicable to property within the high noise or accident potential
29 zone to the attorney general at least fifteen days before the first public
30 hearing required pursuant to section 9-461.06 or 11-806.

31 ~~R. On written request of the attorney general, a political subdivision~~
32 ~~shall provide records kept pursuant to this section or section 28-8482 within~~
33 ~~thirty days after the request.~~

34 ~~S. The attorney general may investigate any complaint received that a~~
35 ~~political subdivision that has territory in the vicinity of a military~~
36 ~~airport or ancillary military facility is not in compliance with subsection~~
37 ~~A, C, G or L of this section or section 28-8482.~~

38 ~~T. On or before November 15 of each year, the attorney general shall~~
39 ~~submit to the Arizona military airport preservation committee established by~~
40 ~~section 41-3301 a report indicating those political subdivisions that are in~~
41 ~~compliance with subsections A, C, G and L of this section and section~~
42 ~~28-8482, those political subdivisions that are not in compliance with~~
43 ~~subsections A, C, G and L of this section and section 28-8482 and the actions~~
44 ~~that the attorney general is taking, or intending to take, to bring those~~
45 ~~political subdivisions not in compliance with subsections A, C, G and L of~~
46 ~~this section or section 28-8482 into compliance.~~

~~H.~~ N. A political subdivision shall not permit or approve a division of land zoned for residential use that is in a high noise or accident potential zone of an ancillary military facility if the division would result in a lot, parcel or fractional interest being four acres or less unless the land division is part of a development plan or a development agreement approved before July 30, 2004 or is determined by the military airport or ancillary military facility to be compatible with its operations before December 31, 2004. A political subdivision may grant a waiver from this subsection.

O. FOR PURPOSES OF DETERMINING THE FAIR MARKET VALUE OF PROPERTY LOCATED IN A HIGH NOISE OR ACCIDENT POTENTIAL ZONE, OR THE DEVELOPMENT RIGHTS APPURTENENT TO THE PROPERTY, FOR ACQUISITION BY AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, PROPERTY LOCATED IN A HIGH NOISE OR ACCIDENT POTENTIAL ZONE THAT IS NOT THE SUBJECT OF A DEVELOPMENT PLAN UNDER SUBSECTION E OR F OF THIS SECTION SHALL BE DEEMED TO HAVE ZONING ALLOWING AT LEAST ONE RESIDENTIAL DWELLING PER ACRE.

~~V.~~ P. For the purposes of this section: ~~—~~

1. "Development plan":

~~1.~~ (a) Means a plan that is submitted to and approved by the governing body of the political subdivision pursuant to a zoning ordinance or regulation adopted pursuant to title 9, chapter 4, article 6.1 or title 11, chapter 6 and that describes with reasonable certainty the density and intensity of use for a specific parcel or parcels of property.

~~2.~~ (b) Includes a planned community development plan, a planned area development plan, a planned unit development plan, a development plan that is the subject of a development agreement adopted pursuant to section 9-500.05 or 11-1101, a site plan, a subdivision plat or any other land use approval designation that is the subject of a zoning ordinance adopted pursuant to title 9, chapter 4, article 6.1 or title 11, chapter 6.

~~3.~~ (c) Means a conceptual plan for development that generally depicts densities on a particular property that a military airport, as described in paragraph 9, subdivision (a), deems is compatible with the operation of the ancillary military facility.

2. "MAJOR AMENDMENT" MEANS A SUBSTANTIAL ALTERATION OF A POLITICAL SUBDIVISION'S LAND USE MIXTURE OR BALANCE AS ESTABLISHED IN THE POLITICAL SUBDIVISION'S EXISTING GENERAL OR COMPREHENSIVE PLAN LAND USE ELEMENT.

Sec. 7. Section 28-8482, Arizona Revised Statutes, as amended by Laws 2004, chapter 111, section 12, is amended to read:

28-8482. Incorporation of sound attenuation standards in building codes

A. A political subdivision that ~~has~~ INCLUDES territory in the vicinity of a military airport or ancillary military facility shall incorporate the sound attenuation standards and specifications prescribed in this section into any building code in existence on or adopted after December 31, 2001 or adopted on or after the date the land becomes territory in the vicinity of a military airport or ancillary military facility. These standards and

1 specifications apply to new development and alterations for first occupancy
2 that are the subject of building permits issued after December 31, 2001 or
3 after December 31 of the year in which the land becomes territory in the
4 vicinity of a military airport or ancillary military facility and that are
5 located on property within the territory in the vicinity of a military
6 airport or ancillary military facility and do not apply to new development
7 and alterations that are located on property within corporate limits of a
8 municipality but outside territory in the vicinity of a military airport or
9 ancillary military facility.

10 B. Not later than December 31, 2001 or not later than December 31 of
11 the year in which the land becomes territory in the vicinity of a military
12 airport or ancillary military facility, a political subdivision that has
13 territory in the vicinity of a military airport or ancillary military
14 facility shall adopt an ordinance that requires a noise level reduction to be
15 incorporated in the design and construction of any residential building or
16 portions of buildings where the public is received, office areas and where
17 normal noise level is low for first occupancy, including libraries, schools
18 and churches, pursuant to building permits issued after December 31, 2001 in
19 order to achieve a maximum interior noise level of forty-five decibels in
20 areas within the noise contours described in section 28-8461, paragraph 9,
21 subdivision (a), (b), (c) or (d), as applicable. In order to comply with
22 this section, an ordinance shall require that all residential buildings in
23 territory in the vicinity of a military airport or ancillary military
24 facility but outside the noise contours as described in this section shall be
25 constructed with a minimum of R18 exterior wall assembly, a minimum of R30
26 roof and ceiling assembly, dual-glazed windows and solid wood, foam-filled
27 fiberglass or metal doors to the exterior or, if the specified building
28 standards are not met, the political subdivision may approve, as an
29 alternative, a certification by an architect or engineer registered pursuant
30 to title 32, chapter 1 to achieve a maximum interior noise level of
31 forty-five decibels at the time of final construction. A sound attenuation
32 ordinance adopted by a political subdivision pursuant to this subsection
33 shall not require a maximum interior noise level that is less than the
34 maximum interior noise level required by this subsection.

35 C. The sound attenuation requirements of this section do not apply to
36 ancillary buildings used in agricultural land use.

37 D. If the gross floor area of a structure or project is expanded by
38 less than fifty per cent, the requirements of this section apply only to the
39 area of expansion. If the gross floor area of a structure or project is
40 expanded by fifty per cent or more, the requirements of this section apply to
41 the entire structure, except for single family, mobile home, manufactured
42 housing unit or duplex dwellings or any multifamily property used for
43 residential purposes.

44 E. For the purposes of this section, political subdivision does not
45 include a school district.

1 Sec. 8. Section 32-2113, Arizona Revised Statutes, as amended by Laws
2 2004, chapter 111, section 13, is amended to read:

3 32-2113. Recorded disclosure for territory in the vicinity of a
4 military airport or ancillary military facility

5 A. The commissioner shall execute and record in the office of the
6 county recorder in each county in this state that includes territory in the
7 vicinity of a military airport or ancillary military facility as defined in
8 section 28-8461 a document, applicable to property located within territory
9 in the vicinity of a military airport or ancillary military facility, with
10 the following disclosure: "this property is located within territory in the
11 vicinity of a military airport or ancillary military facility and may be
12 subject to increased noise and accident potential."

13 B. The attorney general shall prepare in recordable form the document
14 that is executed and recorded by the commissioner pursuant to this section.

15 C. The document that is executed and recorded by the commissioner
16 shall include a legal description of the territory in the vicinity of a
17 military airport or ancillary military facility. The military airport shall
18 cause the legal description **OF TERRITORY IN THE VICINITY OF THE MILITARY**
19 **AIRPORT OR ANCILLARY MILITARY FACILITY DEFINED IN SECTION 28-8461** to be
20 prepared and shall provide the legal description to the commissioner **AND THE**
21 **STATE LAND DEPARTMENT** in recordable form in twelve point font on eight and
22 one-half inch by eleven inch paper.

23 **D. THE STATE LAND DEPARTMENT SHALL PREPARE MAPS WITH THE LEGAL**
24 **DESCRIPTIONS PURSUANT TO SECTION 37-102.**

25 Sec. 9. Section 37-102, Arizona Revised Statutes, as amended by Laws
26 2004, chapter 111, section 18, is amended to read:

27 37-102. State land department: powers and duties

28 A. The state land department shall administer all laws relating to
29 lands owned by, belonging to and under the control of the state.

30 B. The department shall have charge and control of all lands owned by
31 the state, and timber, stone, gravel and other products of such lands, except
32 lands under the specific use and control of state institutions and the
33 products of such lands.

34 C. The department, in the name of the state, may commence, prosecute
35 and defend all actions and proceedings to protect the interest of the state
36 in lands within the state or the proceeds thereof. Actions shall be
37 commenced and prosecuted at the request of the department by the attorney
38 general, a county attorney or a special counsel under the direction of the
39 attorney general.

40 D. The department shall be the official representative of the state in
41 any communication between the state and the United States government in all
42 matters respecting state lands or any interest of the state in or to the
43 public lands within the state.

1 E. The summons in any action against the state respecting any lands of
2 the state or the products of such lands and all notices concerning such lands
3 or products shall be served upon the commissioner. Summonses, warrants or
4 legal notices served on behalf of the department may be served by the
5 commissioner or the commissioner's deputy, or by the sheriff or a constable
6 of any county of the state.

7 F. The department shall maintain as a public record in each of its
8 offices a public docket and index of all matters before the department which
9 may be subject to appeal to the board of appeals or to the courts and all
10 sale, exchange and lease transactions subject to bidding by the public. The
11 department shall list a matter on the public docket immediately after an
12 application or other request for department action is received by the
13 department. The department shall include in the public docket every formal
14 action and decision affecting each matter in question. The department shall
15 establish by rule a means by which any person may obtain a copy of the public
16 docket at the current copying cost.

17 G. The department shall reappraise or update its original appraisal of
18 property to be leased, exchanged or sold if the board of appeals' approval of
19 the lease or sale occurred more than one hundred eighty days before the
20 auction.

21 H. Within ninety days after the effective date of this amendment to
22 this section, the state land department shall:

23 1. PREPARE MAPS OF THE ANCILLARY MILITARY FACILITIES DESCRIBED IN
24 SECTION 28-8461, PARAGRAPH 7, SUBDIVISIONS (b) AND (c).

25 2. Make a map of the ancillary military facility ~~defined~~ DESCRIBED in
26 section 28-8461, PARAGRAPH 7, SUBDIVISION (a) available to the public in
27 printed or electronic format and ~~shall~~ provide the map in printed or
28 electronic format to the state real estate department.

29 ~~I. The department shall submit the map described in this section to~~
30 ~~the county in which the ancillary military facility is located in either~~
31 ~~printed or electronic format.~~

32 I. THE STATE LAND DEPARTMENT SHALL PROVIDE EACH MAP AND THE LEGAL
33 DESCRIPTION OF THE BOUNDARIES OF EACH ANCILLARY MILITARY FACILITY DESCRIBED
34 IN SECTION 28-8461, PARAGRAPH 7 IN ELECTRONIC FORMAT TO THE STATE REAL ESTATE
35 DEPARTMENT. EACH MAP PREPARED BY THE STATE LAND DEPARTMENT PURSUANT TO THIS
36 SECTION SHALL:

37 1. DESCRIBE THE ANCILLARY MILITARY FACILITY, THE TERRITORY IN THE
38 VICINITY OF THE ANCILLARY MILITARY FACILITY AND THE HIGH NOISE AND ACCIDENT
39 POTENTIAL ZONE, ACCIDENT POTENTIAL ZONE ONE AND ACCIDENT POTENTIAL ZONE TWO
40 ASSOCIATED WITH THE ANCILLARY MILITARY FACILITY.

41 2. BE SUBMITTED TO THE COUNTY IN WHICH THE ANCILLARY MILITARY FACILITY
42 IS LOCATED.

43 3. BE MADE AVAILABLE IN PRINTED OR ELECTRONIC FORMAT TO THE PUBLIC AT
44 THE STATE LAND DEPARTMENT AND AT THE STATE REAL ESTATE DEPARTMENT.

45 Sec. 10. Title 41, chapter 10, article 1, Arizona Revised Statutes, is
46 amended by adding sections 41-1512 and 41-1512.01, to read:

41-1512. Military affairs commission: definition

A. THE MILITARY AFFAIRS COMMISSION IS ESTABLISHED. THROUGH DECEMBER 31, 2005, THE COMMISSION MEMBERSHIP CONSISTS OF:

1. THIRTEEN MEMBERS WHO ARE APPOINTED BY THE GOVERNOR AND WHO SERVE AT THE PLEASURE OF THE GOVERNOR.

2. ONE MEMBER WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE AND WHO SERVES AT THE PLEASURE OF THE PRESIDENT OF THE SENATE.

3. ONE MEMBER WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND WHO SERVES AT THE PLEASURE OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

B. FROM AND AFTER DECEMBER 31, 2005, THE COMMISSION MEMBERSHIP CONSISTS OF THE FOLLOWING MEMBERS:

1. THREE MEMBERS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE, WHO SERVE AT THE PLEASURE OF THE PRESIDENT OF THE SENATE AND WHO INCLUDE THE FOLLOWING:

(a) ONE MEMBER WHO IS KNOWLEDGEABLE IN MILITARY AFFAIRS AND WHO REPRESENTS THE LONG-TERM INTERESTS OF A MILITARY INSTALLATION.

(b) ONE MEMBER WHO REPRESENTS PRIVATE PROPERTY INTERESTS IN THE TERRITORY IN THE VICINITY AS DEFINED IN SECTION 28-8461.

(c) ONE MEMBER WHO REPRESENTS THE INTERESTS OF A CITY, TOWN OR COUNTY.

2. THREE MEMBERS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, WHO SERVE AT THE PLEASURE OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND WHO INCLUDE THE FOLLOWING:

(a) ONE MEMBER WHO IS KNOWLEDGEABLE IN MILITARY AFFAIRS AND WHO REPRESENTS THE LONG-TERM INTERESTS OF A MILITARY INSTALLATION.

(b) ONE MEMBER WHO REPRESENTS PRIVATE PROPERTY INTERESTS IN THE TERRITORY IN THE VICINITY AS DEFINED IN SECTION 28-8461.

(c) ONE MEMBER WHO REPRESENTS THE INTERESTS OF A CITY, TOWN OR COUNTY.

3. NINE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR, WHO SERVE AT THE PLEASURE OF THE GOVERNOR AND WHO INCLUDE THE FOLLOWING:

(a) THREE MEMBERS WHO ARE KNOWLEDGEABLE IN MILITARY AFFAIRS AND WHO REPRESENT THE LONG-TERM INTERESTS OF A MILITARY INSTALLATION.

(b) THREE MEMBERS WHO REPRESENT PRIVATE PROPERTY INTERESTS IN THE TERRITORY IN THE VICINITY AS DEFINED IN SECTION 28-8461.

(c) THREE MEMBERS WHO REPRESENT THE INTERESTS OF A CITY, TOWN OR COUNTY.

C. THE MILITARY AFFAIRS COMMISSION SHALL HAVE GEOGRAPHIC DIVERSITY IN ITS MEMBERSHIP.

D. THE COMMISSION SHALL:

1. MEET ON A REGULAR BASIS WITH THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO PROVIDE RECOMMENDATIONS ON MILITARY ISSUES AND REPORT ON THE PROGRESS OF THE MILITARY AFFAIRS COMMISSION.

2. DEVELOP CRITERIA, INCLUDING ACCOUNTABILITY REQUIREMENTS, FOR AWARDING MONIES FROM THE MILITARY INSTALLATION FUND ESTABLISHED BY SECTION 41-1512.01.

1 3. REVIEW APPLICATIONS FOR MONIES TO BE AWARDED FROM THE MILITARY
2 INSTALLATION FUND.

3 4. ANNUALLY RECOMMEND TO THE DEPARTMENT A PRIORITY LISTING OF MONIES
4 WITH AVAILABLE RESOURCES.

5 5. RECOMMEND TO THE DEPARTMENT HOW THE MONIES IN THE MILITARY
6 INSTALLATION FUND SHOULD BE AWARDED.

7 E. FOR THE PURPOSES OF THIS SECTION, "MILITARY INSTALLATION" MEANS A
8 MILITARY AIRPORT OR ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461
9 OR ANY REAL PROPERTY THAT SERVICES, SUPPORTS OR IS USED BY THE MILITARY.

10 41-1512.01. Military installation fund; report; definition

11 A. THE MILITARY INSTALLATION FUND IS ESTABLISHED CONSISTING OF
12 REVENUES MADE AVAILABLE TO THE FUND FROM ANY LAWFUL SOURCE. THE DEPARTMENT
13 OF COMMERCE SHALL ADMINISTER THE FUND. ON NOTICE FROM THE DEPARTMENT, THE
14 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY
15 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE
16 FUND. THE FUND IS EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO
17 LAPSING OF APPROPRIATIONS.

18 B. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED FOR THE PURPOSES
19 OF THIS SECTION.

20 C. THE DEPARTMENT, IN CONJUNCTION WITH THE MILITARY AFFAIRS COMMISSION
21 ESTABLISHED BY SECTION 41-1512, SHALL ADOPT BY RULE PROCEDURES FOR RECEIVING
22 AND EVALUATING APPLICATIONS. IF APPLICATIONS FOR MONIES EXCEED THE AMOUNT
23 AVAILABLE IN THE FUND, THE DEPARTMENT MAY REQUEST APPLICANTS TO REDUCE THE
24 AMOUNT OF THE APPLICATIONS OR DENY OR AWARD REDUCED AMOUNTS.

25 D. THE DEPARTMENT SHALL RECEIVE EACH APPLICATION FOR FUND MONIES AND
26 SHALL FORWARD EACH APPLICATION TO THE MILITARY AFFAIRS COMMISSION. THE
27 MILITARY AFFAIRS COMMISSION SHALL REVIEW EACH APPLICATION AND RECOMMEND TO
28 THE DEPARTMENT BOTH OF THE FOLLOWING:

29 1. EACH APPLICANT THAT SHOULD BE AWARDED MONIES FROM THE FUND.

30 2. THE DOLLAR AMOUNT THAT EACH APPLICANT LISTED PURSUANT TO PARAGRAPH
31 1 OF THIS SUBSECTION SHOULD BE AWARDED FROM THE FUND.

32 E. THE DEPARTMENT SHALL CONSIDER THE MILITARY AFFAIRS COMMISSION'S
33 RECOMMENDATIONS AND SHALL DECIDE HOW THE MONIES IN THE FUND SHALL BE AWARDED
34 AMONG THE APPLICANTS. THE DEPARTMENT, AFTER REVIEWING THE RECOMMENDATIONS BY
35 THE MILITARY AFFAIRS COMMISSION, SHALL MAKE THE MONIES IN THE FUND AVAILABLE
36 FOR THE PURPOSE OF MILITARY INSTALLATION PRESERVATION AND ENHANCEMENT
37 PROJECTS. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, AFTER THE
38 DEPARTMENT MAKES AN AWARD DECISION THE DEPARTMENT SHALL AWARD THE MONIES.

1 F. IF THE DEPARTMENT DOES NOT COMPLY WITH THE MILITARY AFFAIRS
2 COMMISSION'S RECOMMENDATION FOR THE AWARDS, WITHIN FIVE DAYS AFTER THE
3 DEPARTMENT'S DECISION THE DEPARTMENT SHALL REPORT IN WRITING TO THE PRESIDENT
4 OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE GOVERNOR.
5 THE REPORT SHALL INCLUDE THE AWARD DECISION OF THE DEPARTMENT AND THE
6 RECOMMENDATION OF THE MILITARY AFFAIRS COMMISSION. THE DEPARTMENT SHALL NOT
7 DISTRIBUTE MONIES FROM THE FUND TO THE APPLICANTS FOR AT LEAST SIXTY DAYS
8 AFTER THE REPORT IS RECEIVED.

9 G. THE DEPARTMENT SHALL AWARD:

10 1. EIGHTY PER CENT OF THE MONIES IN THE FUND FOR THE FOLLOWING
11 PURPOSES, EXCEPT THAT UP TO TWENTY PER CENT OF THIS AMOUNT MAY BE AWARDED TO
12 CITIES, TOWNS AND COUNTIES FOR THE PURPOSE OF ACQUIRING PRIVATE LAND FOR THE
13 PURPOSES PRESCRIBED IN PARAGRAPH 2 OF THIS SUBSECTION:

14 (a) ACQUISITION OF PRIVATE PROPERTY FOR THE PURPOSE OF PRESERVING A
15 MILITARY INSTALLATION.

16 (b) ACQUISITION OF REAL ESTATE AND RIGHTS TO REAL ESTATE AND OTHERWISE
17 PRESERVING REAL ESTATE FROM DEVELOPMENT OR MITIGATING IMPACTS ON DEVELOPMENT
18 IN HIGH NOISE OR ACCIDENT POTENTIAL ZONES AS DEFINED IN SECTION 28-8461 AND
19 IN AREAS AS REQUIRED TO SUPPORT A MILITARY INSTALLATION.

20 (c) ACQUISITION OF REAL ESTATE, PROPERTY RIGHTS AND RELATED
21 INFRASTRUCTURE THAT IS VITAL TO THE PRESERVATION OR ENHANCEMENT OF A MILITARY
22 INSTALLATION.

23 2. TWENTY PER CENT OF THE MONIES IN THE FUND TO CITIES, TOWNS AND
24 COUNTIES FOR MILITARY INSTALLATION PRESERVATION AND ENHANCEMENT PROJECTS.

25 H. THE LEGISLATURE SHALL REVIEW THE DISTRIBUTION FORMULA PRESCRIBED IN
26 SUBSECTION G OF THIS SECTION AT LEAST ONCE EVERY FOUR YEARS.

27 I. MONIES IN THE FUND MAY BE AWARDED FOR DEBT SERVICE ON BONDS ISSUED
28 BY A POLITICAL SUBDIVISION FOR THE PURPOSE OF ACQUISITION OF PRIVATE PROPERTY
29 FOR THE PURPOSE OF PRESERVING A MILITARY AIRPORT OR ANCILLARY MILITARY
30 FACILITY AS DEFINED IN SECTION 28-8461 IF THE LAND ACQUISITION OCCURS AFTER
31 DECEMBER 31, 2004.

32 J. THE DEPARTMENT SHALL ANNUALLY REPORT THE AWARDS MADE PURSUANT TO
33 THIS SECTION. THE REPORT SHALL BE IN WRITING AND SHALL BE SENT TO THE
34 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
35 GOVERNOR.

36 K. FOR THE PURPOSES OF THIS SECTION, "MILITARY INSTALLATION" HAS THE
37 SAME MEANING PRESCRIBED IN SECTION 41-1512.

38 Sec. 11. Repeal

39 Section 41-3005.01, Arizona Revised Statutes, is repealed.

40 Sec. 12. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
41 amended by adding section 41-3014.01, to read:

42 41-3014.01. Military affairs commission; termination July 1,
43 2014

44 A. THE MILITARY AFFAIRS COMMISSION TERMINATES ON JULY 1, 2014.

45 B. SECTION 41-1512 IS REPEALED ON JANUARY 1, 2015.

46 Sec. 13. Repeal

1 Title 41, chapter 29, Arizona Revised Statutes, is repealed.

2 Sec. 14. Appropriations: purposes: exemption

3 A. The sum of \$75,000 and 1 FTE is appropriated from the state general
4 fund in fiscal years 2004-2005 and 2005-2006 and each year thereafter to the
5 department of commerce.

6 B. The sum of \$100,000 is appropriated from the state general fund in
7 fiscal years 2004-2005 and 2005-2006 and each year thereafter to the attorney
8 general's office for implementation of this act.

9 C. For fiscal years 2004-2005 and 2005-2006 and each year thereafter,
10 the sum of \$4,825,000 is appropriated from the state general fund to the
11 military installation fund established by, and for the purposes prescribed
12 by, section 41-1512.01, Arizona Revised Statutes, as added by this act.

13 D. The appropriations made in subsections A, B and C of this section
14 are exempt from the provisions of section 35-190, Arizona Revised Statutes,
15 relating to lapsing of appropriations.

APPROVED BY THE GOVERNOR MAY 17, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2004.