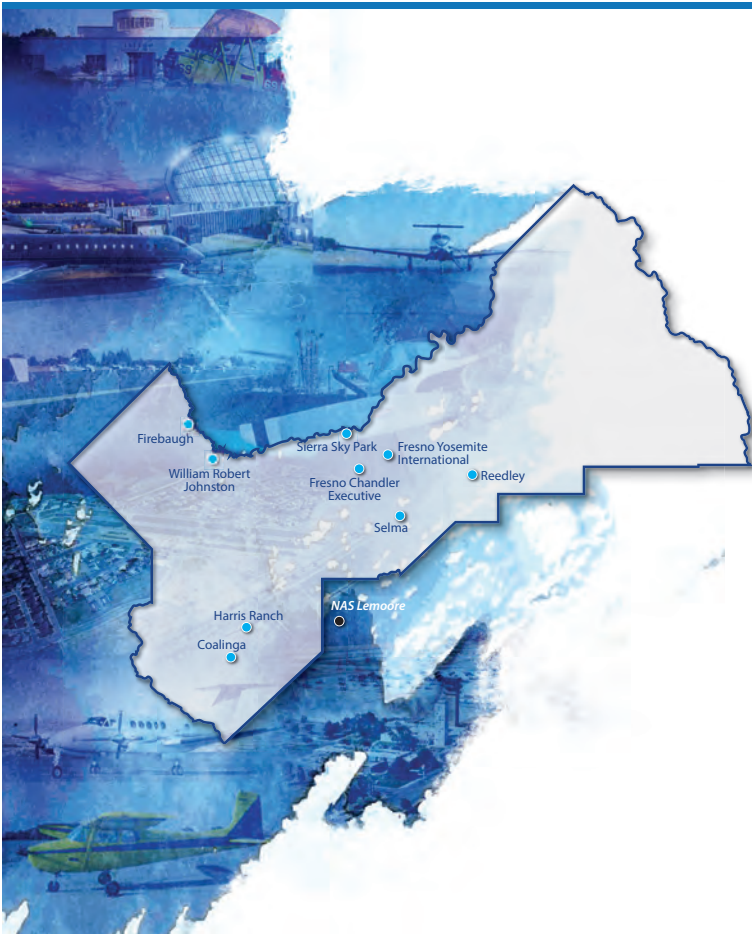




Fresno Council
of Governments

Chapter Two

IMPLEMENTATION AND DEFINITIONS





Chapter Two

IMPLEMENTATION AND DEFINITIONS

2.1 EFFECTIVE DATE

This ALUCP becomes effective on the date of its adoption by the ALUC, superseding the previous ALUCPs for each respective airport. Following adoption of this plan, the previous plans shall not be used to make consistency determinations. The following list shows the original adoption date, followed by the date(s) of amendments.

- Coalinga Municipal Airport (C80) 1994
- Firebaugh Airport (F34) 1983
- Fresno-Chandler Executive Airport (FCH) 1981, 1999, 2000, 2012, 2014
- Fresno Yosemite International Airport (FAT) 1986, 1990, 2010, 2012
- Harris Ranch Airport (3O8) 1995
- Reedley Municipal Airport (O32) 1983, 2007
- Selma Airport (OQ4) 1983
- Sierra Sky Park Airport (E79) 1995
- William Robert Johnston Municipal Airport (M90) 1983
- Naval Air Station Lemoore (NLC) N/A

If any portion of this ALUCP or another Fresno County ALUCP is invalidated by court action, other portions of this ALUCP remain unaffected and in full force.



2.2 STATE REQUIREMENTS AND GUIDANCE

2.2.1 State ALUC Statute

In the development of ALUCPs, state law requires:

- The Fresno County ALUC to prepare ALUCPs for all public use and military airports in the County.
- The California Department of Transportation (Caltrans) to provide guidance to ALUCs in preparing ALUCPs. The Caltrans Division of Aeronautics publishes the *California Airport Land Use Planning Handbook* (Handbook) to fulfill this responsibility.
- The ALUCs to be guided by the information in the *California Airport Land Use Planning Handbook*, published by the California Department of Transportation (Caltrans) Division of Aeronautics when preparing ALUCPs.
- The ALUCs to base ALUCPs on a long-range airport master plan and/or airport layout plan (ALP), which reflects the anticipated growth of the airport for at least the next 20 years. In the absence of an FAA-approved ALP, the ALUC may use a signed ALP drawing with Caltrans concurrence that is consistent with the California Code of Regulations, Title 21, Section 3534.

In addition to agencies with land use regulatory authority (such as cities and counties), special districts, community college districts and school districts are also subject to the requirements of the state ALUC statute.

2.2.2 California Airport Land Use Planning Guidelines

The latest edition of the Handbook was released in October 2011. The Handbook provides guidance on the delineation of airport compatibility factor boundaries, the policies that should apply within those areas, and the administration of ALUCPs. The policies and maps in this ALUCP take into account the guidance provided by the current edition of the Handbook.

2.3 LOCAL AGENCIES AND STAKEHOLDERS SUBJECT TO THIS ALUCP

Those affected most directly by this ALUCP include three groups of stakeholders – the ALUC, local agencies and project sponsors. The following bullets briefly describes these stakeholders and their roles in using or implementing this ALUCP.

- **The ALUC** refers to the Fresno County Airport Land Use Commission and its staff. The role of the ALUC is to fulfill its mandate to promote airport land use compatibility in the environs of the Airport.
- **Local agency** refers to Fresno County and any municipality with land use regulatory and permitting authority. It also includes school districts, community college districts, and special districts.



Local agencies must incorporate compatibility policies and standards into their land use plans and regulations or overrule the ALUCP, in whole or in part.

- **Project sponsor** refers to any person or entity having a legal interest in a property, including a local agency, landowner, or nonresidential tenant, who submits an application to a local agency for review of a project proposed on such property. Project sponsors must comply with the compatibility policies and standards of this ALUCP in designing and building projects.

2.3.1 Property Not Subject to this ALUCP

This ALUCP does not apply to any property owned by the United States government, State of California, or any Native American tribe.

2.3.2 Limit of ALUC Authority Over Airport

Public Utilities Code § 21674 provides that the ALUC has certain powers and duties, subject to the limitations upon its jurisdiction set forth in Public Utilities Code § 21676. Those powers include but are not limited to reviewing the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676. But Public Utilities Code § 21674 states that the powers of the ALUC shall in no way be construed to give the commission jurisdiction over the operation of any airport.

Other potential impacts created by airports within their environs (e.g., air or water quality, resource impacts, or surface traffic) are addressed by other federal and state laws and are not within the statutory authority for the ALUC to review.

2.4 EXEMPTIONS FROM ALUC REVIEW

2.4.1 Existing Land Uses

Under state law, an ALUC has no authority over existing land use. A land use project will be considered an existing land use when a “vested right” is obtained in any of the following ways:

- An approved and unexpired vesting tentative map (pursuant to California Government Code §66498.1)
- An executed and valid development agreement (pursuant to California Government Code §65866)
- Issuance of a valid building permit with substantial work performed and substantial liabilities incurred in good faith reliance on the permit



An extension of time, or a proposed modification to an existing land use project that the local agency has determined to be in substantial conformance with previous approvals, is not subject to consistency review whether or not a consistency determination was previously made. If the proposed modification is determined by the local agency to not be in substantial conformance, it must be submitted for consistency review.

The determination of whether a land use plan, regulation, or project meets the criteria of an existing land use must be made by the ALUC (or the local agency post-ALUCP implementation).

2.4.2 Repair, Maintenance, and Modification

Repair and maintenance of existing buildings are compatible with this ALUCP and are not subject to consistency review. Modification of existing nonconforming land uses shall be permissible, provided that the modification does not increase the magnitude of the nonconformity when compared to **Table 3A** on page 3-4. The magnitude of nonconformity shall be measured by:

1. For residential land uses, the number of dwelling units and size of the structure on the lot
2. For nonresidential land uses, the size of the nonconforming use in terms of lot area and building floor area

Where bedrooms or sleeping rooms are added to residential uses that are nonconforming with the noise compatibility policies of this compatibility plan, those rooms must be sound-insulated to achieve an indoor noise level of CNEL 45 dB from exterior sources. In all cases, building modifications shall be subject to the noise compatibility and airspace protection policies of this compatibility plan.

2.4.3 Resumption of a Discontinued Use

A land use that has been discontinued for more than 24 months is not considered an existing use. A use may be re-established prior to 24 months (as determined by the local agency) following initial discontinuance without being subject to consistency review.

Nonconforming uses may be rebuilt to a density (for residential uses, dwelling units per acre) or size (for nonresidential uses, building floor area) not exceeding that of the original construction. In all cases, however, reconstructed nonconforming uses shall comply with the noise compatibility and airspace protection policies of this compatibility plan.

2.4.4 Single-Family Residence Development Right

Notwithstanding any other policies of this ALUCP, construction of a single-family residence, including a second dwelling unit, is allowed on a legal lot of record if the following conditions are met:



1. The property is located outside of Safety Zone 1 – Runway Protection Zone (RPZ)
2. The project is permitted by the local agency
3. The project is reviewed by the ALUC for consistency with this plan

2.5 GOVERNING ALUCP

Land use policy actions and development actions are subject to this compatibility plan unless the circumstances defined below apply.

2.5.1 Development Actions with Previous Airport Land Use Commission Consistency Determinations

Proposed development actions determined to be consistent or conditionally consistent with the compatibility plan in effect at the time of Airport Land Use Commission project review, do not require further review under this compatibility plan, unless the proposed development is within the AIA and one or more of the following conditions occur:

1. Increase in the proposed residential density or nonresidential intensity, which would exceed the limits in **Table 3A**
2. Alteration or reconstruction of a non-residential use expanding a portion of the site or the floor area of the building, therefore increasing the maximum intensity limits (number of people per acre) or the floor area ratio to levels above existing
3. Addition of a land use incompatible with this ALUCP
4. Structure height increase creating a hazard or obstruction as determined by the FAA
5. Addition of a characteristic that would create a hazard to air navigation (e.g., glare, thermal plumes, wildlife attractants) or impact airport operations, as determined by the Airport operator
6. Consistency determination is not more than five years old

If any of these changes are proposed, the development action must be reviewed for consistency with this compatibility plan.

An ALUC consistency determination does not expire, but is limited to the project plans and description submitted with its application as reviewed by the ALUC.

A consistency determination is transferable to a modified project only if there are no changes as listed in any of the preceding bullets. Any change in these characteristics requires a new consistency determination. The previous consistency determination will be rescinded if the ALUC makes a new determination.



Once a land use plan has been found consistent with this ALUCP, future land use projects within the plan area must be reviewed for consistency if, at the time of original review, the plan consisted of only generalized land use designations without project details (e.g., site layout, density/intensity, building heights).

2.5.2 Development Actions in the Review Process Before the Effective Date of this Compatibility Plan

Any proposed development action within the AIA that has an application deemed complete by the ALUC per the California Government Code (§65943) prior to adoption of this compatibility plan will be evaluated by the ALUC under the previous ALUCP plans.

2.6 ALUC CONSISTENCY REVIEW AFTER ALUCP ADOPTION, PRIOR TO LOCAL AGENCY CONSISTENCY FINDINGS

This section describes the process for consistency determinations before a local agency amends its land use plans and/or regulations to be consistent with this ALUCP or overrules all or part of this ALUCP. **Exhibit 2A** depicts the ALUC review process for land use plans, regulations and projects prior to local agency implementation or overrule of ALUC findings.

2.6.1 Consistency Determination Review Process

Local agencies must submit an application for consistency determination to the ALUC for proposed land use plans, regulations, and projects as required by this ALUCP. Proposed land use plans, regulations and projects should be referred to the ALUC at the earliest reasonable point in time so that the ALUC's review can be duly considered by the local agency prior to formalizing its decision. Depending upon the type of plan or project and the normal scheduling of meetings, ALUC review can be completed before, after, or concurrently with review by the planning commission (and other advisory bodies), but must be done before final action by the local agency.

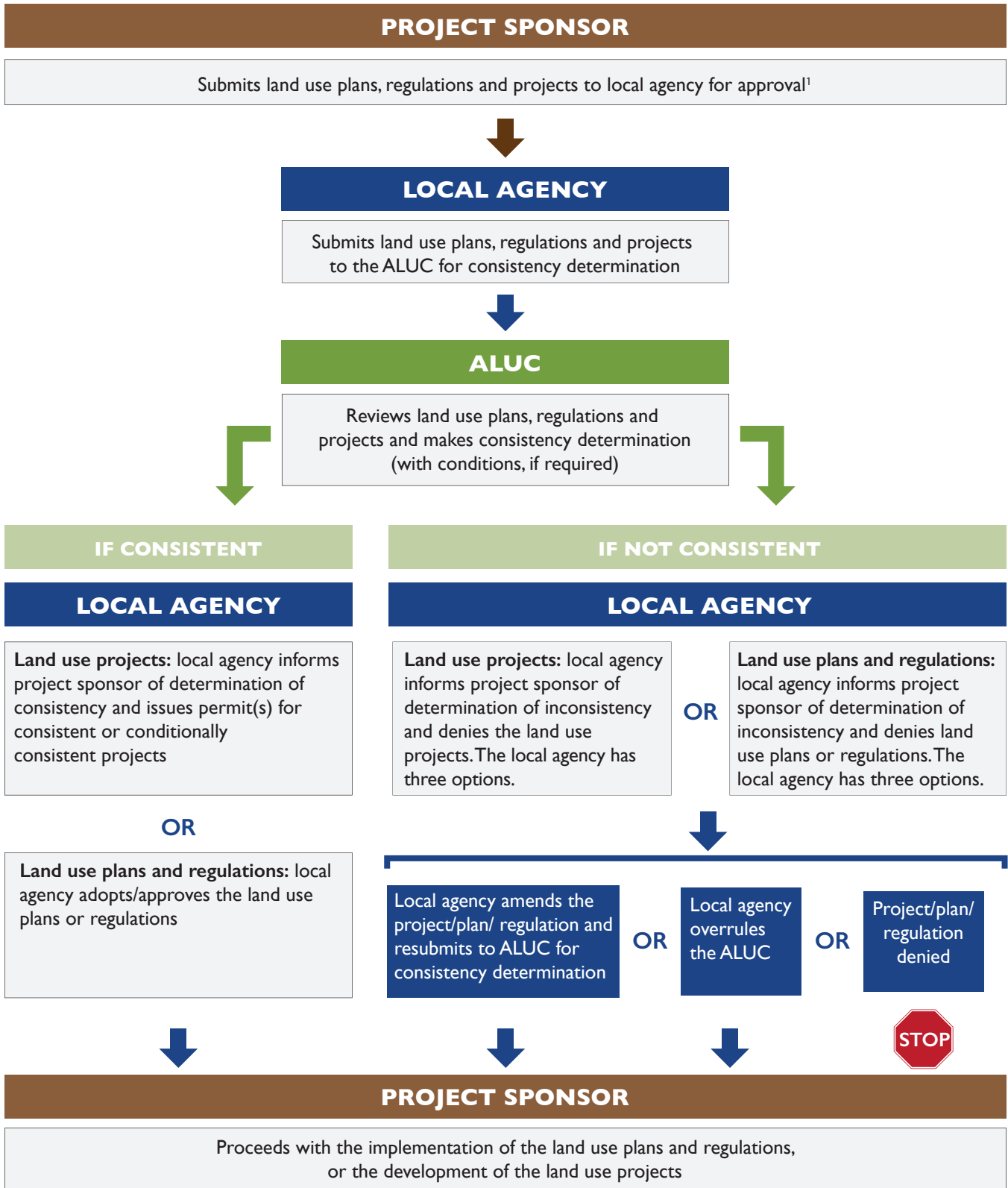
The application must contain information described in **Appendix L**. The procedures discussed in the following sections apply.

2.6.2 Review of Application for Completeness

ALUC staff will determine if the application for consistency determination from the local agency is complete and notify the local agency of application completeness in writing within 30 calendar days after receipt of an application.



EXHIBIT 2A: ALUC REVIEW BEFORE LOCAL AGENCY IMPLEMENTATION



Note: 1. This includes land use plan amendments proposed by a project sponsor and rezones. Source/Prepared by: Coffman Associates, Inc., October 2017.



If the application for consistency determination is incomplete, ALUC staff will identify the information required to complete the application and inform the local agency. If additional information is required, a new 30-calendar day review period begins after the additional information is received by ALUC staff.

If ALUC staff does not make a written determination of completeness within 30 calendar days after receipt of an application for consistency determination, the application is considered complete.

2.6.3 Consistency Review Timeframe

The ALUC must respond to a local agency's request for consistency determination within 60 calendar days after the application is deemed complete by ALUC staff.

The 60 calendar-day review period may be extended if the local agency agrees in writing or verbally consents at an ALUC meeting.

If the ALUC fails to act within 60 calendar days, the proposed land use plan, regulation, or project is considered consistent with this ALUCP.

2.6.4 Public Notice

The ALUC will provide public notice before acting on any land use plan, regulation, or project under consideration. Approximately one week prior to the ALUC meeting an annotated agenda and meeting package will be made available on the Fresno COG website at www.fresnocog.org. Staff will notify commissioners and all interested members of the public via email regarding the available meeting agenda.

2.6.5 Consistency Determination Result

The ALUC will notify the local agency in writing of its consistency determination. A proposed land use plan, regulation, or project is determined to be one of the following:

- **Consistent with all four compatibility factors in this ALUCP** – The local agency may proceed with its decision.
- **Conditionally consistent with this ALUCP** – Any specified conditions must correspond to the policies and standards of this ALUCP. Unless a condition specifies subsequent review by the ALUC, responsibility to ensure compliance with conditions rests with the local agency with permit approval authority.



- **Not consistent with this ALUCP** – The ALUC must explain the specific conflicts with ALUCP policies and standards. The local agency may not approve the proposed land use plan, regulation, or project, unless it overrules the ALUC’s finding of inconsistency in accordance with applicable state law. See Section 1.5.2.

Exhibit 2B presents a flow diagram summarizing the consistency determination review process.

2.6.6 Findings as to Similar Uses

Cases may arise where a proposed development project involves a land use that is not explicitly provided for by the land use criteria addressed in Chapter Three of this document. In such cases, conventional rules of reason shall be applied in determining whether the subject land use is substantially similar to any land use specified in the plan criteria. In making these determinations, the reviewing officials shall consult the latest edition of the Handbook, prepared under the direction of the California Department of Transportation and land use classification systems available through the American Planning Association and other authoritative sources. The ALUC shall make the final determination with respect to appropriate land use classification.

2.6.7 Properties Divided by Compatibility Zone Boundary

For the purpose of evaluating consistency with the compatibility criteria set forth in this ALUCP, any parcel larger than one acre that is split by compatibility zone boundaries shall be considered as if it were multiple parcels divided at the compatibility zone boundary line. Parcels less than one acre shall be evaluated for consistency based upon the compatibility zone that covers the majority of the parcel (>50%).

2.6.8 Land Use Compatibility Planning Coordination

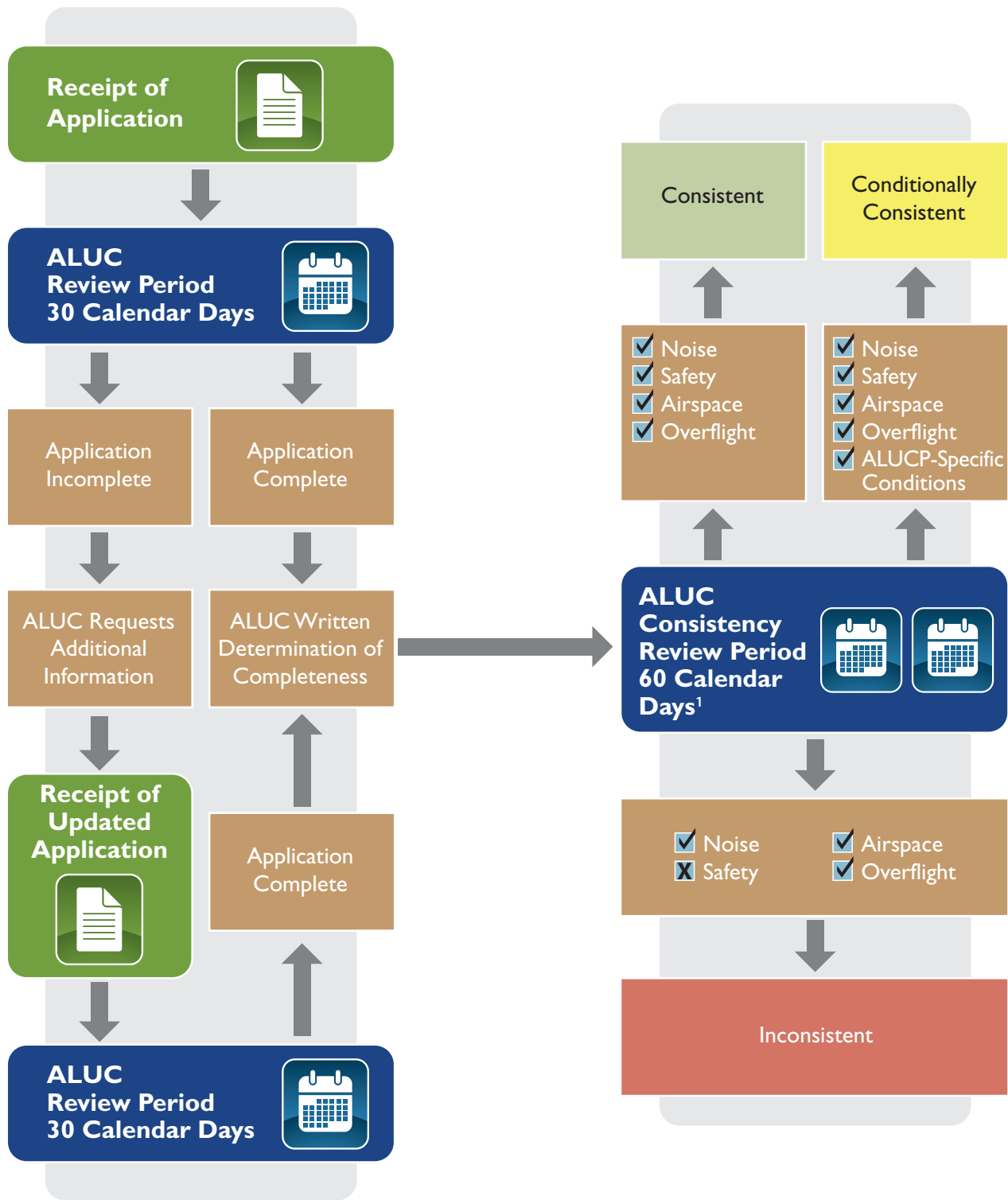
An important purpose and function of the compatibility plan is to coordinate airport land use compatibility planning across jurisdictions. To further that purpose, policies 2.6.8.1 through 2.6.8.3 shall apply.

2.6.8.1 Notification and Review of Proposed Land Use Policies

Any proposed land use policy action that affects property within the AIA must be referred to the Airport Land Use Commission for a determination of consistency. Local jurisdictions shall notify the Airport Land Use Commission of every such proposed land use policy action as required by state law.



EXHIBIT 2B: CONSISTENCY DETERMINATION REVIEW PROCESS



Note: 1. California Public Utilities Code §21676(d).
 Source/Prepared by: Coffman Associates, Inc., October 2017.



2.6.8.2 Notification to Airport Management of Proposed Land Use Policy Actions

The ALUC shall encourage local governments to inform Airport operators of proposed land use policy actions within the Fresno County AIAs. This should be done in a manner and at a time that enables ALUC and airport operators to review the proposed land use policy action concurrently.

2.6.8.3 Voluntary Advisory Review of Development Proposals

Local governments may submit development proposals within the AIA to the Airport Land Use Commission for voluntary, non-binding advisory review. ALUC reviews are voluntary only if the jurisdiction's general plan and/or specific plan is fully consistent with the compatibility plan (if these plans are not consistent, then ALUC review is mandatory). The Airport Land Use Commission shall encourage local governments to submit the following types of development proposals within the AIA for voluntary advisory review:

- Commercial or mixed-use development of more than 100,000 square feet of gross building area
- Residential or mixed-use development that includes more than 50 dwelling units
- Public or private schools
- Hospitals or other inpatient medical care facilities
- Libraries
- Places of public assembly
- Towers

When an ALUC review is advisory, the local jurisdiction does not need to take the special steps necessary to overrule the ALUC if it disagrees with the outcome of a review.

2.7 LOCAL AGENCY IMPLEMENTATION

2.7.1 Local Agency Requirements and Responsibilities

Within 180 calendar days of the ALUC's adoption or amendment of this ALUCP, each local agency affected by this ALUCP must:

1. Amend its land use plans and regulations to be consistent with this ALUCP, if needed; or
2. Overrule this ALUCP by a two-thirds vote of its governing body after adopting findings that justify the overrule and providing notice, as required by law (See Section 1.5.2)

If a local agency fails to take either action, it must follow the review process detailed in **Section 2.6**.

Public Utilities Code § 21676.5 provides: If the ALUC finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making



specific findings that the proposed action is consistent with the purposes of the Aeronautics Act, as stated in Public Utilities Code Section 21670, the ALUC may require that the local agency submit all subsequent actions, regulations, and permits to the ALUC for review until the local agency's general plan or specific plan is revised or the specific findings are made, pursuant to Public Utilities Code Section 21676.5

2.7.2 Establishing Consistency of Local Agency Land Use Plans and Regulations

To establish consistency of land use plans and regulations with this ALUCP, local agencies must eliminate conflicts that may include the following:

- Land use plan or zoning designations that permit incompatible uses within noise contours or safety zones
- Permissible residential densities and nonresidential intensities that exceed this ALUCP's density and intensity limits in any safety zone
- Permissible heights that would either constitute a hazard as determined by the FAA or penetrate the 14 CFR Part 77 surfaces

Land use designations in local agency land use plans that reflect existing land uses do not render the local agency plans inconsistent with this ALUCP. However, local agencies must limit the expansion and reconstruction of existing land uses that are not consistent with this ALUCP in accordance with the existing incompatible land use policies and standards of this ALUCP.

2.7.3 Ensuring Long-Term Compliance with this ALUCP

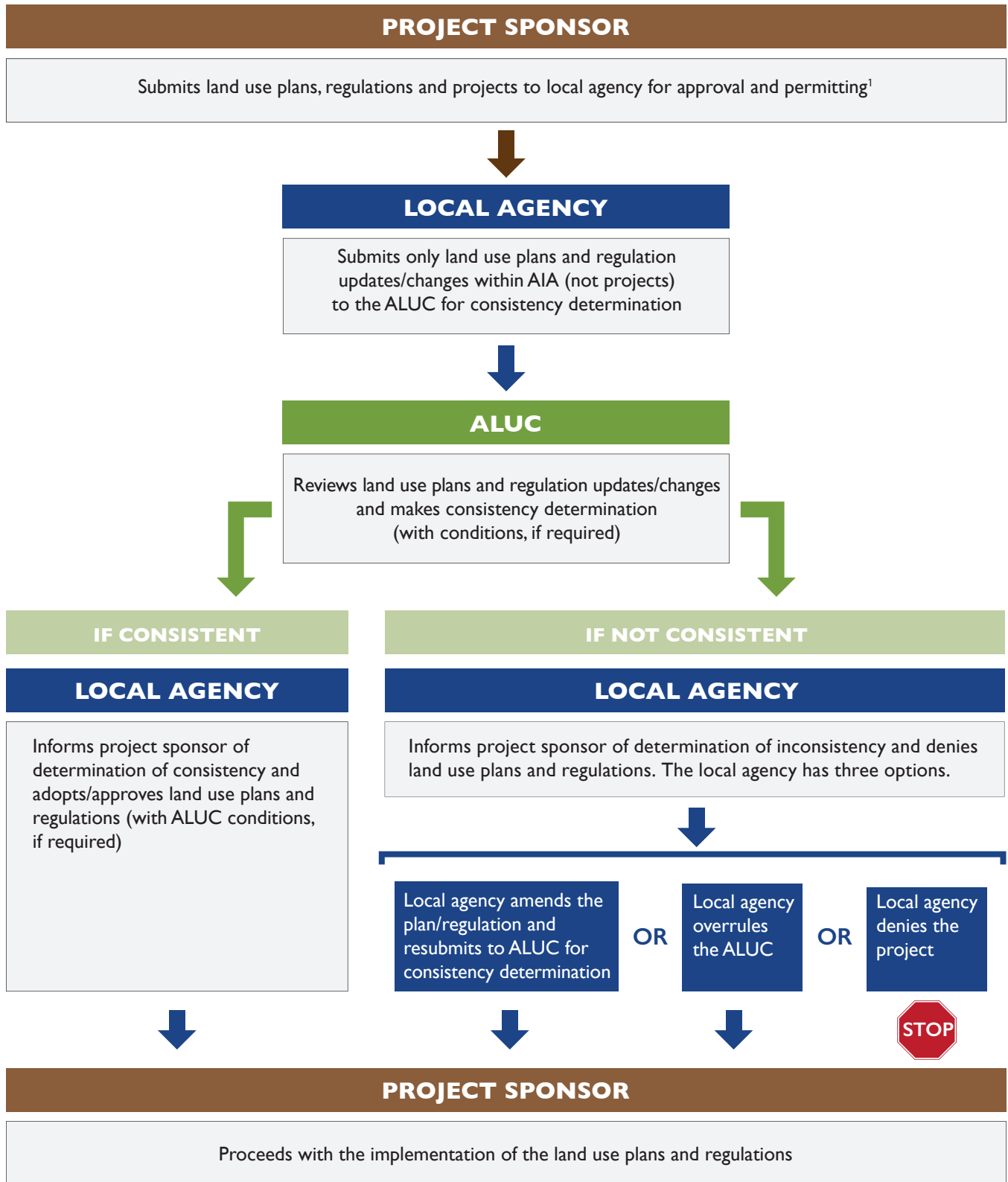
Local agency land use plans and regulations must include provisions for long-term compliance with this ALUCP. Local agencies must define the process they will follow when revising or amending land use plans and regulations, or when reviewing and approving land use projects within the AIA to ensure that they will be consistent with this ALUCP. Land use plans and regulations, including zoning, subdivision and building regulations, must include standards for reviewing land use projects for consistency with this ALUCP.

2.8 ALUC REVIEW AFTER ALUCP ADOPTION AND LOCAL AGENCY CONSISTENCY FINDINGS

Exhibit 2C depicts the ALUC review process of land use plans, regulations and projects after a local agency has implemented this ALUCP. **Sections 2.6.2** through **2.6.8** also apply after local agency implementation of this ALUCP.



EXHIBIT 2C: ALUC REVIEW AFTER LOCAL AGENCY IMPLEMENTATION



Note: 1. This includes land use plan amendments proposed by a project sponsor and rezones.
Source/Prepared by: Coffman Associates, Inc., October 2017.



2.8.1 Review of Land Use Plans and Regulations

Local agencies must submit an ALUC application for consistency determination per **Section 2.6.1** for proposed land use plans and regulations. Once a land use plan has been found consistent with this ALUCP, future land use projects within the plan area must be reviewed for consistency if, at the time of original review, the plan consisted of only generalized land use designations without project details (e.g., site layout, density/intensity, building heights).

2.8.2 Review of Land Use Projects

After local agency implementation or overrule of this ALUCP, land use projects are required to be submitted to the ALUC per **Section 2.6.1** for review only if the land use project:

- Includes a land use plan amendment or rezoning application
- Has received a determination from the FAA that it will constitute a hazard or obstruction to air navigation
- Has characteristics that may result in the creation of a hazard to air navigation, as discussed in **Chapter Three, Section 3.4**

2.8.3 Voluntary Review of Land Use Projects

After implementation, local agencies may choose to submit land use projects, according to **Section 2.6.8.3**, to the ALUC for advisory review. Any ALUC recommendation would be non-binding and not subject to any overrule requirements.

2.9 ALUC REVIEW OF PROPOSED AIRPORT PLANS AND PROJECTS

Airport Land Use Commission review of three categories of airport plans is required by state law – (1) airport and heliport master plans; (2) plans for construction of new airports and heliports; and (3) airport expansion plans.

- **Airport Master Plans.** Public Utilities Code, Section 21676(c), mandates that “each public agency owning an airport within the boundaries of an airport land use commission plan shall, prior to modification of its master plan, refer such proposed change to the airport land use commission.” The Airport Land Use Commission must then determine if the proposed master plan is consistent with the adopted compatibility plan. This requirement also applies to airport layout plans that would effectively modify any provisions of a previously adopted airport master plan.
- **Construction Plans for a New Airport.** State law also requires that no application for the consideration of plans for a new airport may be submitted to any local, regional, state, or federal agency



unless the plans have been: (1) approved by the board of supervisors or the city council of the jurisdiction in which the airport is to be located; and (2) submitted to and acted upon by the airport land use commission in the county in which the airport is to be located.

This chapter, and the chapter below relating to airport expansion plans, is not intended to require that ALUCs review the actual engineering drawings, only the overall layout plan.

- **Airport Expansion Plans.** Section 21664.5 of the *State Aeronautics Act* requires any airport expansion project which entails amendment of the Airport Permit issued by the California Department of Transportation to be reviewed by the ALUC for a consistency determination. Airport expansion is defined to include: (1) the construction of a new runway; (2) the extension or realignment of an existing runway; (3) the acquisition of runway protection zones or any interest in land for the purpose of the above; and (4) any other expansion of the airport's physical facilities for the purpose of accomplishing, or which are related to the purpose of, the two previous bullet points listed in this chapter.

Under state law (Pub. Util. Code, Section 21676[c]), any public agency owning an airport must, prior to the adoption or modification of its airport master plan, refer the proposed action to the Airport Land Use Commission. According to the Handbook, "the question to be examined [by airport land use commissions] is whether any components of the airport plan would result in greater noise and safety impacts on surrounding land uses than are assumed in the adopted compatibility plan." Components of the airport plans that merit consideration in the consistency review include:

1. Aviation activity forecasts
2. Changes to runway layout
3. Changes to flight tracks resulting from the proposed action
4. Changes to airspace parameters
5. Noise impacts – will changes in any of the above items result in significantly increased noise impacts on surrounding lands
6. Plans for non-aviation development on airport property (such as hotels, office buildings, or industrial buildings), which should be evaluated during the Airport Master Plan process and the same manner as projects proposed elsewhere in the project referral area

The Airport Land Use Commission should update the compatibility plan to account for the new airport plans. When an inconsistency exists between a proposed airport master plan and compatibility plan, the ALUC has the option of first modifying its plan to reflect the assumptions and proposals of the master plan. (Under state law, Airport Land Use Commissions have no jurisdiction over the operation of airports [Pub. Util. Code, Section 21674(e)].) If the ALUC determines that the proposed action is inconsistent with the ALUCP, the referring airport sponsor shall be notified. As outlined in Pub. Util. Code, Section 21676(c), the airport sponsor may, after a public hearing, propose to overrule the ALUC by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of Pub. Util. Code, Section 21670.



2.9.1 ALUC Actions on Airport Plans

The ALUC must determine if an airport master plan, airport layout plan, or expansion plan is consistent or inconsistent with this ALUCP. When an inconsistency exists, the ALUC will amend this ALUCP to reflect the assumptions and proposals in the airport plans.

2.9.2 Consistency Determination Result

When reviewing airport master plans or expansion plans for existing public use airports, the Commission has three action choices:

- Find the airport plan consistent with the ALUCP
- Find the airport plan inconsistent with the ALUCP
- Modify the ALUCP (after duly noticed public hearing) to reflect the assumptions and proposals in the airport plan

Non-aviation uses are determined to be one of the following:

- Consistent: the ALUC does not need to amend this ALUCP
- Conditionally consistent: the airport operator can proceed with the plan or project with conditions as per the policies and standards of this ALUCP
- Inconsistent: the ALUC must identify the specific conflicts with ALUCP policies and standards

2.10 DEFINITIONS

2.10.1 *Aeronautics Act*: Except as indicated otherwise, the article of the California Public Utilities Code (Sections 21670 et seq.) pertaining to airport land use commissions in the State of California.

2.10.2 *Airport Influence Area (AIA)*: The area in which current or future airport-related noise, overflight, safety, and/or airspace protection factors may significantly affect land use compatibility or necessitate restrictions on those uses. For the purposes of this plan, AIA is the area which establishes the Airport Land Use Commission's jurisdictional authority and boundary. See Section 1.4.2.

2.10.3 *Airport Land Use Commission (ALUC)*: A commission authorized under the provisions of California Public Utilities Code, Sections 21670, et seq. and established for the purpose of promoting compatibility between airports and the land uses surrounding them. When capitalized, unless the context clearly indicates otherwise, the ***Airport Land Use Commission*** refers to the Airport Land Use Commission for Fresno County.



2.10.4 Airport Layout Plan: A scaled drawing, prepared in conformance with criteria promulgated by the **FAA**, depicting existing and proposed airport facilities, their location on an airport, and pertinent clearance and dimensional information. The Airport Layout Plan may be used as the basis of a compatibility plan adoption or update.

2.10.5 Airport Master Plan: A long-range feasibility plan for development of an airport, including descriptions of the data and analyses on which the plan is based.

2.10.6 Airspace Protection Area: The area beneath the ***airspace protection surfaces*** for the ***Airport***. Airspace protection primarily involves limitations on the height of objects on the ground near the Airport. Other concerns include activities which can cause electronic or visual impairments to navigation or attract wildlife.

2.10.7 Airspace Protection Surfaces: Imaginary surfaces in the airspace surrounding airports defined in accordance with criteria set forth in 14 Code of Federal Regulations Part 77, Subpart C. An object would be an obstruction to air navigation if it is of greater height than any of the imaginary surfaces.

2.10.8 ALUC: See Airport Land Use Commission.

2.10.9 Aviation-Related Use: Any facility or activity directly associated with the air transportation of persons or cargo, or the operation, storage, or maintenance of aircraft at an airport or heliport. These uses specifically include runways, taxiways, and their associated protection areas as defined in accordance with **FAA** criteria, together with aircraft parking aprons, hangars, fixed base operations facilities, terminal buildings, and related facilities.

2.10.10 Avigation Easement: A type of easement that typically conveys a limited real property right that is granted by a property owner to an airport proprietor that provides for a right-of-way for free and unobstructed passage of aircraft through the airspace over the property at any altitude above a surface specified in the easement (usually set in accordance with Part 77 criteria). An ***avigation easement*** typically also allows for the creation of noise, vibrations, fumes, dust, and fuel particle emissions and other effects that are attendant to normal airport activity and operation of aircraft in flight that may affect the subject real property. Depending on the specific language of the easement document, it may also limit the height of structures, trees, or other objects on the property that would enter the acquired airspace. Avigation easements also typically provide a right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace and a right to prohibit electrical interference, glare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property. As a legal instrument that is officially recorded with the County in which the subject real property is located, it provides the current property owner and subsequent property owners with formal notice that his or her property is located near an airport and may be subject to impacts from airport and aircraft operations.

2.10.11 California Building Code (CBC): The CBC governs general building construction standards. It contains standards for allowable interior noise levels associated with exterior noise sources (California



Building Code, 2016 edition, Part 2, Volume 1, Chapter 12, Section 1207.4). The standards apply to new hotels, motels, dormitories, apartment houses, and dwellings other than detached single-family residences.

2.10.12 California Environmental Quality Act (CEQA): CEQA is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible (Pub. Resources Code, §2100 et seq.; Cal. Code Regs., tit. 14, §15000 et seq.).

2.10.13 CNEL: See Community Noise Equivalent Level.

2.10.14 Code of Federal Regulations (CFR) Part 77: The part of the Federal Aviation Regulations (Title 14 of the Code of Federal Regulations) that deals with objects affecting navigable airspace in the vicinity of airports. 14 CFR Part 77 establishes standards for identifying obstructions to navigable airspace, sets forth requirements for notice to the **FAA** of certain proposed construction or alteration, and provides for aeronautical studies of obstructions to determine their effect on the safe and efficient use of airspace.

2.10.15 Community Noise Equivalent Level (CNEL): A 24-hour cumulative noise metric used in the State of California for describing aircraft noise exposure. It represents the average daytime noise level during a 24-hour day, adjusted to an equivalent level to account for the lower tolerance of people to noise during evening and nighttime periods relative to the daytime period. In computing **CNEL**, a 4.77 decibel (dB) weight is assigned to sounds during the evening hours from 7:00 p.m. to 10:00 p.m. A 10 dB weight is assigned to sounds during the nighttime hours after 10:00 p.m. and before 7:00 a.m.

2.10.16 dB or Decibel: A unit used to measure the intensity of a sound or the power level of an electrical signal by comparing it with a given level on a logarithmic scale.

2.10.17 Development Actions: See the definition of local agency action, regulation, permits, and/or project.

2.10.18 Division of Aeronautics: California Department of Transportation, **Division of Aeronautics**, or any successor agency that may assume the responsibilities of the **Division of Aeronautics**.

2.10.19 Dwelling: A building, or a portion thereof, used or designed and intended to be used for human habitation.

2.10.20 Easement: Convey certain enumerated property rights from the property owner to the holder of the easement. Easements continue in place as the underlying property is bought and sold (they “run with the land”). Moreover, their existence is documented during the title search conducted at the time of a property transfer.

2.10.21 Existing Land Use: The actual use of land or the proposed use of the land evidenced by a **vested right** to proceed with development or occupancy (provided the new occupancy remains within the same



or reduced level of occupancy as the most recent one) as of the effective date of this compatibility plan. Vested means the irrevocable right to complete construction notwithstanding an intervening change in the law that would otherwise preclude it.

2.10.22 FAA: The Federal Aviation Administration.

2.10.23 General Plan: For this compatibility plan, this term means any general plan, community plan, or specific plan, zoning ordinance, building regulation, land use policy document, or implementing ordinance or any change thereto, and any amendment thereto (see Pub. Util. Code §21676 and Policy 2.9).

2.10.24 Habitable Space: Defined as living, sleeping, eating, or cooking areas within a dwelling unit as defined in the uniform building code.

2.10.25 Handbook: The most recent version of the *California Airport Land Use Planning Handbook*, published by the California Department of Transportation, Division of Aeronautics.

2.10.26 Infill: Development of vacant land (as defined specifically for this compatibility plan) within established communities or neighborhoods that: 1) are already served with streets, water, sewer, and other infrastructure; and/or 2) may be comprised of existing land uses inconsistent with the compatibility criteria in this compatibility plan.

2.10.27 Land Use Intensity: A measure of the concentration of nonresidential development in a given area. Intensity can be expressed as a number of people per acre using a net acreage calculation. See Appendix L, pages L-6 through L-8 for guidance on calculating land use intensity.

2.10.28 Land Use Jurisdiction: Fresno County and the municipalities with land use regulatory jurisdiction within each *Airport Influence Area*.

2.10.29 Land Use Policy Action: Adoption of any city or county general plan, specific plan, or zoning ordinance (including zoning maps and/or text) or any amendment to a city or county general plan, specific plan, community plan, or zoning ordinance (zoning maps and/or text). A *land use policy action* also refers to any school district, community college district, or special district facilities' master plans or amendments to such master plans. Also see definition of *Project*.

2.10.30 Local Agency: A land use jurisdiction, school district, community college district, or other special district subject to the provisions of this ALUCP. The ALUC does not have authority over land use actions of federal agencies or Native American tribes.

2.10.31 Local agency actions, regulations, and permits: Any human-caused change to improved or unimproved real property that requires a discretionary permit or approval from any *local agency* or that is sponsored and proposed to be built by a *local agency*, developer, or the real property owner. *Actions* include, but are not limited to, buildings or other structures, mining, dredging, filling, grading, paving, an excavation or drilling operation, and/or storage of materials.



2.10.32 Lot of Record: A parcel of land platted and recorded as of the effective date of this compatibility plan.

2.10.33 Lot Coverage: The ratio between the ground floor area of a building (or buildings) and the area of the lot or parcel on which the building (or buildings) are placed.

2.10.34 Nonconforming Use: An *existing land use* or building that does not comply with this compatibility plan.

2.10.35 Project: Any land use matter, either publicly or privately sponsored, that is subject to the provisions of this compatibility plan analysis. For this compatibility plan, this term means any action, regulation, or permit (see Pub. Util. Code §21676.5).

2.10.36 Real Estate Disclosure: A written statement that notifies the prospective purchaser of real estate, prior to completion of the purchase, of the potential annoyances or inconveniences associated with airport operations. Typically, a *real estate disclosure* is provided at the real estate sales or leasing offices. *Real estate disclosure* is required by state law as a condition of the sale of most residential property if the property is located in the vicinity of an airport and is within its AIA (See Bus. & Prof. Code, §11010; Civ. Code, §§1102.6, 1103.4, 1353). State law does not require the *real estate disclosure* to be recorded in the chain of title for the affected property.

2.10.37 Residential Density: For airport compatibility purposes, the chief distinguishing feature among residential land uses is the number of dwelling units per acre. To be compatible with airport activities, the number of dwelling units per acre should not exceed the criterion specified for the compatibility zone where the use would occur.

2.10.38 Runway Protection Zone: Runway protection zones are trapezoidal-shaped areas located at ground level beyond each end of a runway. Ideally, each runway protection zone should be entirely clear of all objects. The dimensions for the RPZ are taken from the respective airport's airport layout plan or diagram, and are based on FAA's Advisory Circular 150/5300-13A, *Airport Design*.

2.10.39 Vested Right: A right to the proposed use of land as demonstrated by any of the following:

- (a) A vesting tentative map that has been approved pursuant to California Government Code Section 66498.1, and has not expired
- (b) A development agreement that has been executed pursuant to California Government Code Section 65866, and remains in effect
- (c) A valid building permit that has been issued, substantial work that has been performed, and substantial liabilities that 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