

**Airport Land Use Compatibility Plan Implementation: Phase I MCAS-Miramar
Summary of Draft Land Development Code Amendments (March 17, 2009)**

The City is required by state law to implement the MCAS-Miramar Airport Land Use Compatibility Plan (ALUCP) as adopted by the Airport Authority on October 2, 2008. To clarify the applicable ALUCP regulations, all airport related regulations are proposed to be transferred into the City's existing regulatory format. Amendments are proposed to Land Development Code Chapter 11, Article 2; Chapter 12, Article 6; Chapter 13, Article 2; and Chapter 15, Article 1 to create a new overlay zone that would address airport compatibility issues related to noise, safety, airspace protection, and aircraft overflight.

Sections	Description of Proposed Amendment
112.0301 112.0302	<u>Public Notice.</u> Incorporates new notice provisions to inform airport stakeholders of discretionary permits in process, creates a new notification process for requests to overrule the Airport Land Use Commission, and clarifies the connection to the existing "notice of availability" required in accordance with the Coastal Act.
126.0402 126.0502 132.1502	<u>Required Reviews and Development Permits.</u> Clarifies applicability of the overlay zone with respect to required review processes and permit types. Neighborhood Development Permits and Site Development Permits are the two main types of required discretionary permits that would be associated with the proposed overlay zone. In general, new development that would not increase the density or floor area ratio of an existing building, or that would otherwise comply with the specified compatibility criteria, would not require a special permit for the proposed overlay zone.
132.0102 132.0104 151.0103	<u>Base Zones/Planned Districts and Overlay Zone.</u> Clarifies the connection between citywide base zones, planned district base zones, and the new overlay zone. A use indicated as permitted in accordance with the base zone (including a planned district base zone) may be further limited or restricted to meet the purpose of the overlay zone.
132.1501 132.1502 132.1505	<u>Purpose and Boundaries of Airport Influence Area.</u> Clarifies the purpose and applicability of the proposed Airport Land Use Compatibility Overlay Zone and identifies the boundaries of the airport influence areas. The airport influence area maps from adopted ALUCPs would be presented to the City Council for adoption and incorporated by reference.
132.1510	<u>Noise Compatibility.</u> Identifies compatible uses based on noise exposure. The noise contour maps from adopted ALUCPs would be presented to the City Council for adoption and incorporated by reference.

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132.1515	<p><u>Safety Compatibility.</u> Identifies compatible uses in each safety zone and describes the method for calculation and measurement of density (dwelling units per acre) and intensity (people per acre) for the purpose of this overlay zone. The safety zone maps from adopted ALUCPs would be presented to the City Council for adoption and incorporated by reference.</p>
132.1520	<p><u>Airspace Protection Compatibility.</u> Identifies the FAA notification area and Part 77 height limits for airspace protection. The airspace protection maps from adopted ALUCPs would be presented to the City Council for adoption and incorporated by reference.</p>
132.1525	<p><u>Aircraft Overflight Notification.</u> Identifies where new residential development is required to record a notice of aircraft overflight. The overflight maps from adopted ALUCPs would be presented to the City Council for adoption and incorporated by reference.</p>
132.1530	<p><u>Previously Conforming.</u> Describes applicability to previously conforming development (meaning development that was legally established prior to adoption of an ALUCP).</p>
132.1535	<p><u>Infill Development Criteria.</u> Identifies criteria for proposed infill development (meaning new development that would be consistent with the existing development pattern for surrounding area established prior to ALUCP, but incompatible with ALUCP noise or safety criteria).</p>
132.1540	<p><u>Real Estate Disclosure.</u> Restates existing state law regarding real estate disclosure. (A required component of the implementation ordinance per Airport Authority staff.)</p>
132.1545	<p><u>Airport Land Use Commission Review.</u> Clarifies where Airport Land Use Commission review would be required for new development proposals following adoption of new overlay zone.</p>
132.1550	<p><u>Overrule Process.</u> Identifies the overrule process for City Council consideration of requests to overrule a determination made by the Airport Land Use Commission as provided for in state law.</p>

§112.0301 Types of Notice

(a) through (b) [No change.]

- (c) Notice of Public Hearing. A Notice of Public Hearing shall be provided before a decision is made on an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, or Process Five, or an appeal of Process Two, Process Three, Process Four decision, or of an *environmental determination*. A Notice of Public Hearing shall also be provided before a decision is made by the City Council in accordance with Section 132.1550 (Overrule Process).

(1) through (3) [No change.]

- (d) Notice of Availability. A Notice of Availability is a written notice to advise of the availability of supporting materials for an action that will be taken by the City Council at a future date. A Notice of Availability is required as part of the certification process for Local Coastal Program Amendments in accordance with Section 122.0106.

(1) Content. The Notice of Availability shall include the following:

- (A) A general description of the project.
- (B) The location of the property that is the subject of the application;
- (C) The applicable community planning area(s);
- (D) The name, telephone number, and city address of the City staff person to contact for additional information;
- (E) The name of the *applicant* and, with the consent of the *applicant*, the applicant's address and telephone number; and
- (F) An explanation that the final decision by the City Council will occur no sooner than 6 weeks after the date of mailing the Notice of Availability.

(2) Distribution.

- (A) The City Manager shall distribute the Notice of Availability at least 6 weeks prior to the City Council hearing to approve or deny an amendment to the *Local Coastal Program*.

- (B) The City Manager shall distribute the Notice of Availability to the persons described in Section 112.0302(b) and to the public agencies required in accordance with the applicable provisions of the California Coastal Act and Guidelines for *Local Coastal Program* certification
- (C) The Notice of Availability may be combined into a single notice document with the Notice of Public Hearing (Planning Commission).
- (3) A subsequent Notice of Public Hearing shall be provided in accordance with Section 112.0301(c) prior to final decision by the City Council.
- (e) Notice of Request for Overrule Hearing. A Notice of Request for Overrule Hearing is a written notice to advise of the availability of supporting materials for an overrule action requested in accordance with Section 132.1550 that will be acted on by the City Council at a future date.
- (1) Content. The Notice of Request for Overrule Hearing shall include the following:
- (A) A general description of the project.
- (B) The location of the property that is the subject of the application;
- (C) The applicable community planning area(s);
- (D) The name, telephone number, and city address of the City staff person to contact for additional information;
- (E) The name of the *applicant* and, with the consent of the *applicant*, the applicant's address and telephone number; and
- (F) An explanation that a City Council hearing related to the matter of whether to overrule the Airport Land Use Commission in accordance with Section 132.1550(e) will be scheduled no sooner than 6 weeks following the mailing date of the Notice of Request for Overrule hearing.
- (2) Distribution.
- (A) The City Manager shall distribute the Notice of Request for

Overrule Hearing at least 6 weeks prior to the first City Council hearing related to the matter of whether to overrule the Airport Land Use Commission.

(B) The City Manager shall distribute the Notice of Request for Overrule Hearing to the persons described in Section 112.0302(b).

(3) A subsequent Notice of Public Hearing shall be provided in accordance with Section 112.0301(c).

§112.0302 Notice by Mail

(a) [No change.]

(b) Persons Entitled to Notice. Except as provided in Section 112.0302(c), the Notice of Application, Notice of Future Decision, and Notice of Public Hearing shall be mailed to the following:

(1) through (5) [No change.]

(6) The Airport Land Use Commission, California Department of Transportation, Division of Aeronautics, and the airport operator, as applicable, for any *development* within the Airport Land Use Compatibility Overlay Zone.

§126.0402 When a Neighborhood Development Permit is Required

(a) A Neighborhood Development Permit is required for the following types of *development* on sites with *previously conforming premises* or uses:

(1) through (5) [No change.]

(6) Expansion of a *multi dwelling unit structure* that is *previously conforming* with the Airport Land Use Compatibility Overlay Zone in accordance with Section 132.1530 where it can be demonstrated that an increase in *gross floor area* is necessary to meet California Building Code standards for public health and safety, with no associated increase in *density*.

(b) through (l) [No change.]

§126.0502 When a Site Development Permit is Required

(a) through (b) [No change.]

- (c) A Site Development Permit decided in accordance with Process Three is required for the following types of *development*.
- (1) through (7) [No change.]
- (8) Development within the Airport Land Use Compatibility Overlay Zone as required for safety compatibility, or proposed in accordance with the infill *development* criteria specified in Section 132.1535.
- (d) A Site Development Permit decided in accordance with Process Four is required for the following types of *development*.
- (1) through (9) [No change.]
- (10) Non-residential *development* within the Airport Land Use Compatibility Overlay Zone where an alternative method of calculation is requested to demonstrate compliance with the maximum people per acre for safety compatibility in accordance with Section 132.1515(a)(5).
- (e) A Site Development Permit decided in accordance with Process Five is required for the following types of *development*.
- (1) through (3) [No change.]
- (4) Development within the Airport Land Use Compatibility Overlay Zone proposing deviations from the overlay zone requirements, or that includes a rezone, new *land use plan*, or *land use plan* amendment.

§127.0102 General Rules for Previously Conforming Premises and Uses

The following general rules apply to all *previously conforming premises* and uses:

- (a) through (i) [No change.]
- (j) Regulations for *premises* in the Airport Land Use Compatibility Overlay Zone that were legally established in an airport influence area prior to adoption of an Airport Land Use Compatibility Plan are located in Section 132.1530.

§132.0102 Overlay Zone Designations

[No change first paragraph.]

Table 132-01A
Overlay Zone Designations

Add row to Table:

Division 15 Airport Land Use Compatibility Overlay Zone (ALUCOZ)

§132.0104 Applicability of Base Zone Regulations

The use and development regulations of the applicable base zone (including planned district base zones) apply in the overlay zones except as modified by the supplemental overlay zone regulations.

Article 2: Overlay Zones**Division 15: Airport Land Use Compatibility Overlay Zone****§132.1501 Purpose of the Airport Land Use Compatibility Overlay Zone**

The purpose of the Airport Land Use Compatibility Overlay Zone is to implement adopted Airport Land Use Compatibility Plans, in accordance with state law, as applicable to property within the City. The intent of these supplemental regulations is to ensure that new *development* located within an airport influence area (identified in Table 132-15A) is compatible with respect to airport-related noise, safety concerns, airspace protection, and aircraft overflight areas.

§132.1502 Where the Airport Land Use Compatibility Overlay Zone Applies

- (a) This overlay zone applies to properties that are located within an airport influence area as identified in an adopted Airport Land Use Compatibility Plan for a public use or military airport. Property within this overlay zone may be located within multiple airport influence areas. Table 132-15A lists the airport influence areas that apply within the boundaries of the overlay zone as identified on a Map filed in the office of the City Clerk.

Table 132-15A
Applicable Airport Land Use Compatibility Plans

<u>Airport Influence Area</u>	<u>Map Number Showing Boundaries of Airport Land Use Compatibility Overlay Zone Area</u>
MCAS Miramar	C-

(b) Table 132-15B indicates the type of permit required by this division, if any, for specific types of *development* proposals within this overlay zone.

Table 132-15B
Airport Land Use Compatibility Overlay Zone Applicability

<u>Type of Development Proposal</u>	<u>Supplemental Development Regulations</u>	<u>Required Permit Type/ Decision Process</u>
<u>Development that is limited to interior modifications or repairs, or any exterior repairs or maintenance that does not increase the <i>density</i> or <i>floor area ratio</i> of an existing building.</u>	<u>132.1502</u> <u>132.1505</u>	<u>No permit required by this division</u>
<u>New <i>development</i> or expansion of existing <i>development</i> that complies with Section 132.1505.</u>	<u>132.1502</u> <u>132.1505</u> <u>132.1510</u> <u>132.1515</u> <u>132.1520</u> <u>132.1525</u> <u>132.1530</u>	<u>No permit required by this division</u>
<u>Expansion of a <i>previously conforming multi dwelling unit structure</i> in accordance with Section 132.1530 where it can be demonstrated that an increase in <i>gross floor area</i> is necessary to meet California Building Code standards for public health and safety, with no associated increase in <i>density</i>.</u>	<u>132.1502</u> <u>132.1505</u> <u>132.1530</u>	<u>Neighborhood Development Permit/ Process Two</u>
<u>Development as required for safety compatibility in accordance with Section 132.1515, or <i>development</i> proposed in accordance with the <i>infill development</i> criteria specified in Section 132.1535.</u>	<u>132.1502</u> <u>132.1505</u> <u>132.1515</u> <u>132.1535</u>	<u>Site Development Permit/ Process Three</u>
<u>Non-residential <i>development</i> where an alternative method of calculation is requested to demonstrate compliance with the maximum people per acre for safety compatibility.</u>	<u>132.1502</u> <u>132.1505</u> <u>132.1515</u>	<u>Site Development Permit/ Process Four</u>
<u>Development proposing to deviate from this division, or that includes a <i>rezone</i>, <i>new land use plan</i>, or <i>land use plan amendment</i></u>	<u>132.1502</u> <u>132.1505</u> <u>132.1510</u> <u>132.1515</u> <u>132.1520</u> <u>132.1525</u> <u>132.1545</u> <u>132.1550</u>	<u>Site Development Permit/ Process Five</u>

§132.1505 Development Review for Compatibility

- (a) Properties located within this overlay zone are designated as either Review Area 1 or Review Area 2 for a particular airport as identified on adopted airport influence area maps.
- (b) New *development* or expansion of existing *development* within this overlay zone shall be subject to review for compatibility as follows:
 - (1) Properties located within Review Area 1 shall comply with the *noise*, *safety*, and *airspace protection compatibility* requirements in Sections 132.1510 through 132.1520 and with the *aircraft*

overflight notification requirements in accordance with Section 132.1525.

- (2) Properties located within Review Area 2 shall comply with the airspace protection compatibility requirements in accordance with Section 132.1520 and the aircraft overflight notification requirements in accordance with Section 132.1525.
- (c) New *development* that is limited to interior modifications or repairs, or any exterior repairs or maintenance that does not increase the *density* or *floor area ratio* of an existing building shall be exempt from the requirements of this Division.
- (d) Marine Corps Air Station Miramar

Properties with restricted use easements recorded for the United States Department of Navy are subject to Marine Corps review for conformance. Prior to the issuance of a permit for *development*, the *applicant* shall submit documentation from the Marine Corps stating that the *development* is in conformance with the restrictive use easement designated on the property.

§132.1510 Noise Compatibility

Noise compatibility between airport operations and proposed *development* within Review Area 1 of this overlay zone shall be evaluated as follows:

- (a) *Development* shall be considered noise compatible where:
- (1) The *development* is consistent with the use regulations of the underlying base zone, and
- (2) The use is permitted within the designated noise exposure range as indicated in Noise Compatibility Criteria Table 132-15C.
- (3) For the purpose of this section, exterior noise exposure for a particular location is measured by Community Noise Equivalent Level (CNEL) and may be obtained from adopted airport-related noise contour maps.
- (b) Where sound attenuation is required for noise compatibility, the *applicant* shall demonstrate to the satisfaction of the City Manager that all interior spaces exposed to exterior sources will achieve the indoor noise level indicated.
- (c) Table 132-15C indicates noise compatibility criteria within this overlay

zone.

Legend for Table 132-15C

<u>Symbol In Table 132-15C</u>	<u>Description Of Symbol</u>
<u>P</u>	<u>Use or use category is compatible with the identified exterior noise exposure level, and is permitted subject to the regulations of the underlying base zone. Regulations pertaining to a specific use may be referenced.</u>
<u>-</u>	<u>Use or use category is incompatible with the identified exterior noise exposure level and is not permitted.</u>

Table 132-15C
Noise Compatibility Criteria

<u>Use Categories/ Subcategories</u> [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	<u>Exterior Noise Exposure (dB CNEL)</u>			
	<u>60-65</u>	<u>65-70</u>	<u>70-75</u>	<u>75-80</u>
<u>Open Space</u>				
<u>Active Recreation</u>	<u>P</u>	<u>P¹</u>	<u>-</u>	<u>-</u>
<u>Passive Recreation</u>	<u>P¹</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Natural Resources Preservation</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Park Maintenance Facilities</u>	<u>P</u>	<u>P</u>	<u>-</u>	<u>-</u>
<u>Agriculture</u>				
<u>Agricultural Processing</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>-</u>
<u>Aquaculture Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>-</u>
<u>Dairies</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>-</u>
<u>Horticulture Nurseries & Greenhouses</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>-</u>
<u>Raising & Harvesting of Crops</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>-</u>
<u>Raising, Maintaining & Keeping of Animals</u>	<u>P¹</u>	<u>P¹</u>	<u>P¹</u>	<u>-</u>
<u>Separately Regulated Agriculture Uses</u>				
<u>Agricultural Equipment Repair Shops</u>	<u>P</u>	<u>P²</u>	<u>P²</u>	<u>-</u>
<u>Commercial Stables</u>	<u>P¹</u>	<u>P¹</u>	<u>P¹</u>	<u>-</u>
<u>Community Gardens</u>	<u>P</u>	<u>P¹</u>	<u>P¹</u>	
<u>Equestrian Show & Exhibition Facilities</u>	<u>P</u>	<u>P¹</u>	<u>-</u>	<u>-</u>
<u>Open Air Markets for the Sale of Agriculture-Related Products & Flowers</u>	<u>P</u>	<u>P¹</u>	<u>-</u>	<u>-</u>
<u>Residential</u>				
<u>Mobilehome Parks</u>	<u>P³</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Multiple Dwelling Units</u>	<u>P³</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Rooming House [See Section 131.0112(a)(3)(A)]</u>	<u>P³</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Single Dwelling Units</u>	<u>P³</u>	<u>-</u>	<u>-</u>	<u>-</u>