

Insert new section 1.2 as outlined below and renumber “Definitions” section to 1.3.

1.2. Effective Date

- 1.2.1. *Plan Adoption:* The policies in this *Compatibility Plan* shall become effective for each of the included airports as of the date that the San Diego County Airport Land Use Commission adopts those portions applicable to each respective airport. The adoption date for the compatibility plan for each airport is listed in Table 1A in Chapter 1.
- (a) Each of the compatibility plans adopted by the ALUC in 2004 shall remain in effect until replaced by a subsequent compatibility plan for that airport.
 - (b) Any action to invalidate any portion of this *Compatibility Plan* governing an individual airport shall not invalidate the *Plan* as it applies to other airports.
- 1.2.2. *Applicability to Projects Not Yet Completed:* The compatibility policies, if any, that will be used to evaluate a proposed project shall be determined according to the following criteria:
- (a) A project, and any subsequent ministerial or implementing action(s) associated with that project, previously reviewed by the ALUC and found to be consistent with the compatibility criteria in effect at the time of project review shall not be subject to new review under this *Compatibility Plan* regardless of the status of the project’s local jurisdiction approval and subsequent construction or implementation unless the project changes in a substantive manner, as determined by the local jurisdiction based on established criteria, that would potentially invalidate the original ALUC consistency findings (see Policy 2.3.4(b)).
 - (1) Any project resubmitted for ALUC review under the above circumstances will be evaluated using the ALUC policies in effect at the time that a complete application (see Policy 2.3.2(a)) is submitted to the ALUC.
 - (2) A project that was previously reviewed by the ALUC but which has changed in a substantive manner, need not be resubmitted for ALUC review if: prior to resubmission, the general plan of the local jurisdiction in which the project is situated has been reviewed by the ALUC and found to be consistent with this *Compatibility Plan*; and the revised project is consistent with the ALUC approved general plan.
 - (b) If the general plan of a local jurisdiction has been reviewed and found by the ALUC to be consistent with the compatibility plan in place prior to approval of this *Compatibility Plan*, or the local jurisdiction has taken the special steps necessary to overrule the *Compatibility Plan*, then a project for which the local jurisdiction has deemed the application to be complete prior to the effective date of this *Compatibility Plan*, shall not be subject to ALUC review under this *Compatibility Plan*, provided that the project is consistent with the jurisdiction’s ALUC-approved general plan.

- (c) If a local jurisdiction has not modified its general plan to be consistent with the compatibility plan in place prior to the approval of this *Compatibility Plan*, or taken the special steps necessary to overrule the *Compatibility Plan*, then all projects in that jurisdiction that are within the airport influence area as defined in this *Compatibility Plan* and are not yet an existing use shall be submitted to the ALUC to be reviewed in accordance with the policies herein. However, if an application for a project has been submitted to and deemed complete by the local jurisdiction and the ALUC (see Policy 2.3.2(a)) prior to the effective date of this *Compatibility Plan*, then the project shall be evaluated against the policies in the applicable ALUCP in effect at the time the project application was deemed complete by the local jurisdiction and the ALUC. **The ALUC shall respond within thirty (30) days of referral to local agency requests for a consistency determination as to whether the project application is complete (i.e., all information necessary for accomplishment of the project review has been submitted to the ALUC).**
- (d) If, prior to the effective date of this *Compatibility Plan*, a project application that was deemed complete by the local jurisdiction did not require ALUC review for one of the reasons in Paragraph (2) below, then the project shall not require subsequent ALUC review under this *Compatibility Plan*.
- (1) Only those projects for which the local jurisdiction has deemed the application to be complete prior to the effective date of this *Compatibility Plan* shall be exempt under this policy.
 - (2) This policy is applicable to projects located as follows:
 - = Beyond the boundary of an airport influence area defined by the compatibility plan in place at the time the application was deemed complete;
 - = More than two miles from the boundary of a public airport for which the ALUC did not have a compatibility plan in place at the time the application was deemed complete (the default two-mile distance is set by Public Utilities Code Section 21675.1(b)); or
 - = In the vicinity (**more than two miles from the boundary**) of a military airport for which the ALUC did not have a compatibility plan in place at the time the application was deemed complete.

1.3. Definitions

Revise definition of “existing land use” as follows:

1.3.13 *Existing Land Use*: A land use that either physically exists or for which local government commitments to the project or components of the project have been made, as more further defined below.

- (a) The Aeronautics Act gives ALUCs authority to conduct compatibility planning around airports only “to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses” (Public Utilities Code Section 21674(a)). This phrase is generally accepted to mean that ALUCs have no authority over existing land uses. With respect to a proposed new development or use, once a project constitutes an existing use, it is not subject to ALUC review.

- (b) A project shall be considered an existing land use not subject to ALUC review if one or more of the following actions have been taken prior to the effective date of adoption of the *Compatibility Plan*:
- (1) A tentative parcel or subdivision map has been approved pursuant to California Government Code Section 66498.1 and not expired;
 - (2) A vesting tentative parcel or subdivision map has been approved pursuant to California Government Code Section 66498.1 and not expired;
 - (3) A development agreement has been executed pursuant to California Government Code Section 65866 and remains in effect; or
 - (4) A valid building permit has been issued, substantial work has been performed, and substantial liabilities have been incurred in good faith reliance on the permit, pursuant to the California Supreme Court decision in *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785,791 and its progeny.
- (c) Other projects may be considered partially existing depending upon the status of local jurisdiction approval and project implementation at the time of adoption of the *Compatibility Plan*. Complex projects often involve multiple approvals by the local jurisdiction. Those aspects of a project proposal or implementation that fall within the existing use definition of subsections 1.3.13(b)(1)-(4) above, shall be considered existing. However, any other aspect of a project not complying with subsections 1.3.13(b)(1)-(4) as of the effective date of this *Compatibility Plan* must comply with the policies herein.
- (d) The determination of whether a development project meets the criteria of the definitions herein shall be made by the local jurisdiction ~~and the ALUC~~.