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28-8461. Definitions

In this article, unless the context otherwise requires:

1. "Accident potential zone one" means an area three thousand feet wide by five thousand feet long that starts at the end of each clear zone and that is centered and measured on the extended runway centerline, terminating eight thousand feet from the end of each runway and, for an ancillary military facility described in paragraph 7 of this section, includes an area delineated as accident potential zone one in the map described in paragraph 7 of this section.
2. "Accident potential zone two" means an area three thousand feet wide by seven thousand feet long that starts at the end of each accident potential zone one and that is centered and measured on the extended runway centerline, terminating fifteen thousand feet from the end of each runway, except that, for Luke air force base, accident potential zone two extends thirty thousand feet southwest from the end of each runway and, for an ancillary military facility described in paragraph 7 of this section, includes an area delineated as accident potential zone two in the map described in paragraph 7 of this section.
3. "Airport" means an area of land or water that is designed and set aside for the landing and taking off of aircraft and that is utilized or to be utilized in the interest of the public for those purposes.
4. "Airport hazard" means a structure, tree or use of land that obstructs the air space required for flight of aircraft in taking off or landing at an airport or that is otherwise hazardous to aircraft taking off or landing.
5. "Airport hazard area" means an area of land or water on which an airport hazard might be established if not prevented as provided in this article.
6. "Airstrip" means a strip of ground that is artificially or naturally surfaced and that is designed and used at an airport or landing field for the landing and takeoff of aircraft.
7. "Ancillary military facility" means:
 - (a) For political subdivisions described in paragraph 9, subdivision (a) of this section, the military auxiliary airfield that is identified on the map that is designated as Luke air force base auxiliary airfield #1, that 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) 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) 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 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) 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 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. "Military training route" means a low level military route that allows department of defense aircraft to conduct flights that may be as low as one hundred feet above the ground at speeds in excess of two hundred

fifty knots indicated air speed as delineated in the military training route map pursuant to section 37-102.

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

13. "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.

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

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

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

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

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

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

20. "Territory in the vicinity" means any property located in the following zones:

(a) For Luke air force base in Maricopa county, the zone is ten miles to the north, south and west and four miles to the east parallel from the center of the main runway of a military airport.

(b) For Davis-Monthan air force base in Pima county, the zone is five miles to the northwest along a line extending from the end of the northwest runway, one and one-half miles to the southwest, six and one-half miles to the northeast and perpendicular to the runway centerline and ten miles to the southeast along a line extending from the end of the southeast runway of a military airport.

(c) For Yuma marine corps air station and Laguna army airfield in Yuma county and Libby army airfield in Cochise county, the zone is five miles to the north, south and west and ten miles to the east of the center of the main runway of a military airport.

(d) For an ancillary military facility described in paragraph 7, subdivision (a) of this section, the land area designated as the territory in the vicinity 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 territory in the vicinity on the map of each ancillary military facility described in paragraph 7, subdivisions (b) and (c) of this section.

21. "Tree" means an object of natural growth.

28-8480. Military airport continuation; land acquisition

In addition to authority granted pursuant to other provisions of law, a political subdivision may acquire, by exchange, purchase, lease, donation, devise or condemnation, land or interests in land for the continued operation of a military airport or ancillary military facility.

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

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

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

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

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

E. This section does not restrict, limit or modify, or authorize or require any political subdivision to restrict, limit or modify, the right of a landowner to undertake and complete development and use of any property under the terms and conditions of a development plan or school district development plan approved on or before December 31, 2000, or on or before December 31 of the year in which the development's property becomes territory in the vicinity of a military airport or ancillary military facility or pursuant to a written determination of compatibility issued by the military airport or ancillary military facility on or before December 31, 2004, by the political subdivision in whose territory or area of jurisdiction the property is located, except that the development must comply with the sound attenuation standards and specifications incorporated into any building code adopted pursuant to section 28-8482 by the political subdivision in whose territory or area of jurisdiction the development is located.

F. This section does not restrict, limit or modify, or authorize or require any political subdivision to restrict, limit or modify, the right of a landowner to undertake and complete development and use of any property located in a high noise or accident potential zone that is appurtenant to an ancillary military facility under the terms and conditions of a development plan or school district development plan approved on or before

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

G. On or after July 1, 2001 or on or after December 31 of the year in which the property becomes territory in a high noise or accident potential zone, a political subdivision that has property in a high noise or accident potential zone shall notify the owner or owners of property in the high noise and accident potential zone of any additions or changes under this section to the general plan, comprehensive plan, zoning regulations or school district development plan of the political subdivision applicable to property in the high noise or accident potential zone. The political subdivision shall provide a notice of such additions or changes by publication as provided in section 9-462.04, subsection A or section 11-814, subsection D, including a statement that the property is located in a high noise or accident potential zone, at least thirty days before final approval of the addition to or change in the general plan, permitted land uses, zoning regulation or school district development plan and within thirty days following the final approval of such an addition to or change in the general plan, permitted land uses, zoning regulation or school district development plan.

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

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 attorney general determines the approval, adoption or readoption of the general or comprehensive plan or the major amendment to the general or comprehensive plan is not in compliance with subsection J of this section, the attorney general shall notify the political subdivision by certified mail, return receipt requested, of the determination of noncompliance. Within thirty days after the receipt of a determination of noncompliance by the attorney general as prescribed by this section, the governing body of the political subdivision shall reconsider 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. If the governing body reaffirms a prior action subject to an attorney general's determination of noncompliance pursuant to this section, the attorney general may institute a civil action pursuant to subsection L of this section. If a political subdivision timely sends notice pursuant to this subsection and the attorney general fails to timely notify the political subdivision of a determination of noncompliance, the general or comprehensive plan or major amendment to the general or comprehensive plan shall be deemed to comply with subsection J of this section.

J. The attorney general shall determine compliance with this section in accordance with the following requirements applicable to zoning and development in a high noise or accident potential zone and to zoning and development in accident potential zone one and accident potential zone two. Compliance with respect to territory located in the arrival and departure corridor but outside the accident potential zone one, two and noise contour lines as described in section 28-8461, paragraph 9, subdivision (c) shall be determined in accordance with the requirements applicable to territory located in the 65-69 day-night sound level as listed below. Compliance with respect to the property described in section 28-8461, paragraph 9, subdivision (b) shall be determined in accordance with the compatible land use plan in the joint land use study completed in

February 2004. If the political subdivision and the military airport mutually agree that an individual use is compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility, as applicable, the use shall be deemed to comply with this subsection. Alternatively, for an individual use or a plan for development submitted to a military airport or ancillary military facility before December 31, 2004, this subsection does not preclude the military airport from determining that the individual use or plan for development is compatible and consistent with the high noise or accident potential zone of the military airport or ancillary military facility.

Day-night sound level in decibels

high noise or accident

potential zone (18)

Zoning and development in high

noise or accident potential

zone 65-69 70-74 75-79 80-84 85 or APZ APZ

over one two

Residential

Residential uses other than No(13) No(13) No(13) No(13) No No No

the residential uses

listed below

Single family residential Yes(9) Yes(10) Yes(11) No(13) No(13) No No(13)

that is the subject of

zoning approved on or

before December 31, 2000,

or on or before December 31

of the year in which the

property becomes territory

in the vicinity of a

military airport,

that permits one dwelling

unit per acre or less

Single family residential Yes(9) Yes(10) Yes(11) Yes(12) No(13) No No(13)

that is the primary residence

for persons engaging in

agricultural use and

ancillary residential

buildings incident to the

primary agricultural use

Transportation, communications

and utilities

Railroad and rapid rail transit Yes Yes(5) Yes(6) Yes(7) No No Yes(15)

Highway and street right-of-way Yes Yes Yes Yes Yes Yes Yes

Motor vehicle parking Yes Yes Yes Yes Yes Yes(15) Yes(15)

Communications Yes Yes(2) Yes(3) No No Yes(15) Yes(16)

(noise sensitive)

Utilities Yes Yes Yes No No Yes(15) Yes(16)

Other transportation, Yes Yes(5) Yes(6) Yes(7) Yes(8) Yes(15) Yes(16)

communications and utilities

Commercial/retail trade

Wholesale trade Yes Yes(5) Yes(6) Yes(7) No No Yes

Building materials-retail Yes Yes(5) Yes(6) Yes(7) No No Yes

General merchandise-retail Yes Yes(1) Yes(2) No No No No

Food-retail Yes Yes(1) Yes(2) No No No No

Automotive and marine Yes Yes(5) Yes(6) No No No No/Yes(17)

Apparel and accessories-retail Yes Yes(1) Yes(2) No No No No

Eating and drinking places	Yes	Yes(1)	Yes(2)	No	No	No	No
Furniture and home furnishings-retail	Yes	Yes(1)	Yes(2)	No	No	No	No/Yes(17)
Other retail trade	Yes	Yes(1)	Yes(2)	No	No	No	No
Personal and business services							
Finance, insurance and real estate	Yes	Yes(1)	Yes(2)	No	No	No	Yes
Personal services	Yes	Yes(1)	Yes(2)	No	No	No	Yes
Business services	Yes	Yes(1)	Yes(2)	No	No	No	Yes
Repair services	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes
Contract construction services	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	No Yes
Indoor recreation services	Yes	Yes(5)	Yes(6)	No	No	No	Yes
Other services	Yes	Yes(5)	Yes(6)	No	No	No	Yes
Industrial/manufacturing							
Food and kindred products	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Textile mill products	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Apparel	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Lumber and wood products	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Furniture and fixtures	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Paper and allied products	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Printing and publishing	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Chemicals and allied products	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	No
Petroleum refining and related industries	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	No
Rubber and miscellaneous plastic	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)
Stone, clay and glass products	Yes	Yes(5)	Yes(6)	Yes(7)	No	No	Yes(16)

Primary metal industries Yes Yes(5) Yes(6) Yes(7) No No Yes(16)

Fabricated metal products Yes Yes(5) Yes(6) Yes(7) No No Yes(16)

Professional, scientific and Yes Yes(1) Yes(2) No No No No

controlling instruments

Miscellaneous manufacturing Yes Yes(5) Yes(6) Yes(7) No No Yes(16)

Public and quasi-public

services

Government services Yes(1) Yes(2) Yes(2) No No No Yes(16)

Cultural activities, Yes(1) Yes(2) No No No No No

including churches

Medical and other health

services Yes(1) Yes(2) No No No No No

Cemeteries Yes(5) Yes(6) Yes(7) No No No Yes

Nonprofit organizations Yes(1) Yes(2) No No No No Yes

Correctional facilities Yes(1) Yes(2) Yes(3) Yes(4) No No Yes

Other public and quasi-public Yes(1) Yes(2) No No No No Yes(16)

services

Outdoor recreation

Playgrounds and neighborhood

parks Yes Yes No No No Yes(15) Yes

Community and regional Yes Yes No No No Yes(15) Yes

Nature exhibits Yes No No No No No No

Spectator sports, including

arenas Yes(14) Yes(14) No No No No No

Golf courses and riding stables Yes Yes(5) Yes(6) No No Yes(15) Yes

Water based recreational areas	Yes	Yes(5)	Yes(6)	No	No	No	No
Resort and group camps	Yes(1)	Yes(2)	No	No	No	No	No
Auditoriums and concert halls	Yes(6)	Yes(7)	No	No	No	No	No
Outdoor amphitheaters and music shells	Yes(14)	Yes(14)	Yes(14)	No	No	No	No
Other outdoor recreation	Yes	Yes(14)	Yes(14)	No	No	No	No
Resource production, extraction and open space							
Agriculture (except livestock)	Yes(9)	Yes(10)	Yes(11)	Yes(12)	Yes(13)	Yes(13)	Yes(13)
Livestock farming and animal breeding	Yes(9)	Yes(10)	Yes(11)	Yes(12)	Yes(13)	Yes(13)	Yes(13)
Forestry activities	Yes(9)	Yes(10)	Yes(13)	Yes(13)	Yes(13)	No	Yes
Fishing activities and related services	Yes	Yes	No	No	No	No	No
Mining activities	Yes	Yes	Yes	Yes	No	Yes(16)	
Permanent open space	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Water areas (not incidental to farming)	Yes	Yes	No	No	No	No	No

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

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

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

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

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

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

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

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

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

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

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

(15) No aboveground buildings or structures.

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

(a) Steam, dust and smoke.

(b) Direct or indirect reflective light emissions.

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

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

(e) Explosives facilities or similar activities.

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

(18) Uses not listed are presumed to not be compatible. If the political subdivision and the military airport mutually agree that an individual use is compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility, the use shall be presumed to be compatible.

K. Pursuant to subsection I of this section, the attorney general shall notify a political subdivision by certified mail, return receipt requested, if the attorney general has probable cause to believe that the political subdivision has not complied with the requirements set forth in subsection J of this section. Nothing in this section shall authorize or permit a finding of probable cause of noncompliance with respect to property that is the subject of a development plan.

L. The following apply to enforcement actions brought under this section:

1. The attorney general may institute a civil action in the name of this state in the superior court in the county of the alleged violation against a political subdivision that is required to notify the attorney general pursuant to subsection I of this section to restrain, enjoin, correct or abate a violation of this section, to collect a civil penalty ordered pursuant to this section and to collect attorney fees and costs ordered pursuant to this section if the attorney general has probable cause to believe that an action to reaffirm an approval, adoption or readoption of, or major amendment to, the general or comprehensive plan made by a political subdivision is not in compliance with subsection J of this section.

2. If the attorney general institutes a civil action pursuant to subsection I of this section, the civil action shall be filed within thirty days after the action to reaffirm an approval, adoption or readoption of, or major amendment to, the general plan or comprehensive plan.

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

4. The court may assess civil penalties in favor of this state to be deposited in the state general fund. The political subdivision may be liable for a civil penalty of up to five hundred dollars for each day for the first ten days and up to five thousand dollars for each subsequent day up to a maximum of fifty thousand dollars.

M. A political subdivision that has territory in the vicinity of a military airport or ancillary military facility that includes property in a high noise or accident potential zone shall submit any proposed comprehensive or general plan amendments that are applicable to property within the high noise or accident potential zone to

the attorney general at least fifteen days before the first public hearing required pursuant to section 9-461.06 or 11-805.

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 appurtenant 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.

P. For the purposes of this section:

1. "Development plan":

(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.

(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.

(c) Means a conceptual plan for development that generally depicts densities on a particular property that a military airport, as described in section 28-8461, 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.

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

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

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

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

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

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

28-8483. Registry of military airport flight operations; public inspection

The state real estate department and political subdivisions that have territory in the vicinity of a military airport shall request from each military airport in this state a registry of information including maps of military flight operations and a list of contact persons at each military airport who are knowledgeable about the impacts of military flight operations at the military airport. Each registry shall contain the information provided by the military airport, including any map prepared pursuant to section 28-8484, subsection B. The state real estate department and political subdivisions shall maintain the registry of information provided by the military airport and make the registry available to the public on request.

28-8484. Military airport disclosure; residential property

A. Any public report issued after December 31, 2001 pursuant to section 32-2183 or 32-2195.03 applicable to property that is located within territory in the vicinity of a military airport shall include the following statements:

1. That the property is located within territory in the vicinity of a military airport.
2. If the state real estate department has been provided the registry of information described in section 28-8483, that the state real estate department maintains a registry of information, including the maps of military flight operations provided by the military airport, pursuant to section 28-8483 and, if provided to the department, the map prepared by the military airport pursuant to subsection B of this section.
3. If the state real estate department has been provided the registry of information described in section 28-8483, that the information is available to the public on request.

B. Each military airport may provide the state real estate department and each political subdivision with territory in the vicinity of the military airport with a map that is in electronic form and that is eight and one-half inches by eleven inches in size showing the exterior boundaries of each territory in the vicinity of a military airport and the exterior boundaries of each high noise or accident potential zone. The state real estate department shall work closely with each military airport and political subdivisions with territory in the vicinity of a military airport as necessary to create a map that is visually useful in determining whether property is located in or outside of a territory in the vicinity of a military airport or in or outside of a high noise or accident potential zone. If there are changes to the map, the military airport shall notify the state real estate department and political subdivisions of the changes and shall provide a new map in electronic form. If a new map is provided, the department and the political subdivisions shall include the map in the registry of information maintained pursuant to section 28-8483. The map shall be included in public reports issued pursuant to section 32-2183 or 32-2195.03, and the map shall be available to the public on request.

C. For any lot reservation or conditional sale that occurs before the issuance of a public report, the disclosure statements listed in subsection A of this section shall be included within the reservation document or conditional sales contract.

D. This section does not require the amendment or reissuance of any public report issued on or before December 31, 2001 or the amendment or reissuance of any reservation document or conditional sales contract accepted on or before December 31, 2001.

E. From and after December 31, 2006, a seller of residential real estate shall provide a written disclosure to the purchaser if the property is located in territory in the vicinity of a military airport or ancillary military facility as delineated on a map prepared by the state land department pursuant to section 37-102 prior to the transfer of title. This subsection does not require additional disclosure by a seller of residential real estate that has already provided the disclosure in a public report pursuant to section 32-2183 or 32-2195.05.