

Senate Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 177

# SENATE BILL 1393

AN ACT

AMENDING SECTIONS 28-8461, 28-8481 AND 28-8482, ARIZONA REVISED STATUTES;  
RELATING TO AIRPORT ZONING AND REGULATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 28-8461, Arizona Revised Statutes, is amended to  
3 read:

4 28-8461. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accident potential zone one" means an area three thousand feet  
7 wide by five thousand feet long that starts at the end of each clear zone and  
8 that is centered and measured on the extended runway centerline, terminating  
9 eight thousand feet from the end of each runway.

10 2. "Accident potential zone two" means an area three thousand feet  
11 wide by seven thousand feet long that starts at the end of each accident  
12 potential zone one and that is centered and measured on the extended runway  
13 centerline, terminating fifteen thousand feet from the end of each runway,  
14 except that, for political subdivisions described in paragraph 8, subdivision  
15 (a), accident potential zone two extends thirty thousand feet southwest from  
16 the end of each runway.

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

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

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

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

30 7. "Clear zone" means an area three thousand feet long measured along  
31 the extended runway centerline beginning at the end of ~~each runway~~ ALL MAIN  
32 MILITARY RUNWAYS and three thousand feet wide centered on and measured at  
33 right angles to the extended runway centerline.

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

36 (a) In political subdivisions located in a county with a population  
37 of two million or more persons, within the 1988 noise contours developed and  
38 recognized by the regional planning agency in that county that includes the  
39 ARRIVAL AND DEPARTURE CORRIDOR THAT IS THE accident potential zone one and  
40 accident potential zone two plus the land area described as  
41 follows: starting two hundred feet from the south end of the westernmost  
42 runway at a width of one thousand five hundred feet west and two thousand  
43 five hundred feet east, measured perpendicular to the centerline of the  
44 runway, and extending southwesterly parallel to the runway for a distance of  
45 thirty thousand feet.

1 (b) In political subdivisions located in a county with a population  
2 of more than eight hundred thousand persons but less than two million  
3 persons, THE AREA SOUTHEAST OF THE RUNWAY within the noise contours  
4 established by the most recent air installation compatible use zone report  
5 recognized by the military airport and political subdivisions in that county,  
6 including the ARRIVAL AND DEPARTURE CORRIDOR THAT IS THE accident potential  
7 zone one and accident potential zone two plus the land area described as  
8 follows: starting two hundred feet from the southeast runway end at a width  
9 of two thousand feet and extending outward thirty thousand feet to a width  
10 of sixteen thousand TEN THOUSAND FOUR HUNDRED feet.

11 (c) In political subdivisions located in a county with a population  
12 of eight hundred thousand persons or less, within the noise contours  
13 established by the most recent air installation compatible use zone report  
14 recognized by the military airport and political subdivisions in that county,  
15 including THE ARRIVAL AND DEPARTURE CORRIDOR THAT IS THE accident potential  
16 zone one and accident potential zone two plus the land area described as  
17 follows: starting two hundred feet from the end points of the main runways  
18 and at a width of three thousand feet and symmetrical about a centerline  
19 between the runways extending outward to a point thirty thousand feet from  
20 the point of beginning. The outer width is seventeen thousand five hundred  
21 feet.

22 9. "Military airport" means an airport that is operated by an armed  
23 force of the United States and that is primarily used for military FIXED WING  
24 aircraft operations, excluding a runway or airstrip that is not immediately  
25 adjacent to facilities primarily used for operational control, maintenance  
26 and permanent parking of aircraft.

27 10. "Occupied building" means any building where people live, work or  
28 are otherwise received.

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

33 12. "Political subdivision" means a city, town or county AND INCLUDES  
34 A SCHOOL DISTRICT.

35 13. "PREVIOUS REPORTING PERIOD" MEANS FROM JULY 1 OF THE YEAR BEFORE  
36 THE REPORT IS DUE THROUGH JUNE 30 OF THE YEAR THE REPORT IS DUE.

37 ~~13.~~ 14. "Runway" means an artificially surfaced strip of ground that  
38 is designed and used at an airport for the landing and takeoff of aircraft.

39 15. "SCHOOL" MEANS ANY PUBLIC INSTITUTION ESTABLISHED FOR THE PURPOSES  
40 OF OFFERING INSTRUCTION TO PUPILS IN PROGRAMS FOR PRESCHOOL CHILDREN WITH  
41 DISABILITIES, KINDERGARTEN PROGRAMS OR ANY COMBINATION OF GRADES ONE THROUGH  
42 TWELVE.

43 16. "SCHOOL DISTRICT" MEANS A POLITICAL SUBDIVISION OF THIS STATE WITH  
44 GEOGRAPHIC BOUNDARIES ORGANIZED FOR THE PURPOSE OF THE ADMINISTRATION,  
45 SUPPORT AND MAINTENANCE OF THE PUBLIC SCHOOLS OR AN ACCOMMODATION SCHOOL.

1 17. "SCHOOL DISTRICT DEVELOPMENT PLAN" MEANS ANY PROPOSAL TO BUILD OR  
2 EXPAND A SCHOOL BUT DOES NOT INCLUDE REPAIRING, MAINTAINING OR REMODELING AN  
3 EXISTING SCHOOL.

4 ~~14.~~ 18. "Structure" means an object that is constructed or installed  
5 by a human including a building, tower, smokestack or overhead transmission  
6 line.

7 ~~15.~~ 19. "Territory in the vicinity of a military airport" means any  
8 property located in the following zones:

9 (a) In counties that have a population of two million or more  
10 persons, the zone is ten miles to the north, south and west and four miles  
11 to the east parallel from the center of the main runway of a military  
12 airport.

13 (b) In counties that have a population of more than eight hundred  
14 thousand but less than two million persons, the zone is five miles to the  
15 northwest along a line extending from the end of the northwest runway, one  
16 and one-half miles to the southwest, six and one-half miles to the northeast  
17 and perpendicular to the runway centerline and ten miles to the southeast  
18 along a line extending from the end of the southeast runway of a military  
19 airport.

20 (c) In counties that have a population of eight hundred thousand  
21 persons or less, the zone is five miles to the north, south and west and ten  
22 miles to the east of the center of the main runway of a military airport.

23 ~~16.~~ 20. "Tree" means an object of natural growth.

24 Sec. 2. Section 28-8481, Arizona Revised Statutes, is amended to read:  
25 28-8481. Planning and zoning; military airport operation  
26 compatibility; compliance review; penalty

27 A. A political subdivision that has territory in the vicinity of a  
28 military airport that includes property in a high noise or accident potential  
29 zone shall adopt comprehensive and general plans and SCHOOL DISTRICT  
30 DEVELOPMENT PLANS, IF APPLICABLE, FOR PROPERTY IN THE HIGH NOISE OR ACCIDENT  
31 POTENTIAL ZONE TO ASSURE DEVELOPMENT COMPATIBLE WITH THE HIGH NOISE AND  
32 ACCIDENT POTENTIAL GENERATED BY MILITARY AIRPORT OPERATIONS THAT HAVE OR MAY  
33 HAVE AN ADVERSE EFFECT ON PUBLIC HEALTH AND SAFETY. EACH POLITICAL  
34 SUBDIVISION, EXCLUDING SCHOOL DISTRICTS, SHALL adopt and enforce zoning  
35 regulations for property in the high noise or accident potential zone to  
36 assure development compatible with the high noise and accident potential  
37 generated by military airport operations that have or may have an adverse  
38 effect on public health and safety.

39 B. A political subdivision that has territory in the vicinity of a  
40 military airport shall incorporate sound attenuation standards pursuant to  
41 section 28-8482 into any building code in existence on or adopted after July  
42 1, 2001. This section does not affect or require the modification of any  
43 building permit issued before July 1, 2001.

44 C. A political subdivision that has territory in the vicinity of a  
45 military airport that includes property in a high noise or accident potential

1 zone shall adopt, administer and enforce the zoning regulations OR SCHOOL  
2 DISTRICT DEVELOPMENT PLANS authorized by subsection A of this section in the  
3 same manner as the comprehensive zoning ordinance OR SCHOOL DISTRICT  
4 DEVELOPMENT PLANS of the political subdivision as provided by law, except  
5 that a variance shall not be granted without a specific finding that the  
6 purpose of military airport compatibility is preserved.

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

12 E. This section does not restrict, limit or modify, or authorize or  
13 require any political subdivision to restrict, limit or modify, the right of  
14 a landowner to undertake and complete development and use of any property  
15 under the terms and conditions of a development plan OR SCHOOL DISTRICT  
16 DEVELOPMENT PLAN approved on or before December 31, 2000 by the political  
17 subdivision in whose territory the property is located, except that the  
18 development must comply with the sound attenuation standards and  
19 specifications incorporated into any building code adopted pursuant to  
20 section 28-8482 by the political subdivision in whose territory the  
21 development is located. For purposes of this section, "development plan":

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

27 2. Includes a planned community development plan, a planned area  
28 development plan, a planned unit development plan, a development plan that  
29 is the subject of a development agreement adopted pursuant to section  
30 9-500.05 or 11-1101, a site plan, a subdivision plat or any other land use  
31 approval designation that is the subject of a zoning ordinance adopted  
32 pursuant to title 9, chapter 4, article 6.1 or title 11, chapter 6.

33 F. On or after July 1, 2001, a political subdivision that has  
34 territory in a high noise or accident potential zone shall notify the owner  
35 or owners of property in the high noise and accident potential zone of any  
36 additions or changes under this section to the general plan, or comprehensive  
37 plan, or zoning regulations OR SCHOOL DISTRICT DEVELOPMENT PLAN of the  
38 political subdivision applicable to property in the high noise or accident  
39 potential zone. The political subdivision shall provide a notice of such  
40 additions or changes by publication as provided in section 9-462.04,  
41 subsection A or section 11-829, subsection C, including a statement that the  
42 property is located in a high noise or accident potential zone, at least  
43 thirty days before final approval of the addition to or change in the general  
44 plan, or comprehensive plan, or zoning regulation OR SCHOOL DISTRICT  
45 DEVELOPMENT PLAN and within thirty days following the final approval of such

1 an addition to or change in the general plan, or comprehensive plan, or  
2 zoning regulation OR SCHOOL DISTRICT DEVELOPMENT PLAN.

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

7 H. On or before ~~August 15, 2001~~ and August 15 of each year  
8 thereafter, each political subdivision that has territory that includes  
9 property in a high noise or accident potential zone or that is otherwise  
10 subject to the requirements of section 28-8482 shall file with the attorney  
11 general, and with each political subdivision that has territory in the  
12 vicinity of the military airport, a report that demonstrates compliance with  
13 this section and section 28-8482 ~~and that includes~~ DURING THE PREVIOUS  
14 REPORTING PERIOD. COMPLIANCE SHALL BE DETERMINED WITH REGARD TO THE LAW IN  
15 EFFECT ON JUNE 30 OF THE YEAR IN WHICH THE REPORT IS DUE. THE REPORT SHALL  
16 INCLUDE the following information regarding the territory in the high noise  
17 or accident potential zone, EXCEPT THE SCHOOL DISTRICT'S REPORT SHALL NOT  
18 INCLUDE THE INFORMATION IN PARAGRAPHS 1, 2, 3, 4 AND 7 OF THIS SUBSECTION:

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

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

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

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

27 5. Comprehensive, general or specific plan OR SCHOOL DISTRICT  
28 DEVELOPMENT PLAN amendments for property within the high noise or accident  
29 potential zone.

30 6. A statement that the political subdivision complied with the  
31 notification requirements of subsection F of this section.

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

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

42 J. If a political subdivision that is required to file a report  
43 pursuant to subsection H of this section has previously filed a report in  
44 compliance with subsection H of this section and that political subdivision  
45 has not taken any of the actions described in subsection H of this section

1 since filing that report, the political subdivision shall file with the  
 2 attorney general an affidavit stating that no actions were taken by the  
 3 political subdivision during that period.

4 K. The attorney general shall determine compliance with this section  
 5 in accordance with the following requirements applicable to zoning and  
 6 development in a high noise or accident potential zone and to zoning and  
 7 development in accident potential zone one and accident potential zone two.  
 8 Compliance with respect to territory located in a high noise or accident  
 9 potential zone THE ARRIVAL AND DEPARTURE CORRIDOR but outside the ACCIDENT  
 10 POTENTIAL ZONE ONE, TWO AND NOISE contour lines as described in section  
 11 28-8461, paragraph 8, subdivisions (b) AND (c) SHALL BE DETERMINED IN  
 12 ACCORDANCE WITH THE REQUIREMENTS APPLICABLE TO TERRITORY LOCATED IN THE 65-69  
 13 DAY-NIGHT SOUND LEVEL AS LISTED BELOW. and (c) shall be determined in  
 14 accordance with the requirements applicable to territory located in accident  
 15 potential zone two. This subsection shall not preclude a determination of  
 16 compliance if the political subdivision and the military airport mutually  
 17 agree that a particular AN INDIVIDUAL use is compatible and consistent with  
 18 the high noise or accident potential of the military airport.

Day-night sound level in decibels  
 high noise or accident  
 potential zone (18)

22 Zoning and development in high							
23 noise or accident potential							
24 zone	65-69	70-74	75-79	80-84	85 or APZ	APZ	APZ
25						over one	two
26 <u>Residential</u>							
27 Residential uses other than	No <sup>(13)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No	No	No
28 the residential uses listed							
29 below							
30 Single family residential	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	No <sup>(13)</sup>	No <sup>(13)</sup>	No	No <sup>(13)</sup>
31 that is the subject of							
32 zoning approved on or							
33 before December 31, 2000							
34 that permits one dwelling							
35 unit per acre or less							
36 Single family residential	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	No <sup>(13)</sup>	No	No <sup>(13)</sup>
37 that is the primary residence							
38 for persons engaging in							
39 agricultural use and							
40 ancillary residential							
41 buildings incident to the							
42 primary agricultural use							

1	<u>Transportation, communications</u>							
2	<u>and utilities</u>							
3	Railroad and rapid rail transit	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(15)</sup>
4	Highway and street right-of-way	Yes	Yes	Yes	Yes	Yes	Yes	Yes
5	Motor vehicle parking	Yes	Yes	Yes	Yes	Yes	Yes <sup>(15)</sup>	Yes <sup>(2)</sup>
6	Communications	Yes	Yes <sup>(2)</sup>	Yes <sup>(3)</sup>	No	No	Yes <sup>(15)</sup>	Yes <sup>(2)</sup>
7	(noise sensitive)							
8	Utilities	Yes	Yes	Yes	No	No	Yes <sup>(15)</sup>	Yes <sup>(2)</sup>
9	Other transportation,	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	Yes <sup>(8)</sup>	Yes <sup>(15)</sup>	Yes <sup>(2)</sup>
10	communications and utilities							
11	<u>Commercial/retail trade</u>							
12	Wholesale trade	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
13	Building materials-retail	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
14	General merchandise-retail	Yes	Yes <sup>(1)</sup>	Yes <sup>(2)</sup>	No	No	No	No
15	Food-retail	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No
16	Automotive and marine	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No/Yes <sup>(17)</sup>
17	Apparel and accessories-retail	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No
18	Eating and drinking places	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No
19	Furniture and home	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No/Yes <sup>(17)</sup>
20	furnishings-retail							
21	Other retail trade	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No
22	<u>Personal and business services</u>							
23	Finance, insurance and real estate	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
24	Personal services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
25	Business services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
26	Repair services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes
27	Contract construction services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
28	Indoor recreation services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
29	Other services	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	Yes
30	<u>Industrial/manufacturing</u>							
31	Food and kindred products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
32	Textile mill products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
33	Apparel	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
34	Lumber and wood products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
35	Furniture and fixtures	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
36	Paper and allied products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
37	Printing and publishing	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
38	Chemicals and allied products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No
39	Petroleum refining and	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No
40	related industries							
41	Rubber and miscellaneous plastic	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
42	Stone, clay and glass products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
43	Primary metal industries	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
44	Fabricated metal products	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>

1	Professional, scientific and	Yes	Yes <sup>(11)</sup>	Yes <sup>(22)</sup>	No	No	No	No
2	controlling instruments							
3	Miscellaneous manufacturing	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	Yes <sup>(2)</sup>
4	<u>Public and quasi-public</u>							
5	<u>services</u>							
6	Government services	Yes <sup>(11)</sup>	Yes <sup>(22)</sup>	Yes <sup>(22)</sup>	No	No	No	Yes <sup>(2)</sup>
7	Cultural activities,	Yes <sup>(11)</sup>	Yes <sup>(22)</sup>	No	No	No	No	No
8	including churches							
9	Medical and other health							
10	services	Yes <sup>(11)</sup>	Yes <sup>(22)</sup>	No	No	No	No	No
11	Cemeteries	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No	Yes
12	Nonprofit organizations	Yes <sup>(11)</sup>	Yes <sup>(22)</sup>	No	No	No	No	Yes
13	Correctional facilities	Yes <sup>(11)</sup>	Yes <sup>(22)</sup>	Yes <sup>(3)</sup>	Yes <sup>(4)</sup>	No	No	Yes
14	Other public and quasi-public	Yes <sup>(11)</sup>	Yes <sup>(22)</sup>	No	No	No	No	Yes <sup>(2)</sup>
15	services							
16	<u>Outdoor recreation</u>							
17	Playgrounds and neighborhood							
18	parks	Yes	Yes	No	No	No	Yes <sup>(15)</sup>	Yes
19	Community and regional	Yes	Yes	No	No	No	Yes <sup>(15)</sup>	Yes
20	Nature exhibits	Yes	No	No	No	No	No	No
21	Spectator sports, including							
22	Arenas	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	No	No	No	No	No
23		YES <sup>(14)</sup>	YES <sup>(14)</sup>					
24	Golf courses and riding stables	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	Yes <sup>(15)</sup>	Yes
25	Water based recreational areas	Yes	Yes <sup>(5)</sup>	Yes <sup>(6)</sup>	No	No	No	No
26	Resort and group camps	Yes <sup>(11)</sup>	Yes <sup>(2)</sup>	No	No	No	No	No
27	Auditoriums and concert halls	Yes <sup>(6)</sup>	Yes <sup>(7)</sup>	No	No	No	No	No
28	Outdoor amphitheaters and	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	No	No	No	No
29	music shells	YES <sup>(14)</sup>	YES <sup>(14)</sup>	YES <sup>(14)</sup>				
30	Other outdoor recreation	Yes	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	No	No	No	No
31			YES <sup>(14)</sup>	YES <sup>(14)</sup>				
32	<u>Resource production,</u>							
33	<u>extraction and open space</u>							
34	Agriculture (except livestock)	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	Yes <sup>(13)</sup>	No	Yes <sup>(2)</sup>
35				YES <sup>(11)</sup>	YES <sup>(12)</sup>		YES <sup>(13)</sup>	
36	Livestock farming and animal	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(11)</sup>	Yes <sup>(12)</sup>	Yes <sup>(13)</sup>	No	Yes <sup>(2)</sup>
37	Breeding			YES <sup>(11)</sup>	YES <sup>(12)</sup>		YES <sup>(13)</sup>	
38	Forestry activities	Yes <sup>(9)</sup>	Yes <sup>(10)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	Yes <sup>(13)</sup>	No	Yes
39	Fishing activities and	Yes	Yes	Yes	Yes	Yes	No	Yes
40	related services			NO	NO	NO		NO
41	Mining activities	Yes	Yes	Yes	Yes	Yes	No	Yes <sup>(2)</sup>
42	Permanent open space	Yes	Yes	Yes	Yes	Yes	No	Yes
43							YES	
44	Water areas (NOT INCIDENTAL TO	Yes	Yes	No	No	No	No	No
45	FARMING)							

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

6 (2) Measures to achieve an outdoor to indoor noise reduction level of  
7 thirty decibels PURSUANT TO AN ORDINANCE ADOPTED UNDER SECTION 28-8482 must  
8 be incorporated into the design and construction of all buildings and the  
9 political subdivision must make an express finding, as part of approval, that  
10 use of noise reduction level criteria will not alleviate outdoor noise.

11 (3) Measures to achieve an outdoor to indoor noise reduction level of  
12 thirty-five decibels pursuant to AN ORDINANCE ADOPTED UNDER section 28-8482  
13 must be incorporated into the design and construction of all buildings AND  
14 THE POLITICAL SUBDIVISION MUST MAKE AN EXPRESS FINDING, AS PART OF THE  
15 APPROVAL, THAT USE OF NOISE REDUCTION LEVEL CRITERIA WILL NOT ALLEVIATE  
16 OUTDOOR NOISE.

17 (4) Measures to achieve an outdoor to indoor noise reduction level of  
18 forty decibels pursuant to AN ORDINANCE ADOPTED UNDER section 28-8482 must  
19 be incorporated into the design and construction of all buildings AND THE  
20 POLITICAL SUBDIVISION MUST MAKE AN EXPRESS FINDING, AS PART OF THE APPROVAL,  
21 THAT USE OF NOISE REDUCTION LEVEL CRITERIA WILL NOT ALLEVIATE OUTDOOR NOISE.

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

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

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

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

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

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

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

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

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

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

10 (15) No aboveground buildings or structures.

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

15 (a) Steam, dust and smoke.

16 (b) Direct or indirect reflective light emissions.

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

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

22 (e) Explosives facilities or similar activities.

23 (17) If located in the extended portion of accident potential zone two  
24 in territory of a political subdivision described in section 28-8461,  
25 paragraph 8, subdivision (a).

26 (18) USES NOT LISTED ARE PRESUMED TO NOT BE COMPATIBLE. THIS DOES NOT  
27 PRECLUDE A DETERMINATION OF COMPLIANCE IF THE POLITICAL SUBDIVISION AND THE  
28 MILITARY AIRPORT MUTUALLY AGREE THAT AN INDIVIDUAL USE IS COMPATIBLE AND  
29 CONSISTENT WITH THE HIGH NOISE OR ACCIDENT POTENTIAL OF THE MILITARY AIRPORT.

30 L. The attorney general shall notify a political subdivision by  
31 certified mail, return receipt requested, if, from the content of the report  
32 filed by the political subdivision pursuant to subsection H of this section  
33 or other evidence, the attorney general has probable cause to believe that  
34 the political subdivision has not complied with the requirements set forth  
35 in subsection A, C, or F OR K of this section or section 28-8482. Nothing  
36 in this section shall authorize or permit a finding of probable cause of  
37 noncompliance with respect to territory that is the subject of a development  
38 plan as defined in subsection E of this section APPROVED ON OR BEFORE  
39 DECEMBER 31, 2000 except under section 28-8482 if applicable. A political  
40 subdivision that receives a notice from the attorney general pursuant to this  
41 subsection shall demonstrate compliance with subsection A, C, or F OR K of  
42 this section or section 28-8482 within forty-five days after receipt of the  
43 notice. If a political subdivision fails to demonstrate compliance with  
44 subsection A, C, or F OR K of this section or section 28-8482 within

1 forty-five days after receipt of the notice, the attorney general shall bring  
2 an enforcement action under this section.

3 M. The attorney general shall provide to all political subdivisions  
4 with territory in the vicinity of a military airport a copy of the report  
5 prepared and submitted by the attorney general pursuant to subsection S of  
6 this section indicating those political subdivisions that are in compliance  
7 or noncompliance with subsection A, C, or F OR K of this section and section  
8 28-8482. If a political subdivision files in a timely manner a report or  
9 affidavit required under subsection H or J of this section and any zoning map  
10 amendment, zoning or subdivision ordinance or regulation text amendment,  
11 final plat approval, variance from zoning or subdivision ordinance or  
12 comprehensive, general or specific plan OR SCHOOL DISTRICT DEVELOPMENT PLAN  
13 amendment that has occurred during the reporting period is consistent with  
14 subsection K of this section and the political subdivision provided the  
15 notice required pursuant to subsection F of this section or the attorney  
16 general fails to provide notice of probable cause of noncompliance pursuant  
17 to subsection L of this section on or before November 15 of that year, the  
18 political subdivision is deemed to have complied with the requirements of  
19 this section and section 28-8482 during the period covered by the report or  
20 affidavit.

21 N. If any owner of property that is the subject of a report filed  
22 pursuant to subsection H of this section or political subdivision that is  
23 required to file a report pursuant to subsection H of this section disagrees  
24 with a determination of the attorney general of probable cause of  
25 noncompliance pursuant to subsection L of this section, the owner of property  
26 or political subdivision may appeal the determination of the attorney general  
27 to the superior court in the county in which the affected property or  
28 territory is located within thirty days after providing the attorney general  
29 written notice of the appeal by certified mail.

30 O. The following apply to enforcement actions brought under this  
31 section:

32 1. The attorney general may institute a civil action in the name of  
33 this state in the superior court in the county of the alleged violation  
34 against a political subdivision that is required to file a report pursuant  
35 to subsection H of this section to restrain, enjoin, correct or abate a  
36 violation of this section or section 28-8482, to collect a civil penalty  
37 ordered pursuant to this section and to collect attorney fees and costs  
38 ordered pursuant to this section if any of the following applies:

39 (a) The political subdivision fails to file a report or affidavit  
40 required by this section within thirty days after the political subdivision  
41 receives the written notice from the attorney general that a report has not  
42 been filed.

43 (b) From the content of the report filed by the political  
44 subdivision, or other evidence, the attorney general has determined that  
45 there is probable cause to believe that the political subdivision has not

1 complied with the requirements set forth in subsection A, C, or F OR K of  
2 this section or section 28-8482 and forty-five days have passed since the  
3 political subdivision received written notice from the attorney general  
4 pursuant to subsection L of this section.

5 (c) The attorney general has probable cause to believe that any  
6 change, variance or exemption made by a political subdivision that is  
7 required to file a report pursuant to subsection H of this section to its  
8 general plan or comprehensive plan OR SCHOOL DISTRICT DEVELOPMENT PLAN  
9 applicable to property within the high noise or accident potential zone  
10 violates this section and forty-five days have passed since the political  
11 subdivision received written notice from the attorney general pursuant to  
12 subsection L of this section.

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

18 3. The court may assess civil penalties in favor of this state to be  
19 deposited in the state general fund as follows:

20 (a) For failure of a political subdivision to file a report or  
21 affidavit required by subsection H or J of this section within thirty days  
22 after receiving notice from the attorney general, the political subdivision  
23 is liable for a civil penalty of up to two hundred dollars for each day after  
24 the first thirty days and up to three hundred dollars for each subsequent day  
25 up to a maximum of ten thousand dollars.

26 (b) For failure of a political subdivision that is required to file  
27 a report pursuant to subsection H of this section to comply with the  
28 requirements of subsection A, C, or F OR K of this section or section  
29 28-8482, the political subdivision is liable for a civil penalty of up to  
30 five hundred dollars for each day for the first ten days and up to five  
31 thousand dollars for each subsequent day up to a maximum of fifty thousand  
32 dollars. If the political subdivision demonstrates compliance with  
33 subsections A, C, and F AND K of this section and section 28-8482 within  
34 forty-five days after receipt of a notice of noncompliance from the attorney  
35 general pursuant to subsection L of this section, the accrued penalties shall  
36 be waived. If the political subdivision demonstrates a good faith effort to  
37 comply with subsections A, C, and F AND K of this section and section  
38 28-8482, as applicable, within forty-five days after receipt of a notice of  
39 noncompliance from the attorney general pursuant to subsection L of this  
40 section, the attorney general may waive accrued penalties.

41 P. A political subdivision that has territory in the vicinity of a  
42 military airport that includes property in a high noise or accident potential  
43 zone shall submit any proposed comprehensive, or general OR SCHOOL DISTRICT  
44 DEVELOPMENT plan or amendments that are applicable to property within the  
45 high noise or accident potential zone to the attorney general at least

1 fifteen days before the first public hearing required pursuant to section  
2 9-461.06 or 11-806.

3 Q. On written request of the attorney general, a political  
4 subdivision shall provide records kept pursuant to this section or section  
5 28-8482 within thirty days after the request.

6 R. The attorney general may investigate any complaint received that  
7 a political subdivision that has territory in the vicinity of a military  
8 airport is not in compliance with subsection A, C, or F OR K of this section  
9 or section 28-8482.

10 S. On or before November 15 of each year, the attorney general shall  
11 submit to the Arizona military airport preservation committee established by  
12 section 41-3301 a report indicating those political subdivisions that are in  
13 compliance with subsections A, C, and F AND K of this section and section  
14 28-8482, those political subdivisions that are not in compliance with  
15 subsections A, C, and F AND K of this section and section 28-8482 and the  
16 actions that the attorney general is taking, or intending to take, to bring  
17 those political subdivisions not in compliance with subsections A, C, and F  
18 AND K of this section or section 28-8482 into compliance.

19 Sec. 3. Section 28-8482, Arizona Revised Statutes, is amended to read:  
20 28-8482. Incorporation of sound attenuation standards in  
21 building codes

22 A. A political subdivision that has territory in the vicinity of a  
23 military airport shall incorporate the sound attenuation standards and  
24 specifications prescribed in this section into any building code in existence  
25 on or adopted after December 31, 2001. These standards and specifications  
26 apply to new development and alterations for first occupancy that are the  
27 subject of building permits issued after December 31, 2001 and that are  
28 located on property within the territory in the vicinity of a military  
29 airport AND DO NOT APPLY TO NEW DEVELOPMENT AND ALTERATIONS THAT ARE LOCATED  
30 ON PROPERTY WITHIN CORPORATE LIMITS OF A MUNICIPALITY BUT OUTSIDE TERRITORY  
31 IN THE VICINTY OF A MILITARY AIRPORT.

32 B. Not later than December 31, 2001, a political subdivision that has  
33 territory in the vicinity of a military airport shall adopt an ordinance that  
34 requires a noise level reduction to be incorporated in the design and  
35 construction of any residential building or portions of buildings where the  
36 public is received, office areas or AND where normal noise level is low for  
37 first occupancy, INCLUDING LIBRARIES, SCHOOLS AND CHURCHES, pursuant to  
38 building permits issued after December 31, 2001 in order to achieve a maximum  
39 interior noise level of forty-five decibels IN AREAS WITHIN THE NOISE  
40 CONTOURS DESCRIBED IN SECTION 28-8461, PARAGRAPH 8, SUBDIVISION (a), (b) OR  
41 (c), AS APPLICABLE. In order to comply with this section, an ordinance shall  
42 require that all residential buildings IN TERRITORY IN THE VICINITY OF A  
43 MILITARY AIRPORT BUT OUTSIDE THE NOISE CONTOURS AS DESCRIBED IN THIS SECTION  
44 SHALL be constructed with R19 A MINIMUM OF R18 exterior walls WALL ASSEMBLY,  
45 A MINIMUM OF R30 roofs ROOF AND CEILING ASSEMBLY, dual-glazed windows and

1 solid wood, foam-filled fiberglass or metal doors to the exterior OR, IF THE  
2 SPECIFIED BUILDING STANDARDS ARE NOT MET, THE POLITICAL SUBDIVISION MAY  
3 APPROVE AS AN ALTERNATIVE, A CERTIFICATION BY AN ARCHITECT OR ENGINEER  
4 REGISTERED PURSUANT TO TITLE 32, CHAPTER 1 TO ACHIEVE A MAXIMUM INTERIOR  
5 NOISE LEVEL OF FORTY-FIVE DECIBELS AT THE TIME OF FINAL CONSTRUCTION. A  
6 sound attenuation ordinance adopted by a political subdivision pursuant to  
7 this subsection shall not require a maximum interior noise level that is less  
8 than the maximum interior noise level required by this subsection.

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

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

18 E. FOR THE PURPOSES OF THIS SECTION, POLITICAL SUBDIVISION DOES NOT  
19 INCLUDE A SCHOOL DISTRICT.

20 Sec. 4. Emergency

21 This act is an emergency measure that is necessary to preserve the  
22 public peace, health or safety and is operative immediately as provided by  
23 law.

APPROVED BY THE GOVERNOR MAY 6, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2002.



Passed the House April 29, 2002,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting  
*with emergency*

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate March 18, 2002,

by the following vote: 26 Ayes,

2 Nays, 2 Not Voting  
*with Emergency*

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002,

at 11:27 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 6<sup>th</sup> day of

May, 2002,

at 3:27 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of May, 2003,

at 3:13 o'clock P M.

[Signature]  
Secretary of State

S.B. 1393