

# MARICOPA COUNTY ZONING ORDINANCE

## Chapter 10 – Overlay Zoning Districts

### SECTION 1010. Military Airport and Ancillary Military Facility

**ARTICLE 1010.1 AUTHORITY:** The Military Airport and Ancillary Military Facility Overlay Zoning District is enacted pursuant to authority granted by Arizona Revised Statutes §11-821.

**ARTICLE 1010.2 PURPOSE:** The purpose of the Military Airport and Ancillary Military Facility Overlay Zoning District is to adopt and enforce zoning regulations for property in the high noise or accident potential zone to assure development compatible with the high noise or accident potential generated by military airport and ancillary military facility operations that have or may have an adverse effect on public health and safety in compliance with Arizona Revised Statutes §28-8461 and §28-8481 as ordered by the Superior Court of Arizona in the case of Arizona State, et al. v. Maricopa County, et al. (case no. CV 2008-091301). In all cases where there is or may be a conflict between this Military Airport and Ancillary Military Facility Overlay Zone and the underlying zone, the terms of this Military Airport and Ancillary Military Facility Overlay Zone shall control.

**ARTICLE 1010.3 LOCATION:** The Military Airport and Ancillary Military Facility Zoning Overlay District is defined as those areas located within the High Noise or Accident Potential Zone as defined in Arizona Revised Statutes §28-8461.

**ARTICLE 1010.4 DEFINITIONS:**

*For the purpose of this Section, the following are hereby defined:*

**USE COMPATIBILITY AND CONSISTENCY DETERMINATION (UCCD):**

A determination by Luke Air Force Base that a proposed use not specifically identified pursuant to Article 1010.6.1 of this Ordinance is compatible and consistent with the high noise or accident potential of a military airport or ancillary military facility.

**DAY/NIGHT NOISE LEVEL (LDN):**

A 24 hour, time-weighted annual average noise level. It is a measure of the overall noise experienced during an entire day.

**MILITARY COMPATIBILITY PERMIT:**

The permit approved by the Board of Supervisors in accordance with this Section, and which allows for the development of uses that are consistent compatible and compatible-consistent with the high noise or accident potential of a-the military airport or ancillary military facility.

**PLAN OF DEVELOPMENT:**

A precise plan that establishes and identifies specific and detailed parameters for the phased or non-phased development of land and supporting infrastructure to be carried out at the time of actual development.

**ARTICLE 1010.5 MILITARY-USE COMPATIBILITY AND CONSISTENCY DETERMINATION:**

1010.5.1 Any proposed land use not specifically identified as consistent compatible and compatible-consistent with the high noise or accident potential of the military airport or ancillary military facility pursuant to Article 1010.6.1 of this Military Airport and Ancillary Military Facility Overlay Zone shall, as a pre-condition to ~~the filing of an application for a Military Compatibility Permit and Plan of Development~~, require an individual Use Compatibility and Consistency Determination (UCCD) ~~by Luke Air Force Base~~.

1010.5.2 A UCCD ~~may shall~~ be ~~obtained on a form provided by the Department, or by any a~~ signed document by an authorized representative of Luke Air Force Base that states the proposed use(s) on the specific ~~property parcel(s) is/are~~ "consistent compatible and compatible-consistent with the high noise or accident potential of the military airport or ancillary military facility." All requests for UCCDs shall be directed through the Planning and Development Department who will forward the appropriate UCCD form to Luke Air Force Base for review and determination prior to application for a Military Compatibility Permit ~~and Plan of Development~~. The applicant shall pay the appropriate UCCD processing fees at the time of ~~submittal of the~~ UCCD ~~application request~~ to the Planning and Development Department.

**ARTICLE 1010.6 USE COMPATIBILITY AND CONSISTENCY:**

1010.6.1 Before any proposed use of property can be considered for approval, a determination of land use compatibility and consistency must be made in accordance with the following:

	<b><u>Ldn</u></b> <b><u>65-69</u></b>	<b><u>Ldn</u></b> <b><u>70-74</u></b>	<b><u>Ldn</u></b> <b><u>75-79</u></b>	<b><u>Ldn</u></b> <b><u>80-84</u></b>	<b><u>Ldn</u></b> <b><u>85+</u></b>	<b><u>APZ 1</u></b>	<b><u>APZ 2</u></b>
<b><u>Residential</u></b>							
Residential uses other than the residential uses listed below	No <sup>(13)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No	No	No
Single family residential 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	Yes <sup>(9,19)</sup>	Yes <sup>(10,19)</sup>	Yes <sup>(11,19)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No	No <sup>(13)</sup>
Single family residential that is the primary residence for persons engaging in agricultural use and ancillary residential buildings incident to the primary agricultural use	Yes <sup>(9,19)</sup>	Yes <sup>(10,19)</sup>	Yes <sup>(11,19)</sup>	Yes <sup>(12,19)</sup>	No <sup>(13)</sup>	No	No <sup>(13)</sup>
<b><u>Transportation, communications, and utilities</u></b>							
Railroad and rapid rail transit	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(15)</sup>
Highway and street right-of-way	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Motor vehicle parking	Yes	Yes	Yes	Yes	Yes	Yes <sup>(15)</sup>	Yes <sup>(15)</sup>
Communications (noise sensitive)	Yes	Yes <sup>(2)</sup>	Yes <sup>(3)</sup>	No	No	Yes <sup>(15)</sup>	Yes <sup>(16)</sup>
Utilities	Yes	Yes	Yes	No	No	Yes <sup>(15)</sup>	Yes <sup>(16)</sup>
Other transportation, communications, and utilities	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	Yes <sup>(8)</sup>	Yes <sup>(15)</sup>	Yes <sup>(16)</sup>

	<b><u>Ldn 65-69</u></b>	<b><u>Ldn 70-74</u></b>	<b><u>Ldn 75-79</u></b>	<b><u>Ldn 80-84</u></b>	<b><u>Ldn 85+</u></b>	<b><u>APZ 1</u></b>	<b><u>APZ 2</u></b>
<b><u>Commercial/retail trade</u></b>							
Wholesale trade	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
Building materials-retail	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
General merchandise-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
Food-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
Automotive and marine	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No/Yes <sup>(17)</sup>
Apparel and accessories-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
Eating and drinking places	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
Furniture and home furnishings-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No/Yes <sup>(17)</sup>
Other retail trade	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
<b><u>Personal &amp; business services</u></b>							
Finance, insurance, real estate	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes
Personal services	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes
Business services	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes
Repair services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
Contract construction services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
Indoor recreation services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
Other services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
<b><u>Industrial/manufacturing</u></b>							
Food and kindred products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Textile mill products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Apparel	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Lumber and wood products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Furniture and fixtures	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Paper and allied products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Printing and publishing	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Chemicals and allied products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No
Petroleum refining, and related industries	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No
Rubber and miscellaneous plastic	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Stone, clay and glass products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Primary metal industries	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Fabricated metal products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>
Professional, scientific, and controlling instruments	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
Miscellaneous manufacturing	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(16)</sup>

	<b>Ldn</b>	<b>Ldn</b>	<b>Ldn</b>	<b>Ldn</b>	<b>Ldn</b>		
	<b><u>65-69</u></b>	<b><u>70-74</u></b>	<b><u>75-79</u></b>	<b><u>80-84</u></b>	<b><u>85+</u></b>	<b><u>APZ 1</u></b>	<b><u>APZ 2</u></b>
<b>Public and quasi-public services</b>							
Government services	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	Yes <sup>(2)</sup>	No	No	No	Yes <sup>(16)</sup>
Cultural activities, including churches	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	No
Medical and other health services	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	No
Cemeteries	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No	Yes
Nonprofit organizations	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	Yes
Correctional facilities	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	Yes <sup>(3)</sup>	Yes <sup>(4)</sup>	No	No	Yes
Other public and quasi-public Services	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	Yes <sup>(16)</sup>
<b><u>Outdoor recreation</u></b>							
Playgrounds and neighborhood parks	Yes	Yes	No	No	No	Yes <sup>(15)</sup>	Yes
Community and regional Nature exhibits	Yes	Yes	No	No	No	Yes <sup>(15)</sup>	Yes
Nature exhibits	Yes	No	No	No	No	No	No
Spectator sports, incl. arenas	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	No	No	No	No	No
Golf courses and riding stables	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	Yes <sup>(15)</sup>	Yes
Water based recreational areas	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No
Resort and group camps	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No	No
Auditoriums and concert halls	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No	No	No
Outdoor amphitheaters and music shells	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	No	No	No	No
Other outdoor recreation	Yes	Yes <sup>(14)</sup>	Yes <sup>(14)</sup>	No	No	No	No
<b><u>Resource production, extraction and open space</u></b>							
Agriculture (except livestock)	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>
Livestock farming and animal breeding	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>
Forestry activities	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	No	Yes
Fishing activities and related services	Yes	Yes	No	No	No	No	No
Mining activities	Yes	Yes	Yes	Yes	Yes	No	Yes <sup>(16)</sup>
Permanent open space	Yes						
Water areas (not incidental to farming)	Yes	Yes	No	No	No	No	No

Subject to the restrictions in this ordinance, land Uses identified as "yes" have been found to be ~~consistent compatible and compatible-consistent~~ with the high noise or accident potential of the military airport or ancillary military facility, ~~and a Military Compatibility Permit and Plan of Development may be considered by the Board of Supervisors.~~

Land Uses identified as "no" have been found ~~not~~ to be ~~generally compatible and consistent~~ ~~inconsistent and incompatible~~ with the high noise or accident potential of the military airport or ancillary military facility. However, if Maricopa County and the military airport mutually agree that such use or uses is/are compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility on a specific parcel, the use or uses can be allowed. A UCCD will be required to make such a determination.

(1) Measures to achieve an outdoor to indoor noise reduction level of twenty-five decibels pursuant to this Ordinance must be incorporated into the design and construction of all buildings and Maricopa County 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 this Ordinance must be incorporated into the design and construction of all buildings and Maricopa County 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 this Ordinance must be incorporated into the design and construction of all buildings and Maricopa County 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 this Ordinance must be incorporated into the design and construction of all buildings and Maricopa County 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 Maricopa County described in section 28-8461, paragraph 9, subdivision (a).
- (18) Uses not listed are presumed to not be compatible. If Maricopa County 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.
- (19) Building permits for new residences and expansions of existing residences are only allowed if 1) the landowner acquired a "vested" property right on or before January 1, 2010; or 2) if Maricopa County 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 pursuant to A.R.S. §28-8481(J); or 3) pursuant to a military land use variance granted pursuant to Article 1010.10 of this ordinance. For the purposes of this section, A landowner will be deemed to have a "vested" property right only if the landowner (a) had a building permit or special use permit for a residential use, and (b) undertook substantial physical construction on the site pursuant to that building permit, or incurred substantial monetary expenditures for construction on the site pursuant to that building permit, or made considerable contractual commitments pursuant to that building permit.

**For residential land uses:**

1010.6.2 For ~~proposed~~ residential land uses ~~identified with a "yes" that are determined to be compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility,~~ that are determined to be compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility, applicants shall proceed with the required platting and/or building permits in conformance with applicable Maricopa County rules, regulations, codes, and ordinances. ~~In paragraph 1010.6.1 that do not require approval of a preliminary and final plat, the applicant shall proceed forward to apply for building permits pursuant to the rules and requirements of this Ordinance.~~

**For non-residential land uses:**

1010.6.3 For ~~proposed~~ non-residential land uses that are determined to be

compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility, applicants shall proceed with the required Military Compatibility Permit and building permits in conformance with applicable Maricopa County rules, regulations, codes, and ordinances. ~~identified with a "yes" in paragraph 1010.6.1, the applicant shall apply for a Military Compatibility Permit and Plan of Development pursuant to Article 1010.7 and other applicable requirements of this Ordinance.~~

~~1010.6.4 — For proposed non-residential land uses that are not specifically identified in paragraph 1010.6.1, a UCCD shall be required pursuant to Article 1010.5. Upon receipt of a UCCD, the applicant shall apply for a Military Compatibility Permit and Plan of Development pursuant to Article 1010.7 and other applicable requirements of this Ordinance.~~

### **Other Requirements**

~~1010.6.5 — Approval of a Military Compatibility Permit also requires approval of a Plan of Development pursuant to Section 306 of this Ordinance. At the discretion of the applicant, the required Plan of Development may be filed concurrently with or separately from the application for a Military Compatibility Permit. If filed concurrently, a single application covering both cases is required. If filed separately, then separate applications are required.~~

~~1010.6.64~~ A determination of land use compatibility and consistency pursuant to this Article ~~1010.6.1 or by UCCD~~ does not guarantee approval of a Military Compatibility Permit ~~or a Plan of Development~~; such approval shall be at the discretion of the Board of Supervisors pursuant to Article 1010.7 of this Ordinance.

### **ARTICLE 1010.7 MILITARY COMPATIBILITY PERMIT PROCEDURES:**

~~If the required application for Plan of Development is submitted concurrent with the application for Military Compatibility Permit, the following procedures shall apply:~~

1010.7.1 The ~~applicant shall apply~~ application for a Military Compatibility Permit shall include a Plan of Development together with a supporting statement (i.e.narrative report) that specifies the proposed uses of the buildings, structures, and premises. ~~The~~

Military Compatibility Permit shall be submitted to the Board of Supervisors, but shall first be referred to the Commission for review, report, recommendation, and public hearing. No application shall be scheduled for public hearing unless and until all fees and fines owed to the Department as a result of any activity or inactivity attributable to the property that is the subject of the Military Compatibility Permit application are brought current and paid in full, or any amounts owed pursuant to an agreement of compliance are current. This requirement shall not be waived by the Board or Commission. Notice and procedure for public hearing shall conform to the procedures prescribed in Chapter 3, Section 304 of this Ordinance. Plan of Development together as a single application, with supporting statements, identifying the proposed use of the buildings, structures, and premises, to the Board of Supervisors. These applications and supporting statements shall be referred to the Commission for its review, report, recommendation, and public hearing.

1010.7.2 The Commission, having held a public hearing, shall then present its report, recommendation, and the plans, together with ~~the its~~ findings and supporting statement, to the Board of Supervisors for consideration and public hearing. Notice and procedure for public hearing shall conform to the procedures prescribed in Chapter 3, Section 304 of this Ordinance.

1010.7.3 The recommendation of the Commission shall include its reasons for approval or disapproval of ~~such plans and supporting statement~~ the Military Compatibility Permit, and if recommended for approval, specific evidence and facts showing that the use(s) is/are compatible and consistent with the high noise or accident potential of ~~a the~~ military airport or ancillary military facility, that all county standards and requirements will be followed, and that necessary safeguards will be provided for the protection of adjacent property or the permitted uses thereof.

1010.7.4 The recommendation of the Commission may include variations of the standards and requirements of the underlying zoning district including, but not limited to the following:

- Yards and open spaces.
- Fences and walls, or other screening.
- Parking areas, street improvements, including provision of service roads or alleys when practical and necessary, except for

paving requirements unless it can be shown that the paving alternative will comply with the **Maricopa Association of Government's Particulate Plan for PM-10** by reducing particulate pollution.

- Regulation of points of vehicular ingress and egress.
- Regulation of signs.
- Landscaping and maintenance thereof.
- Maintenance of grounds.
- Control of noise, vibration, odor and other potentially dangerous or objectionable elements.
- Time limits may be imposed for the commencement of construction and/or review and further action by the Commission; and/or a time limit within which the Military Compatibility Permit and Plan of Development shall cease to exist.

1010.7.5 The Commission shall not vary any standard or requirement without a specific finding that the variation is compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility ~~compatibility is preserved~~ pursuant to Arizona Revised Statutes.

1010.7.6 The Board of Supervisors shall not approve any Military Compatibility Permit application unless it finds that the proposed use(s) on the ~~specific subject~~ property is/are compatible and consistent ~~and compatible~~ with the high noise or accident potential of the military airport or ancillary military facility.

1010.7.7 Amendments to Military Compatibility Permits shall be processed in the same manner as the initial Military Compatibility Permit application. ~~plans and supporting statement of proposed use.~~

1010.7.8 Non-compliance with the stipulations of ~~the~~ Military Compatibility Permit ~~or Plan of Development~~ approval shall be considered a zoning violation.

1010.7.9 A decision by the Board of Supervisors involving a Military Compatibility Permit shall not be effective until the dedication of required right-of-way, but not prior to **31 days** after final approval of the Military Compatibility Permit by the Board. Unless a resident files a written objection with the Board of Supervisors, the Military Compatibility Permit may be enacted as an emergency measure

that becomes effective immediately by a **four-fifths** majority vote of the board.

1010.7.10 All buildings, structures, and uses identified on the Plan of Development are exact, and any change shall be processed as an amendment pursuant to the requirements of this Section.

1010.7.11 If a petition for Military Compatibility Permit is withdrawn by the applicant or denied by the Board of Supervisors, that petition shall not be refiled nor shall there be filed with the Board of Supervisors any other Military Compatibility Permit for the same parcel(s) within a period of **one year** unless in the opinion of the Commission there is a change of circumstances warranting such filing.

~~If the required application for Plan of Development is submitted separately from the application for Military Compatibility Permit, the following procedures shall apply:~~

~~**Military Compatibility Permit:**~~

~~1010.7.9 Upon receipt of an application for a Military Compatibility permit, the Board of Supervisors shall submit it to the Commission for report and recommendation. Prior to presenting its report and recommendation to said Board, the Commission shall hold public hearing thereon after giving at least **15 days** notice thereof by publication once in a newspaper of general circulation in the seat of Maricopa County and by posting of the area included in the proposed Military Compatibility Permit. The posting shall be in no less than **two** places with at least **one** notice for each **one-quarter mile** of frontage along perimeter public rights-of-way so that the notices are visible from the nearest public right-of-way.~~

~~1010.7.10 The Commission shall also send notice by first class mail to each real property owner as shown on the last assessment of the property within **300 feet** of the proposed Military Compatibility Permit and each county or municipality which is contiguous to the area of the Military Compatibility Permit. The notice sent by mail shall include, at a minimum, the date, time, and place of the hearing on the Military Compatibility Permit including a general explanation of the matter to be considered, a general description of the area of the Military Compatibility Permit, and notification that if **20%** of the property owners by area and number within the Military~~

~~Compatibility Permit area file protests, an affirmative vote of **three-fourths** of all members of the Board will be required to approve the Military Compatibility Permit.~~

~~1010.7.11 If the Planning Commission has held a public hearing, the Board may adopt the recommendations of the Planning Commission through use of a consent calendar without holding a second public hearing if there is no objection, request for public hearing, or other protest. If there is an objection, a request for public hearing, or a protest the Board of Supervisors shall hold a public hearing on such petitions giving at least **15 days** notice thereof by publication once in a newspaper of general circulation in the seat of Maricopa County, and by adequate posting of the area of concern in said petition at least **15 days** in advance of the public hearing. After holding the public hearing the Board of Supervisors may adopt the petitioner's proposed Military Compatibility Permit provided that if **20%** of the owners, by number and by area of all property within **300 feet** of the proposed Military Compatibility Permit, file a protest such Military Compatibility Permit shall not be approved except by a **three-fourths** vote of all members of the Board of Supervisors. However, except that the required number of votes shall in no event be less than a majority of the full members of the Board.~~

~~1010.7.12 In calculating the owners by area for a protest, only that portion of a lot or parcel of record situated within **300 feet** of the property subject to the Military Compatibility Permit shall be included. In calculating the owner by number or area, County property and public rights of way shall not be included.~~

~~1010.7.13 A decision by the Board of Supervisors involving a Military Compatibility Permit shall not be effective until the dedication of required right of way, but not prior to **31 days** after final approval of the Military Compatibility Permit by the Board. Unless a resident files a written objection with the Board of Supervisors, the Military Compatibility Permit may be enacted as an emergency measure that becomes effective immediately by a **four-fifths** majority vote of the board.~~

~~1010.7.14 The Board of Supervisors shall not approve any application unless it finds that the proposed use on the specific property is consistent and compatible with the high noise or accident potential of the military airport or ancillary military facility.~~

~~1010.7.15 If a petition for Military Compatibility Permit is withdrawn by the~~

~~applicant or denied by the Board of Supervisors, that petition shall not be refiled nor shall there be filed with the Board of Supervisors any other Military Compatibility Permit for the same parcel(s) within a period of one year unless in the opinion of the Commission there is a change of circumstances warranting such filing.~~

~~1010.7.16—Non-compliance with the stipulations of Military Compatibility Permit approval shall be considered a zoning violation.~~

~~1010.7.17—Any change or modification to an approved Military Compatibility Permit shall be considered an amendment to the approved Military Compatibility Permit, and shall be processed accordingly pursuant to the provisions of this Ordinance. Staff shall determine whether the change constitutes a Minor or Major Amendment according to the provisions set forth in this Ordinance.~~

**Plan of Development:**

~~1010.7.18—All development that requires a Military Compatibility Permit pursuant to this Ordinance shall be subject to Plan of Development approval as set forth in the provisions of this Ordinance. A preliminary plat shall serve as a Plan of Development for applicable residential projects. For industrial and commercial projects, a separate plan of development shall be approved, along with preliminary and final plat approval as applicable, which shall be subject to the Maricopa County Subdivision Regulations, the Military Airport and Ancillary Military Facility Overlay Zoning District and other provisions of this Ordinance, and other applicable county regulations and ordinances.~~

~~1010.7.19—A Plan of Development that is required as part of a Military Compatibility Permit shall be processed through the Planning and Zoning Commission and Board of Supervisors for approval in the manner outlined in this Ordinance.~~

~~1010.7.20—An application and phasing plan, if proposed, for a Plan of Development shall be submitted to the Planning and Development Department through the One Stop Shop (OSS) on an official form provided by the Department. The application shall satisfy the submittal requirements as well as pertinent regulations as set forth in the provisions of this Ordinance or from other county departments. The application shall contain sufficient information for staff to determine whether the proposal meets the requirements of the County.~~

~~1010.7.21 — A Plan of Development is a precise plan in which the standards and regulations of the underlying zoning district shall remain the same unless otherwise modified by the Board of Supervisors. However, the Board of Supervisors shall not vary any standard or regulation without a specific finding that the military airport or ancillary military facility compatibility is preserved pursuant to Arizona Revised Statutes.~~

~~1010.7.22 — For all development subject to a Plan of Development, an approved Plan of Development and subsequent building permits are required prior to the commencement of any construction or development on the site. The applicant shall ensure that required building permits for the site or first phase are issued within two (2) years of the date of approval of the Plan of Development. Prior to the date of expiration, the applicant may file a single request via a Minor Amendment application for a one (1) year time extension authorized by the Director of Planning and Development. If the time frame has expired, the applicant shall submit a new Plan of Development application.~~

~~1010.7.23 — Any change or modification to an approved Plan of Development shall be considered an amendment to the Plan of Development, and shall be processed accordingly pursuant to the provisions of this Ordinance. Staff shall determine whether the change constitutes a Minor or Major Amendment according to the provisions set forth in this Ordinance.~~

~~1010.7.24 — Non-compliance with the stipulations of Plan of Development approval shall be considered a zoning violation.~~

#### **ARTICLE 1010.8 CITIZEN REVIEW PROCESS:**

1010.8.1 Upon application for a Military Compatibility Permit ~~and/or Plan of Development~~, a citizen review process shall be conducted. The purposes of the citizen review process ~~shall be the following is to:~~

- A. Notify Adjacent landowners and other potentially affected citizens ~~will be notified~~ of the application and substance of the proposed Military Compatibility Permit ~~and/or Plan of Development.~~;

B. Provide Adjacent landowners and other potentially affected citizens ~~will be provided~~ an opportunity to express any issues or concerns they may have with the proposed Military Compatibility Permit ~~and/or Plan of Development~~ before any public hearing ~~required as set forth in this Ordinance~~.

1010.8.2 Prior to any application for a Military Compatibility Permit ~~and/or Plan of Development~~, the applicant shall conduct a preapplication meeting with the Planning and Development Department.

1010.8.3 Within 30 days ~~upon~~ of submitting an application for a Military Compatibility Permit ~~and/or Plan of Development~~, the applicant shall post the property included in the proposed development. The posting shall be in no less than two places with at least one notice for each quarter mile of frontage along perimeter right-of-way so that the notices are visible from the nearest public right-of-way. Each notice shall be a minimum of six square feet in area and shall be laminated. At a minimum, ~~the~~ posting shall include, ~~at a minimum~~, a brief description of the area of the Military Compatibility Permit ~~and/or Plan of Development~~, a general explanation of the nature of the proposed Military Compatibility Permit ~~and/or Plan of Development~~, and the name of the applicant, ~~and along with their~~ contact information ~~for the applicant~~. A signed affidavit along with photographic evidence of the posting shall be submitted to staff demonstrating proof of posting within 30 days of application submittal.

1010.8.4 Within 30 days of submitting an application for a Military Compatibility Permit ~~and/or Plan of Development~~ the applicant shall also send notice by first class mail to each real property owner within three hundred feet of the proposed Military Compatibility Permit as shown on the last assessment of the property. ~~within three hundred feet of the proposed Military Compatibility Permit and/or Plan of Development. At a minimum, the~~ notice by mail shall include, ~~at a minimum, a~~ description of the area of the proposed Military Compatibility Permit ~~and/or Plan of Development~~, a general explanation of the nature of the proposed Military Compatibility Permit ~~and/or Plan of Development~~, and the name of the applicant, ~~and along with their~~ contact information ~~for the applicant~~. A copy of the notice and an affidavit demonstrating proof of such notification shall be submitted to staff within 30 days of application submittal.

- 1010.8.5 Every application for a Military Compatibility Permit ~~and/or Plan of Development~~ shall include a citizen participation plan. At a minimum, the citizen participation plan, at a minimum, shall include the following information:
- A. Which residents, property owners, interested parties, political jurisdictions and public agencies may be affected by the application ~~;~~
  - B. How those interested in and potentially affected by an application will be notified that an application has been made ~~;~~
  - C. How those interested and potentially affected parties will be informed of the substance of the proposed Military Compatibility Permit ~~and/or Plan of Development;~~
  - D. How those affected or otherwise interested will be provided an opportunity to discuss the ~~applicant's proposal~~ proposed Military Compatibility Permit with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing ~~;~~
  - E. The applicant's schedule for ~~completion of~~ completing the citizen participation plan ~~;~~
  - F. How the applicant will keep the Planning and Development Department informed on the status of their citizen participation efforts.
- 1010.8.6 The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The target area for early notification will be determined through a coordinated effort of the applicant and staff. The Planning and Development Department Director shall resolve any disputes that may arise ~~while arriving in determining at~~ the target area. At a minimum, the target area shall include the following:
- A. Real property owners within the noticing area set forth in Section 1010.8.4 herein;
  - B. The head of any homeowners association within the noticing area set forth in Section 1010.8.4 herein;
  - C. Other potentially affected citizens in the target area who have requested that they be placed on the routing list maintained by the Planning and Development Department.

1010.8.7 The applicant may submit a citizen participation plan and begin implementation prior to formal application at their discretion. ~~However, this~~ shall not occur until after the required pre-application meeting and consultation with ~~planning department~~ Planning and Development Department staff.

1010.8.8 The citizen participation plan shall include a written report on the results of the citizen participation effort prior to the notice of public hearing set forth in this ~~O~~rdinance. At a minimum the citizen participation report shall include the following information:

- A. Details and techniques the applicant used to involve the public, including:
  - 1. Dates and locations of any and all meetings where citizens were invited to discuss the applicant's proposal;
  - 2. Content, dates mailed, and number of mailings, including letters, meeting notices, newsletters, and other publications;
  - 3. The location of residents, property owners, and interested parties receiving notices, newsletters, or other written materials;
  - 4. The approximate number of people that participated in the process.
- B. A summary of the perceived or real concerns, issues, and problems expressed during the process, including:
  - 1. The substance of the concerns, issues, and problems;
  - 2. How the applicant has addressed or intends to address perceived or real concerns, issues, and problems expressed during the process; and,
  - 3. Perceived or real concerns, issues, and problems with which the applicant disagrees, which the applicant cannot address, or which the applicant chooses not to address, ~~including an~~ along with an explanation of the applicant's reasoning.

#### **ARTICLE 1010.9 COMPATIBLE USES:**

1010.9.1 Maricopa County and Luke Air Force Base mutually agree that the following uses are compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility on any property and do not require an individual Use Consistency and Compatibility Determination or a Military Compatibility Permit:

A. Non-habitable accessory uses to an existing and properly permitted primary use, defined as an accessory structure not occupied by people and not provided with mechanical means of air, ventilation, and/or heat. No accessory structure or building appurtenance may exceed 30 feet in height.

#### **ARTICLE 1010.10 MILITARY LAND USE VARIANCE; PROCESS**

1010.10.1 ~~Solely~~ Upon written request of the Attorney General of Arizona ~~only~~, the Board of Supervisors shall consider granting a Military Land Use Variance pursuant to A.R.S. §28-8481(C) that would permit a variation from the land use regulations outlined in A.R.S. §28-8481(J) and ~~Article 1010.6~~, Section 1010.6.1 of this ordinance.

1010.10.2 Upon ~~the~~ written request by the Attorney General of Arizona pursuant to Section 1010.10.1 of this ordinance, the Military Land Use Variance shall be scheduled for consideration by the Board of Supervisors at a public meeting. Should the Board of Supervisors approve the Military Land Use Variance request, notice of such approval shall be sent to the Attorney General of Arizona within three business days after such approval. Notice of such approval shall also be sent to the affected property owner(s) which shall also include a detailed explanation of the implications of the Military Land Use Variance.

#### **ARTICLE 1010.11 GENERAL PROVISIONS:**

1010.11.1 Persons with property divided by the Military Airport and Ancillary Military Facility Overlay Zoning District are required to comply with the provisions of this Section only for that segment of the property within the overlay zoning district. Where the Military Airport and Ancillary Military Facility Overlay Zoning District divides a lot or parcel of land, the Military Airport and Ancillary Military Facility Overlay Zoning District line shall be treated as a property line for applying ~~all~~ the provisions of this Section.

1010.11.2 When standards and requirements differ between the Military Airport and Ancillary Military Facility Overlay Zoning District and the existing zoning district classification, the more restrictive regulation shall apply.

1010.11.3 All new uses of land shall be required to conform with the Military

Airport and Ancillary Military Facility Overlay Zoning District.  
Existing uses of land and buildings shall be governed as follow:

- A. Any use of land, buildings, or structures, lawfully existing at the time this Section or amendments thereto become effective, may be continued even though such use does not conform with the regulations of this Section or amendments thereto.
- B. In the event that a nonconforming use of land, building, or structure is discontinued for a period of **12 consecutive months**, any future use thereof shall be in conformity with the regulations of this Section.
- C. In the event that a nonconforming use of land, building or structure is destroyed by fire, explosion, act of God, or act of the public enemy to the extent of **75%** of its value, according to the appraisal thereof by competent appraisers, then and without further action by the Board of Supervisors, the future use thereof shall from and after the date of such destruction be subject to all the regulations of this Section or amendments thereto.
- D. A nonconforming use of land, building, or structure shall not be enlarged, extended, reconstructed, or altered unless such enlargement, extension, reconstruction, or alteration conforms with the regulations of this Section.