

CHAPTER 2

County-wide Policies

2.1 Introduction

The policies set forth in Chapters 2 and 3 of the *Oakland International Airport Land Use Compatibility Plan* serve two functions:

1. To articulate the procedures to be used by the Alameda County Airport Land Use Commission (ALUC) and affected local agencies for the purpose of performing airport land use compatibility review as required in the California State Aeronautics Act (Public Utilities Code Section 21670 *et seq.*).
2. To identify the compatibility criteria that the ALUC shall use in the review of projects involving land use development within the Oakland International Airport (OAK) airport influence area (AIA), including Airport master plans and other development plans for OAK. Similarly, local agencies and any future jurisdictions that may be affected by this document shall use this airport land use compatibility plan (ALUCP) to modify their respective general or specific plans and zoning ordinances for consistency with this ALUCP.

While the policies presented in this chapter specifically address ALUC review procedures and county-wide compatibility considerations, compatibility criteria and other policies specifically designed for OAK are presented in Chapter 3.

2.2 ALUCP Lifecycle

According to State law, the ALUCP should be based on a long-range plan that reflects the anticipated growth of the airport for at least 20 years. This timeframe is a general guideline, as the ALUCP contains various components of differing life spans. Among the components hardest to estimate are future noise levels near an airport because of uncertainties associated with the level of operations and changes in fleet mix, etc. Therefore, periodic adjustment of the ALUCP can be expected in order to reflect changes in anticipated airport impacts, revisions in state and federal law and regulations, and new experience gained concerning the suitability of guidelines set by the ALUC.

2.3 Effective Date

The policies presented in this ALUCP shall become effective for OAK on the date that the Alameda County ALUC adopts the plan. Until that time, the policies set forth in the 1986 *Alameda County Airport Land Use Policy Plan (ALUPP)* shall remain in effect. Should this ALUCP be invalidated in its entirety by a court action, the 1986 ALUPP shall become effective. Additionally, any action to invalidate the compatibility plan associated with another public-use airport in the County shall not invalidate this ALUCP.

2.4 Definitions

Definitions of terms for the purposes of the policies set forth in this document are as follows (Caltrans, 2002). Additional definitions are found in the *Glossary*.

Aeronautics Act: Sections 21670 *et seq.* of the California Public Utilities Code.

Airport: An area of land or water that is used or intended to be used for the landing and taking off of aircraft, including its buildings and facilities.

Airport Influence Area (AIA): The area in which current or future airport-related noise, overflight, safety, and/or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses. In most circumstances, the airport influence area is designated by the ALUC as its *planning area boundary* for the airport and the two terms can be considered synonymous.

Airport Land Use Commission (ALUC): A commission authorized under the provisions of the California Public Utilities Code, Sections 21670 *et seq.* and established (in any county within which a public-use airport is located) for the purpose of promoting compatibility between airports and the land uses surrounding them.

Airport Land Use Compatibility Plan (ALUCP): As used herein, a plan, usually adopted by an ALUC, which sets forth policies for promoting compatibility between airports and the land uses which surround them. This document is sometimes referred to as an *Airport Land Use Policy Plan (ALUPP)*.

Aviation-Related Use: Any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an airport or heliport. Such uses specifically include runways, taxiways, and their associated protected areas defined by the Federal Aviation Administration (FAA), together with aircraft aprons, hangars, fixed base operations facilities, terminal buildings, etc.

Avigation Easement: A type of easement that typically conveys the following rights:

- a) A right-of-way for free and unobstructed passage of aircraft through the airspace over the property at any altitude above a surface specified in the easement (usually set in accordance with the FAR Part 77 criteria).

- b) A right to subject the property to noise, vibrations, fumes, dust, and fuel particle emissions associated with normal airport activity.
- c) A right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace.
- d) A right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace.
- e) A right to prohibit electrical interference, glare, misleading lights, visual impairments, wildlife hazards, or other hazards to aircraft flight from being created on the property.

Community Noise Equivalent Level (CNEL): The noise metric adopted by the State of California for evaluating airport noise. It represents the average noise level during a 24-hour day, adjusted to an equivalent level to account for the lower tolerance of people to noise during evening and nighttime periods relative to the daytime period.

Compatibility Zone: Any of the airport influence area zones set forth in this ALUCP for the purposes of determining land use compatibility.

Existing Land Use: A land use that either physically exists or else for which government approvals have been obtained through one or more of the following:

- a) A valid building permit has been issued;
- b) A development agreement that has been approved and vests site-specific land uses, plans, and intensities;
- c) A tentative parcel or subdivision map has been approved and the original period, excluding extensions, within which the approval is valid and has not expired;
- d) A vesting tentative parcel or subdivision map has been approved;
- e) A final subdivision map has been recorded; or
- f) A use permit or other discretionary entitlement has been approved and not yet expired.

Federal Aviation Regulations (FAR) Part 77: The part of the Federal Aviation Regulations that addresses objects affecting navigable airspace.

Height Review Overlay Zone: The area around an airport where the ground lies above a FAR Part 77 plane or less than 35 feet beneath a FAR Part 77 plane.

Helipad: A small, designated area, usually with a prepared surface, on a heliport, airport, landing / takeoff area, apron / ramp, or movement area used for takeoff, landing, or parking of helicopters.

Heliport: A facility used for operating, basing, housing, and maintaining helicopters.

Infill: Development that takes place on vacant property largely surrounded by existing development, especially development that is similar in character.

Local Jurisdiction: Alameda County or any city or other government agency (excluding state and federal agencies) having jurisdiction over land uses within its boundaries.

Nonconforming Use: An existing land use that does not conform to subsequently adopted or amended zoning or other land use development standards.

Project (Land Use Action, Development Proposal): Any proposed action under consideration by a local public agency or airport operator that is subject to ALUC review. Under State Law, such actions include amendment of a general or specific plan or adoption of a zoning ordinance or building regulation by a local public agency that affects land use within an AIA. It includes plans for proposed new airports or heliports and modification of an airport master plan by the airport owner. As specified by State Law, under certain circumstances a project may include other proposed local agency actions, regulations, or permits.

2.5 Geographic Scope

2.5.1 Airport Influence Area

The airport influence area (AIA), also known as the airport referral area, is the area in which current or future airport-related noise, overflight, safety, and/or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses, as well as lands on which the uses could negatively affect the airport(s) in question.

The specific limits of the AIA of Oakland International Airport are presented in Chapter 3. For a discussion of noise, height, and safety impacts and how those issues affect the areas in which this ALUCP applies, see Appendix B, “Airport Land Use Compatibility Concepts”.

2.5.2 County-wide Impacts on Flight Safety

Other lands, regardless of their location in the County, on which certain land use characteristics could adversely affect the safety of flight in the County, are included in this ALUCP. Specifically, any proposal for construction of any structure (including antennas) in the County that rises 200 feet above the ground level at the site is included in this ALUCP.

2.5.3 New Airports

The site and environs of any new airport that may be proposed anywhere in the County, including incorporated cities, and which requires an Airport Permit from the California Department of Transportation (Caltrans) Aeronautics Division are included in this ALUCP.

2.5.4 Heliports and Helipads

This ALUCP applies to any site and environs of any existing or proposed public-use, private-use, or special-use heliport or helipad (as defined by Caltrans) in the County, including incorporated cities that are included in this ALUCP (see Table 2-1 for list of existing heliports).

**TABLE 2-1
HELIPORTS IN ALAMEDA COUNTY**

Heliport Name	Location	Public/Private	Number of daily operations	Number of Night Operations (10:00PM to 7:00 AM)	Years of Operation	Miscellaneous
Alameda County, Alco Park	1221 Oak St. Oakland, CA 94607	Private	N/A	N/A	42	Last Inspected July 5, 1990
ACFD, Station 14	11345 Sunol Blvd. Sunol, CA 94586	Public	N/A	N/A	N/A	N/A
Camp Park Military Reservation	Dublin, CA	Public	N/A	N/A	N/A	N/A
Children's Hospital, Oakland	747 52nd St. Oakland, CA 94609	Private	Variable*	Variable*	8	Last Inspected December 17, 2003
Eden Medical Center	20103 Lake Chabot Rd. Castro Valley, CA 94546	Private	Variable*	Variable*	11	Last Inspected September 9, 2004
Fairview Site	27218 Fairview Ave., Fairview, CA 94542	Private	N/A	N/A	N/A	N/A
First Interstate Bank OPS	3440 Walnut Ave. Fremont, CA 94538	Private	N/A	N/A	24	Last Inspected May 25, 1990
Hacienda Business Park	4309 Hacienda Dr. Pleasanton, CA 94566	Private	N/A	N/A	21	Last Inspected January 31, 1990
Little Valley Site	Sunol, CA	Private	N/A	N/A	N/A	N/A
Ruby Hills Site	Pleasanton, CA	Private	N/A	N/A	N/A	No longer in use
Saint Rose Hospital	27200 Calaroga Ave. Hayward, CA 94545	Private	Variable*	Variable*	38	Last Inspected May 9, 2001
Valleycare Medical Center	5555 W. Las Positas Blvd. Pleasanton, CA 94588	Private	Variable*	Variable*	18	Last Inspected June 6, 2003
Washington Hospital	Corner of Bart Way and Civic Center Dr.	Private	Variable*	Variable*	N/A	N/A

* Variable - Heliport use at hospital locations based upon need.
N/A = Not available

Source: Alameda County, 2007.

FAA Advisory Circular (AC) 150/5390-2B, “Heliport Design,” provides recommendations for heliport design and describes the federal requirements associated with heliport development. Alameda County encourages those with heliport proposals to implement the guidance set forth in the AC to the greatest extent practicable. The complete AC is available online in several files that can be downloaded upon request from the FAA website at: www.faa.gov. For more information pertaining to this FAA guidance, please refer to Appendix G, “Heliport Design.” For heliport permitting requirements, contact Caltrans’ Division of Aeronautics. Also see Section 2.7.4 for ALUC review criteria for new heliports, or heliport master/development plans.

2.6 Scope of ALUC Review

As specified by the State Aeronautics Act and described in the *Handbook*, review of local actions pertaining to airport land use compatibility is one of the fundamental reasons for the formation of ALUCs. Plans that undergo mandatory review by ALUCs prior to their adoption include general and specific plans and ordinances prepared by local jurisdictions (see Sections 2.6.1 and 2.6.2), as well as airport and heliport plans, including master plans, expansion plans, and plans for the construction of new facilities. Other types of actions proposed within the AIA that have the potential to affect land use or airport operations should also be reviewed by the ALUC for a determination of consistency with this ALUCP (see Section 2.6.2.).

2.6.1 Actions Requiring ALUC Review

2.6.1.1 Land Use Plans and Zoning Ordinances

As noted in the *Handbook*, The following plans or ordinances shall be reviewed by the ALUC for determination of consistency with the ALUCP prior to their approval by the local jurisdiction:

- a) The adoption or approval of any amendment to a general or specific plan affecting property within an AIA (California Public Utilities Code Section 21676(b)).
 - 1) Until such time as the ALUC finds that a local jurisdiction’s general plan or specific plan is consistent with the ALUCP, or the local jurisdiction has overruled the ALUC’s determination of inconsistency by a two-thirds vote of its governing body, the local jurisdiction shall refer all actions, regulations, and permits involving land within an AIA to the ALUC for review (California Public Utilities Code 21676.5(a)). Only those actions that the ALUC elects not to review are exempt from this requirement.
 - 2) After a local jurisdiction has revised its general plan or specific plan for consistency with the ALUCP or has overruled the ALUC by a two-thirds vote of its governing body, the ALUC no longer has authority under state law to require that all actions, regulations, and permits be referred for review. However, the ALUC and the local agency can agree that the ALUC should continue to review individual projects in an advisory capacity.

- i. The ALUC requests local jurisdictions to continue to submit major land use actions as listed in Section 2.6.2.
 - ii. Review of these actions is requested only if a review has not previously been conducted as part of a general plan, specific plan, or zoning ordinance action or if sufficient project-level detail to enable a full assessment of compatibility was not available at the time of a previous review.
 - iii. Because the ALUC is acting in an advisory capacity when reviewing projects under these circumstances, local jurisdictions are not required to adhere to the override process if they elect to approve a project without incorporating design changes or conditions suggested by the ALUC.
- b) The adoption or approval of a zoning ordinance or building regulation which (1) affects property within an AIA, and (2) involves any of the airport-related concerns listed in Section 1.4 of this ALUCP (California Public Utilities Code Section 21676(b)). Any proposed change or variance to any such ordinance or regulation also must be submitted for ALUC review if issues of noise, safety, airspace protection, and overflight are involved.
- c) Proposed redevelopment of a property within an AIA for which the existing use is consistent with the local general plan and/or specific plan, but does not conform to the compatibility criteria set forth in this ALUCP.
- d) Proposed land use actions covered by Sections 2.6.1(a), 2.6.1(b), and 2.6.1(c) shall initially be reviewed by the ALUC Administrative Officer or her or his designee. If the ALUC Administrative Officer determines that significant compatibility issues are evident, the proposal shall be forwarded to the ALUC for review and decision. The ALUC authorizes the ALUC Administrative Officer to approve proposed actions having no apparent compatibility issues.

2.6.1.2 Airport and Heliport Plans

The following types of actions shall be referred to the ALUC for determination of consistency with the ALUCP prior to their approval by the local jurisdiction:

- a) The adoption or modification of the master plan for an existing public-use airport (California Public Utilities Code Section 21676(c)).
- b) Any proposal for expansion of an existing airport or heliport not included in that airport or heliports approved master plan if such expansion will require an amended airport permit from the state of California (California Public Utilities Code 21664.5).
- c) Any proposal for a new airport, heliport, or helipad whether, for public use or private use (California Public Utilities Code Section 21661.5), if the facility requires a State Airport Permit.

2.6.2 Land Use Actions Recommended for ALUC Review

Although the ALUC does not have the authority under state law to require that all actions, regulations, and permits be referred for review, the ALUC requests that certain types of actions be referred to the ALUC for determination of consistency with the ALUCP prior to their approval by the local jurisdiction.

For example, the scope or character of certain proposed major land use actions, as listed below, is such that their compatibility with airport activity may be cause for concern. Even though these actions may be generally consistent with the local general plan or specific plan, sufficient detail may not be known to enable a full airport compatibility evaluation at the time that the general plan or specific plan is reviewed. To enable better assessment of compliance with the compatibility criteria set forth herein, ALUC review of these actions may be warranted.

- a) Any proposed expansion of the sphere of influence or boundary of a city or special district that would extend into the AIA.
- b) Proposed pre-zoning of property within the AIA associated with future annexation of land to a city.
- c) Proposed residential development within the AIA, including land divisions, consisting of five or more dwelling units or parcels.
- d) Any discretionary development proposal within the AIA for projects having a building floor area of 20,000 square feet or greater.
- e) Proposed land acquisition within the AIA by a government or private entity for any facility that would act as an indoor or outdoor assembly area for a large number of people (i.e., meeting halls, parks, correctional institutions, sport facilities, etc.).
- f) Any obstruction reviewed by the FAA in accordance with FAR Part 77 that receives a finding other than “not a hazard to air navigation.”
- g) Any industrial use within the AIA having the potential to interfere with, or create hazards to aircraft in flight including, but not limited to:
 - 1) Electrical or other interference with radio communications or navigational signals;
 - 2) Lighting which could be mistaken for airport lighting;
 - 3) Thermal plumes;
 - 4) Glare in the eyes of pilots or aircraft using the airport; or
 - 5) Impaired visibility near the airport from smoke or steam.
- h) Other nonresidential development including, but not limited to:
 - 1) Institutional uses (schools, prisons);

- 2) Utility uses (utility poles, electrical substations, water supply and treatment facilities, and power plants);
 - 3) Healthcare uses (hospitals, respite facilities); and
 - 4) Open spaces (parks, golf courses, agricultural areas, wildlife refuges, or other forms of land use that could serve as habitat for potentially hazardous wildlife).
- i) Projects within the AIA with the potential to attract an increased number of birds to the vicinity of an airport, such as those with large water features, ponds, etc.
 - j) Proposed non-aviation development of airport property if such development has not previously been included in an airport master plan or community general plan reviewed by the ALUC. (See Section 2.4 for definition of aviation-related use.)
 - k) Regardless of location within Alameda County, any proposal for construction or alteration of a structure (including antennas) taller than 200 feet above the ground level at the site. (Such structures also require notification to the Federal Aviation Administration in accordance with Federal Aviation Regulations, Part 77, Paragraph 77.13(a)(1).)
 - l) Any other proposed land use action, as determined by the local planning agency, involving a question of compatibility with airport activities.

2.7 Review Process

2.7.1 General

Proposed actions listed in Section 2.6.2 should be referred to the ALUC as early as possible so that the ALUC's review can be duly considered by the local jurisdiction prior to formalizing its actions. Though the timing may vary, all projects must be submitted to the ALUC for review prior to final approval by the local jurisdiction.

2.7.2 Public Noticing

Where applicable, the ALUC shall provide public notice and obtain public input in accordance with the California Public Utilities Code (PUC Section 21675.2(d)) and general plan law (Government Code, Section 65090) before action on any plan, regulation, or other land use proposal under consideration.

2.7.3 Review Process for Land Use Plans and Zoning Ordinances

2.7.3.1 Initial Review of General Plan Consistency

In conjunction with adoption of this ALUCP, the ALUC shall review the general plans, specific plans, and zoning ordinances of affected local jurisdictions to determine their consistency with the ALUCP.

- a) Within 180 days of the ALUC's adoption or amendment of the ALUCP, each local jurisdiction must amend its general plan and any applicable specific plan to be consistent with the ALUCP or, alternatively, adopt findings and override the ALUC in accordance with Section 21676(b) of the Public Utilities Code (Government Code Section 65302.2).
- b) Prior to taking action on a proposed amendment to a general plan or specific plan, the local jurisdiction must submit a draft of the proposal to the ALUC for review and approval in accordance with Section 21676(b) of the Public Utilities Code.
- c) In conjunction with its submittal of a general plan or specific plan amendment to the ALUC, a local jurisdiction may request that the ALUC modify the areas defined as "infill" in accordance with Section 2.7.6.7 (a). The ALUC will include a determination on the infill as part of its action on the consistency of the general plan and specific plans.
- d) After a local jurisdiction has revised its general plan or specific plan for consistency with the ALUCP, subsequent land use proposals within the AIA (which are consistent with the applicable general plan, specific plans, and zoning ordinances) are subject to ALUC review only under the conditions indicated in Sections 2.6.1 and 2.6.2.

2.7.3.2 ALUC Action Alternatives

When reviewing a general plan, specific plan, zoning ordinance, or building regulation for consistency with the ALUCP, the ALUC has three choices of action:

- a) Find the plan, ordinance, or regulation consistent with the ALUCP. To make such a finding with regard to a general plan, the conditions identified in Section 2.7.5.2 must be met.
- b) Find the plan, ordinance, or regulation consistent with the ALUCP, subject to conditions and/or modifications that the ALUC may require.
- c) Find the plan, ordinance, or regulation inconsistent with the ALUCP. In making a finding of inconsistency, the ALUC shall note the specific conflicts upon which its determination is based.

2.7.3.3 Response Time

The ALUC must respond to a local jurisdiction's request for a consistency determination on a general plan, specific plan, zoning ordinance, or building regulation within 60 days from the date of referral (California Public Utilities Code Section 21676(d)).

- a) If the ALUC fails to make a determination within that period within that period, the proposed action shall be deemed consistent with the ALUCP.
- b) Regardless of ALUC action or failure to act, the proposed action must comply with other applicable local, state, and federal regulations and laws.
- c) The referring agency shall be notified of the ALUC's action in writing.

2.7.3.4 Review Criteria

In order for a general or specific plan, or a zoning ordinance to be considered consistent with the ALUCP, both of the following must be accomplished:

- a) No direct conflicts can exist between the two plans. Direct conflicts primarily involve general plan land use designations which do not meet the density or intensity criteria specified in the ALUCP although conflicts with regard to other policies also may exist. Note, however, that a general plan cannot be found inconsistent with the ALUCP because of land use designations that reflect existing land uses even if those designations conflict with the ALUC's compatibility criteria. Because ALUCs have no authority over existing land uses, general plan land use designations that merely reflect the existing uses for such parcels are, in effect, excluded from requirements for general plan consistency with the ALUC plan. This exception is applicable only if the general plan includes policies setting limitations on expansion and reconstruction of nonconforming uses consistent with Section 2.7.5.7.
- b) Provisions must be made for evaluation of proposed land use development situated within an AIA relative to the compatibility criteria set forth in the ALUCP.
 - 1) Even if the land use designations in a general plan have been deemed consistent with the ALUCP, evaluation of the proposed development relative to the land use designations alone is usually insufficient. General plans typically do not contain the detailed airport land use compatibility criteria necessary for a complete compatibility evaluation of proposed development.
 - 2) Local jurisdictions have the following choices, or a combination thereof, for satisfying this evaluation requirement:
 - i. The general plan and/or referenced implementing ordinances and regulations must contain sufficient detail to enable the local jurisdiction to assess whether a proposed development fully meets the compatibility criteria specified in the ALUCP (this requires both that the compatibility criteria be identified and that project review procedures be described);

- ii. The ALUCP must be adopted by reference (additionally, the project review procedure must be described in a separate instrument presented to and approved by the ALUC); and/or
 - iii. The general plan must indicate that all major land use actions, as listed in Section 2.6.2 or otherwise agreed to by the ALUC, shall be referred to the ALUC for review in accordance with the policies of Section 2.7.5.
- 3) The status of ALUC review of major land use actions depends upon which of the preceding options the local jurisdiction selects for making its general plan consistent with the ALUCP. This status, in turn, affects whether a local jurisdiction would be required to use the override process in the event of a disagreement with the ALUC's action.

If either of the first two options listed in Section 2.7.3.4(b)(2) is selected, then referral of major land use actions to the ALUC is voluntary. In this case, the ALUC's review is advisory and the local jurisdiction would not need to use the override process if it elects to approve a project without incorporating the ALUC's comments.

If the third option listed in Section 2.7.3.4(b)(2) is selected, submittal of major land use actions for ALUC review is mandatory and override procedures would apply.

2.7.4 Review Process for Airport and Heliport Actions

2.7.4.1 Project Submittal Information

Any proposal for a new airport, heliport, helipad, or an airport or heliport master or development plan, submitted to the ALUC for review shall contain sufficient information to enable the ALUC to adequately assess the noise, overflight, safety, and airspace protection impacts of airport activity upon surrounding land uses.

- a) At a minimum, information to be submitted shall include:
 - 1) A layout plan drawing of the facility showing the location of:
 - i. Property boundaries;
 - ii. Runways or helicopter takeoff and landing areas;
 - iii. Runway or helipad protection zones; and
 - iv. Aircraft or helicopter approach/departure flight routes.
 - 2) Airspace surfaces in accordance with FAR, Part 77.
 - 3) Activity forecasts, including the number of operations by each type of aircraft proposed to use the airport, the percentage of day, evening, and night operations, and the distribution of takeoffs and landings for each runway direction.

- 4) Proposed flight track locations and projected noise contours or other relevant noise impact data.
 - 5) A map showing existing and planned land uses in the areas affected by aircraft or helicopter activity associated with implementation of the proposed master plan or development plan.
 - 6) Any environmental document (initial study, draft environmental impact report, etc.) that has been prepared for the project.
 - 7) Identification and proposed mitigation of impacts on surrounding land uses.
- b) Any applicable review fees as established by the ALUC shall accompany the application.

2.7.4.2 ALUC Action Alternatives for Reviews of New Airports and Heliports

When reviewing proposals for new airports or heliports, the ALUC's choices of action are:

- a) Approve the proposal as being consistent with the specific review policies listed in Section 2.7.5.4.
- b) Approve the proposal and adopt an ALUCP for that facility. State law requires adoption of such a plan if the airport or heliport will be a public-use facility (California Public Utilities Code Section 21675(a)).
- c) Disapprove the proposal on the basis that the noise, safety, airspace protection, and overflight impacts it would have on surrounding land uses are not adequately mitigated.

2.7.4.3 ALUC Action Choices for Plans of Existing Airports or Heliports

When reviewing airport master plans or expansion plans for existing airports, the ALUC has three action choices:

- a) Find the airport or heliport plan consistent with the ALUCP.
- b) Find the airport or heliport plan inconsistent with the ALUCP.
- c) Modify the ALUCP (after duly noticed public hearing) to reflect the assumptions and proposals in the airport or heliport plan.

2.7.4.4 Response Time

The ALUC must respond to a local jurisdiction's submittal of plans for a new airport or heliport, or an airport/heliport master or development plan, within 60 days from the date of referral (California Public Utilities Code Section 21676(d)).

- a) If the ALUC fails to make a determination within that period, the proposed action shall be deemed consistent with the ALUCP.
- b) Regardless of ALUC action or failure to act, the proposed action must comply with other applicable local, state, and federal regulations and laws.
- c) The referring agency shall be notified of the ALUC's action in writing.

2.7.4.5 Review Criteria for New Airports or Heliports

In reviewing proposals for new airports and heliports, the ALUC shall focus on the potential noise, overflight, safety, and airspace protection impacts upon surrounding land uses. The review should examine the kinds of impacts that these factors would have upon both existing and planned land uses. Items to be considered should include:

- a) Whether the existing or planned land uses would be considered incompatible with the airport or heliport if the latter were already in existence.
- b) The measures provided in the development plan to mitigate the effects of noise, safety, height restriction, and overflight impacts on surrounding land uses, such as:
 - 1) Locating flight tracks so as to minimize the impacts;
 - 2) Other operational procedures to minimize impacts; and
 - 3) Acquisition or property interests (fee title or easements) on the impacted land.
- c) The ALUC shall evaluate the adequacy of the proposed facility design (in terms of federal and state standards) only to the extent that the design affects surrounding land use. The ALUC does not have the authority to make a determination of conformance with federal and state standards.
- d) The ALUC must base its review on the proposed airfield or heliport design. The ALUC does not have the authority to require alterations to the airfield or heliport design.
- e) The review shall examine the relationships between existing and planned land uses in the vicinity of the proposed airport or heliport and the impacts that the proposed facility would have upon these land uses.
- f) Other types of environmental impacts (e.g., air quality, water quality, natural habitats, vehicle traffic, etc.) are not within the scope of ALUC review.

2.7.4.6 Review Criteria for Airport Master, Layout, and Development Plans

When reviewing new or modified airport master or development plans for existing airports, the ALUC shall determine whether activity forecasts or proposed facility development identified in

the plan differ from the forecasts and development assumed for that airport in this ALUCP. Attention should specifically focus on:

- a) Activity forecasts that:
 - 1) Are significantly higher than those in the ALUCP; or
 - 2) Include a higher proportion of larger or noisier aircraft.
- b) Proposals to:
 - 1) Construct a new runway or helicopter takeoff and landing area;
 - 2) Permanently change the length, width, or landing threshold location of an existing runway; or
 - 3) Establish an instrument approach procedure.

2.7.4.7 Consistency Determination Criteria for Master or Development Plans

The ALUC shall determine whether the proposed master plan or development plan is consistent with the ALUCP. The ALUC shall base its determination of consistency on:

- a) Findings that the forecasts and aviation-related development identified in the master or development plan would not result in greater noise, overflight, or safety impacts or height restrictions on surrounding land uses than are assumed in the ALUCP.
- b) A determination that any non-aviation development proposed within the airport or heliport boundary will be consistent with the basic compatibility criteria set forth in Table 2-3.

2.7.5 Review Process for Proposed Land Use Actions

2.7.5.1 Information Required for Review of a Proposed Individual Project

Project sponsors must provide information for ALUC review. Items (a) through (f) below are summarized in Table 2-2.

- a) Indication, in writing, that the proposed local action is referred to the ALUC for mandatory review and comment.
- b) Site maps to indicate the location of the proposed local action.
- c) The identities of all property owners within the land area encompassed by the proposed local action, and, if any development or development application has been proposed to the referring jurisdiction or is known by the referring jurisdiction to be in preparation in conjunction with the local action, the identities of the applicant or applicants and of the representative(s) thereof.

- d) A full description and map of the geographic area. The map and description must indicate:
- 1) The geographic area encompassed by the proposed local action;
 - 2) The assessor's parcel number of all properties involved by the proposed local action;
 - 3) The relationship of the proposed local action to the Airport;
 - 4) The relationship of the proposed local action to the safety zones as defined by the ALUCP in force; and
 - 5) The relationship of the proposed local action to airport noise contours, as defined by the ALUCP.

**TABLE 2-2
INFORMATION REQUIRED FOR ALUC REVIEW OF PROPOSED LAND USE ACTIONS**

Information Required	Local Actions*				
	General Plan	Specific Plan	Zoning Ordinance	Building Regulation	Individual Project
Indication (in writing) that the proposed local action is referred to the ALUC for mandatory review under the provisions of the State of California Public Utilities Code	Y	Y	Y	Y	N
Indication (in writing) that the proposed local action is referred to the ALUC for optional review and comment	N	N	N	N	Y
Full text of the proposed referring agency action	Y	Y	Y	Y	N/A
Site map of the proposed local action	N/A	N/A	N/A	N/A	Y
Map and written description including:					
▪ Geographic Area	Y	Y	Y	N/A	Y
▪ All parcel nos. associated with the proposed project	Y	Y	Y	N/A	Y
▪ Relationship of proposed action to the airport, safety zones, and noise contours	Y	Y	Y	N/A	Y
▪ Elevation of the proposed project action	Y	Y	Y	N/A	Y
A description of land uses, densities, and open space conservation for the proposed action	Y	Y	Y	N/A	N/A
A copy of any CEQA or NEPA document, noise study, or other environmental evaluation prepared in conjunction with the proposed action.	Y	Y	Y	N/A	Y
A written assurance that a real estate disclosure document will be provided for property offered for sale or lease within the AIA.	Y	Y	Y	N/A	Y
Abbreviations:					
Y - Yes, information is required; N - No, information is not required; N/A - Not applicable					
* This also includes amendments to general and specific plans.					

- e) A description of uses, land use densities, residential land use densities, and open space conservation proposed for the local action.
- f) An analysis of the maximum elevation of improvements (i.e., site elevation plus height of improvements) that would be permissible under the terms and conditions of the proposed local action, and of the relationship of the maximum allowable elevation of improvements to the applicable imaginary airport surfaces as defined in Part 77 of the Federal Aviation Regulations and the minimum instrument approach altitudes, as specified by the U.S. Standards for Terminal Instrument Procedures of any instrument approaches that entail overflight of the property affected.¹
- g) A copy of any Initial Study, Environmental Impact Report, Environmental Assessment, Environmental Impact Statement, noise study, or other environmental evaluation prepared or required in conjunction with the proposed local action.
- h) A written assurance that for residential property within the AIA offered for sale or lease the notice of intention filed with the Department of Real Estate shall include the following (as per the provisions of Business and Professional Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353):

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

Failure to provide the ALUC with required information for any proposed local action shall constitute sufficient grounds for a determination of inconsistency.

2.7.5.2 ALUC Administrative Officer's Choices

The ALUC Administrative Officer, when reviewing major land use actions, has two choices of action:

- a) Find that the proposed project does not contain characteristics likely to result in inconsistencies with the compatibility criteria set forth in this ALUCP. The ALUC Administrative Officer is authorized to approve such projects on behalf of the ALUC.
- b) Find that the proposed project may be inconsistent with the ALUCP. The ALUC Administrative Officer shall forward any such project to the ALUC for a consistency determination.

¹ The U.S. Standards for Terminal Instrument Procedures (TERPS) are contained in FAA Order 8260.3B CHG 19 (5/12/02).

2.7.5.3 ALUC Action Alternatives

The ALUC has three choices of action when reviewing a major land use project proposal:

- a) Find the project consistent with the ALUCP.
- b) Find the project consistent with the ALUCP, subject to compliance with such conditions as the ALUC may require. Any such conditions should be limited in scope and be described in a manner which allows compliance to be clearly assessed (e.g., the height of a structure).
- c) Find the project inconsistent with the ALUCP. In making a finding of inconsistency, the ALUC shall note the specific conflicts upon which its determination is based.

2.7.5.4 Response Time

State law does not specify a timeframe for ALUCs to review land use actions other than amendment of a general plan or specific plan or the addition or approval of a zoning ordinance or building regulation. Nevertheless, the policy of the Alameda County ALUC is that:

- a) Reviews of projects forwarded to the ALUC Administrative Officer for a consistency determination shall be completed within 21 days following the submittal of a complete application. Should the project require further review, the Administrative Officer will forward the project to the ALUC, and will schedule a hearing within 60 days of project referral.
- b) The date of referral is deemed to be the date on which all applicable project submittal information as listed in Section 2.7.5.1 is received by the ALUC Administrative Officer.
- c) If the ALUC Administrative Officer or the ALUC fails to make a determination within the above time periods, the proposed action shall be deemed consistent with the ALUCP.
- d) Regardless of action or failure to act on the part of the ALUC Administrative Officer or the ALUC, the proposed action still must comply with other applicable local, state, and federal regulations and laws.
- e) The referring agency shall be notified of the ALUC Administrative Officer's and/or the ALUC's action in writing.

2.7.5.5 Subsequent Review

Once a project has been found consistent with the ALUCP, it need not be referred for review at subsequent stages of the planning process (e.g., for a use permit after a zoning change has been reviewed) unless:

- a) Insufficient information was available at the time of the ALUC's original review of the project to assess whether the proposal would be fully in compliance with compatibility

- criteria (e.g., the site layout and structure height might not be known at the time a general plan change or zoning amendment is requested).
- b) The design of the project subsequently changes in a manner that could raise questions as to the validity of a previous finding of compatibility. Changes warranting review include, but are not limited to, the following:
 - 1) An increase in the number of dwelling units proposed for the site;
 - 2) A proposed increase in intensity of use (more people on the site);
 - 3) Incorporation of clustering or modifications to the configuration of open land areas proposed for the site; and/or
 - 4) A proposed increase in the height of structures or other design features.
 - c) The local jurisdiction concludes that further review is warranted.
 - d) The ALUC requests further review at a date later in the approval process.

2.7.5.6 Basic Land Use Compatibility Criteria

The basic compatibility criteria table (see Table 2-3) represents a compilation of compatibility criteria associated with noise, overflight, safety, and airspace protection impacts.

The basic criteria for assessing whether a land use plan, ordinance, or development proposal is to be judged compatible with a nearby airport are set forth in this table. Additional factors pertaining to the review of general plans shall also be taken into account.

**TABLE 2-3
BASIC COMPATIBILITY CRITERIA AND SUPPORTING INFORMATION**

Safety Zone/FAR Part 77 Surface	Compatibility Qualities	Compatibility Factors / Runway Proximity
Runway Protection Zone / Approach Surface	- Prohibit all structures except those with aeronautical functions - Prohibit residential land uses - Prohibit objects exceeding Part 77 height limits - Prohibit storage of hazardous materials - Avigation easement dedication	- Very high risk - Runway Protection Zone is defined by FAA criteria - Exposure to high noise aircraft levels - Aircraft approaching/departing airport at low altitudes
Inner Approach/Departure Zones / Approach Surface	- Prohibit schools, day care centers, libraries, hospitals, nursing homes, and places of worship - Limit nonresidential development to low-intensity uses (see Notes for interior noise level requirements) - Prohibit above ground storage, hazardous materials or other hazards to flight/objects exceeding Part 77 height limits - Allow only low density (e.g., rural residential) residential development (if not deemed unacceptable because of noise—see Notes) - Avigation easement dedication	- Substantial Risk - RPZs together with inner safety zones encompass 30% - 50% of near-airport aircraft accident sites (air carrier and general aviation) - Encompasses areas overflown at low altitudes (typically 200-400 feet above runway elevation)
Inner Turning Zones / Transitional Surface	- Prohibit critical infrastructure facilities - Limit residential uses to very low densities (if not deemed unacceptable because of noise—see Notes) - Avoid non-residential uses having moderate or higher usage intensities (e.g., major shopping centers, fast food restaurants, theaters, meeting halls, buildings with more than three above ground floor are generally unacceptable) - Prohibit children's schools, day care centers, hospitals, nursing homes - Avoid uses that could create hazards to flight - Avigation easement dedication	- Zone primarily applicable to general aviation airports - Covers locations where aircraft are typically turning from the base to final approach legs of the standard traffic pattern and are descending from traffic pattern altitude - Zone also includes the area where departing aircraft normally complete the transition from takeoff power and flap settings to a climb mode and have begun to turn their en route heading
Outer Approach/Departure Zones / Approach Surface	- In undeveloped areas, limit residential uses to very low densities; if alternative uses are impractical, allow infill in urban areas (if not deemed unacceptable because of noise—see Notes) - Prohibit children's schools, large day care centers, hospitals, nursing homes - Limit non-residential uses as in Zone 3. - Prohibit other hazards to flight/objects exceeding Part 77 height limits	- Situated along extended runway centerline beyond Zone 2 - Approaching aircraft usually at less than traffic pattern altitude - Partially applicable for busy general aviation runways, runways with straight in instrument approach procedures, and other runways where straight-in or straight-out flight paths are common. - Zone can be reduced in size or eliminated for runways with very low activity levels.

**TABLE 2-3
BASIC COMPATIBILITY CRITERIA AND SUPPORTING INFORMATION**

Safety Zone/FAR Part 77 Surface	Compatibility Qualities	Compatibility Factors / Runway Proximity
Sideline Zones / Transitional Surface	- Aviation easement dedication - Avoid residential uses - Allow all common aviation-related activities provided that height criteria is met (also see Notes for interior noise level requirements) - Limit other non-residential uses similarly to Zone 3, but with slightly higher usage intensities - Prohibit children's schools, large day care centers, hospitals, nursing homes	- Encompasses close-in area lateral to runways - Area not normally overflowed; primary risk is with aircraft losing directional control on takeoff - Area is on airport property at most airports
Traffic Pattern Zone / Horizontal Surface	- Allow residential uses (if not deemed unacceptable because of noise—see Notes) - Allow non-residential uses; prohibit outdoor stadiums and similar uses with very high intensities - Avoid children's schools, large day care centers, hospitals, nursing homes	- Generally low likelihood of accident occurrence at most airports; risk concern primarily is with uses for which potential consequences are severe - Zone includes all other portions of regular traffic patterns and pattern entry routes
Other Airport Environs / Horizontal Surface / Outer Conical Surface	- Prohibit hazards to flight - Allow residential uses	All areas outside Zones 1 through 6, but within AIA boundaries
High Terrain	Same as underlying safety zone	

NOTES:

See Chapter 3 for airport-specific criteria, which may change or provide additions to these policies.

Refer to FAR Part 77, *Objects Affecting Navigable Airspace*, for specific airspace review and height limit guidelines.

Per State standards (Title 21, §5012), residential uses are not compatible within the 65 CNEL contour or higher.

Noise-sensitive (e.g., schools, hospitals, libraries, etc.), non-residential uses within the 65 CNEL contour, or higher, must have a maximum interior noise level of 45 dB.

Buyer Awareness notification required for the sale or lease of residential property within airport influence area, per Business Professional Code Section 11010 and Civil Code sections 1102.6, 1103.4, and 1353.

See Caltrans' *California Airport Land Use Planning Handbook* for additional guidance on safety and noise compatibility issues.

DEFINITIONS:

Allow: Use is acceptable.

Limit: Use is acceptable only if density/intensity restrictions are met.

Avoid: Use generally should not be permitted unless no feasible alternative is available.

Prohibit: Use should not be permitted under any circumstances.

Children's Schools: Through grade 12.

Large Day Care Centers: Commercial facilities as defined in accordance with state laws; for the purposes here, family day care homes and noncommercial facilities ancillary to a place of business are generally allowed.

Aboveground Bulk Storage of Fuel: Tank size greater than 6,000 gallons (this suggestion is based on the Uniform Fire Code criteria which are more stringent for larger tank sizes).

SOURCE:

Caltrans, *California Airport Land Use Planning Handbook*, January 2002, Table 9B.

REFERENCES:

The risk factors presented here are derived from the *California Airport Land Use Planning Handbook*, and are intended to demonstrate the need for the safety criteria provided in Chapters 2 and 3 of this ALUCP.

Height limits and the review of objects in airport airspace is determined under the guidelines of Federal Aviation Regulation (FAR) Part 77: *Objects Affecting Navigable Airspace*.

Hazards to flight would include tall objects, visual and electronic forms of interference, and land use development that would attract wildlife hazardous to aircraft operations.

For the purposes of reviewing proposed amendments to county or city land use plans and zoning ordinances, as well as in the review of most individual development proposals, the criteria in the summary table are anticipated to suffice. However, certain complex land use actions may require more intensive review. The ALUC may refer to the supporting criteria, as listed in Chapter 3, to clarify or supplement its review of such actions.

2.7.5.7 Special Conditions

- a) Infill. Where development not in conformance with this ALUCP already exists, additional infill development of similar land uses may be allowed to occur even if such land uses are to be prohibited elsewhere in the AIA. The burden for demonstrating that a proposed development qualifies as infill rests with the project proponent and/or local jurisdiction
 - 1) A parcel can be considered for infill development if it meets all of the following criteria plus the applicable provisions of either Sections 2.7.5.7(a)(2) or 2.7.5.7(a)(3) below:
 - i. The parcel size is 20 acres or less.
 - ii. The site is at least 65% bound (disregarding roads) by existing uses that are similar to, or more intensive than, those proposed.
 - iii. The proposed project would not extend the perimeter of the area defined by the surrounding, already developed, incompatible uses.
 - iv. Further increases in the density, intensity, and/or other incompatible design or usage characteristics (e.g., through use permits, density transfers, addition of second units on the same parcel, height variances, subdivisions, or other strategy) are not included.
 - v. The area to be developed cannot previously have been set aside as open land in accordance with open land policies presented in Chapter 3 of this ALUCP unless replacement open land is provided within the same compatibility zone.
 - 2) For residential development, the density of the parcel proposed for development shall not exceed the following:
 - i. For parcels of 10 acres or less, the density shall not exceed the median density represented by all existing lots that lie fully or partially within a distance of 300 feet from the defined infill area.
 - ii. If the size of the parcel is greater than 10 acres (but no larger than 20 acres), then the development density shall be no greater than double the density permitted in accordance with the basic compatibility criteria listed in Table 3-2.

- 3) For non-residential development:
 - i. If the size of the parcel proposed for development is 10 acres or less, the usage intensity (the number of people per acre) of the proposed use shall be no greater than the average intensity of all existing uses that lie fully or partially within a distance of 300 feet from the boundary of the proposed development.
 - ii. If the size of the parcel proposed for development is greater than 10 acres (but no larger than 20 acres), the proposed use shall not have an intensity (the number of people per acre) more than 50% above the intensity permitted in accordance with the basic compatibility criteria listed in Table 3-2.
 - 4) In order for the ALUC to consider proposed development under these infill criteria, the local jurisdiction having land use authority (Alameda County or affected cities) must first identify the qualifying locations in its general plan or other adopted planning document that has been found consistent with the ALUCP by the ALUC. This action may take place in conjunction with the process of amending a general plan for consistency with the ALUC plan or may be submitted by the local jurisdiction for consideration by the ALUC at the time of adoption of this ALUCP.
- b) Nonconforming Uses. Uses that are not in conformance with this ALUCP may only be expanded as follows:
- 1) Nonconforming residential uses may be expanded in building size provided that the expansion does not result in more dwelling units than currently exist on the parcel.
 - 2) A nonconforming nonresidential development may be continued, modified, transferred, or sold, provided that no such use shall be expanded in area or increased in intensity (the number of people per acre) above the levels existing at the time of adoption of this ALUCP.
 - 3) Any proposed expansion of a nonconforming use (in terms of the number of dwelling units or people on the site) shall be subject to ALUC review. Factors to be considered in such reviews include whether the development qualifies as infill or warrants approval because of other special conditions.
- c) Reconstruction. An existing nonconforming development that has been fully or partially destroyed as the result of a calamity may be rebuilt only under the following conditions:
- 1) Nonconforming residential uses may be rebuilt provided that the expansion does not result in more dwelling units than existed on the parcel at the time of the damage.

- 2) A nonconforming nonresidential development may be rebuilt, even if completely destroyed, provided that the reconstruction does not increase the floor area of the previous structure or result in an increased intensity of use (i.e., more people per acre).
 - 3) Nothing in Sections 2.7.5.7(c)(1) through 2.7.5.7(c)(2) is intended to preclude work required for normal maintenance and repair.
- d) Development by Right. Nothing in these policies prohibits construction or alteration of a single-family home on a legal lot of record if such use is permitted by local land use regulations. Construction of other types of uses also may proceed if local government approvals, based upon previous ALUC compatibility criteria and project review, effectively qualify the development as existing.
- e) Parcels Lying within Two or More Compatibility Zones. If a parcel is split by safety zone boundaries, the intensity of development allowed within the more restricted portion of the parcel should be transferred to the less restricted portion. However, the ALUC can consider less restrictive options on a case-by-case basis if special conditions or design criteria are applied to the proposed project. These special conditions may include:
- 1) Maintaining adequate open space for emergency landings (0.5 acre of parcel);
 - 2) Clustering of development; and
 - 3) Risk reduction building design (i.e., concrete walls, limited number of windows, upgraded roof strength, no skylights, enhanced fire sprinkler system, single-story height, increased number of emergency exits, etc.).
- f) Other Special Conditions. The compatibility criteria set forth in this plan are intended to be applicable to all locations within each AIA. However, it is recognized that there may be specific situations where a normally incompatible use can be considered compatible because of terrain, specific location, or other extraordinary factors or circumstances related to the site.
- 1) After due consideration of all the factors involved in such situations, the ALUC may find a normally incompatible use to be acceptable.
 - 2) In reaching such a decision, the ALUC shall make specific findings as to why the exception is being made and that the land use will not create a safety hazard to people on the ground or aircraft in flight nor result in excessive noise exposure for the proposed use. Findings also shall be made as to the nature of the extraordinary circumstances that warrant the policy exception.
 - 3) The burden for demonstrating that special conditions apply to a particular development proposal rests with the project proponent and/or the referring agency, not with the ALUC.

- 4) The granting of a special conditions exception shall be considered site specific and shall not be generalized to include other sites.
- 5) Special conditions that warrant general application in all or part of the AIA of one airport, but not at other airports, are set forth in Chapters 3 of this ALUCP.

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