

ARIZONA Noise Related Statutes

5-336. Muffling devices

A. Every motor driven watercraft shall at all times be equipped with effective equipment, in good working order and in constant operation, to prevent excessive or unusual noise except as provided in subsection C.

B. It is not the intent of this section to prohibit the use of any type of exhaust system or exhaust device, including those systems and devices which do not discharge water with the exhaust gases, if such system or device complies with subsection A of this section.

C. All watercraft actually competing in a regatta, boat race or official trials for speed records, and within the time limits authorized by the sanctioning body of such event are exempt from this section. Permits designating place and time limits are required and shall be issued by the department prior to the testing of watercraft on the water when sufficient evidence is provided by the applicant that such watercraft is actually entered in an event sanctioned by a national or regional organization having jurisdiction over the event.

17-602. State outdoor shooting range noise standards; preemption; measurement; definitions

A. The legislature finds that outdoor shooting range noise standards are a matter of statewide concern. City, town, county and any other state noise standards are preempted as applied to outdoor shooting ranges.

B. Each outdoor shooting range in this state shall measure the noise emitted from the range pursuant to subsection E at least once. In addition, the range shall measure the noise it emits if the range expands the area designed and operated for the use of firearms or explosives by more than twenty per cent in size than at the time of its initial noise measurement or if the range introduces the use of a type of firearm or explosive device that will increase noise production. The range shall pay for the measurement and shall keep the results of the measurement at the range at all times. Any person may review the noise measurement during the range's business hours. Ranges that are located at least one mile from areas that are zoned for residences, schools, hotels, motels, hospitals or churches are exempt from this subsection.

C. Any person, at the person's expense, may measure the noise emitted from an outdoor shooting range pursuant to subsection E.

D. The noise emitted from an outdoor shooting range shall not exceed an Leq(h) of sixty-four DBA.

E. In measuring the noise emitted from an outdoor shooting range:

1. If a range performs the measurement of noise pursuant to subsection B, sound pressure measurements shall be taken twenty feet from the nearest occupied residence, school, hotel, motel, hospital or church, or from the nearest proposed location of a residence, school, hotel, motel, hospital or church if the property is zoned for such a structure but is currently unimproved. If a person performs the measurement of noise pursuant to subsection C, sound pressure measurements shall be taken twenty feet from the person's residence, school, hotel, motel, hospital or church, or twenty feet from the proposed location of the person's residence, school, hotel, motel, hospital or church if the property is zoned for such a structure but is currently unimproved.

2. Sound pressure measurements shall be made in a location directly between the range and the nearest existing or proposed residence, school, hotel, motel, hospital or church. If there are natural or artificial obstructions that prevent an accurate noise measurement, the measurement may be taken within an additional twenty feet radius from the initial measurement location.

3. Sound pressure measurements shall be made on the A-weighted fast response mode scale. Measurements shall be taken during the noisiest hour of peak use during the operation of the range. Measurements shall be taken according to American national standards institute's standard methods ANSI S1.2-1962 (R1976) American national standard method for physical measurement of sound and ANSI S1.2-1971 (R1976) American national standard method for measuring sound pressure levels. Measurements shall be taken using a type 1 sound meter meeting the requirements of ANSI S1.4L-1971. Any part of the measurements conducted on a range shall comply with the range safety rules.

F. Outdoor shooting ranges in operation on July 1, 2002 shall comply with the provisions of this section before July 1, 2003. Ranges not in operation on July 1, 2002 shall comply with the provisions of this section when they begin operation.

G. For the purposes of this section:

1. "A-weighted" means a frequency weighting network used to account for changes in sensitivity as a function of frequency.

2. "DBA" means A-weighted decibels, taking into account human response to sound energy in different frequency bands.

3. "Decibel" means the unit of measure for sound pressure denoting the ratio between two quantities that are proportional to power. The number of decibels is ten times the base ten logarithm of this ratio.

4. "Leq(h)" means the equivalent energy level that is the steady state level that contains the same amount of sound energy as a time varying sound level for a sixty minute time period.

17-603. Preexisting outdoor shooting ranges; noise buffering or attenuation

A. If an outdoor shooting range was constructed before July 1, 2002 in compliance with existing applicable county or municipal ordinances and zoning requirements and if property located within one mile of the exterior property boundary of the range is rezoned after July 1, 2002 for residential use or any other use that includes a school, hotel, motel, hospital or church, the zoning authority must provide for noise buffers or attenuation devices that are either:

1. Within the new development as a condition for developing the property or as supplied by the zoning authority.

2. Supplied or funded by the zoning authority for location in the range.

B. Property owners, developers, zoning authorities and ranges may negotiate and provide for noise buffers or attenuation devices located on or off the range.

C. Any noise buffering or attenuation under this section must comply with the state noise standards prescribed by section 17-602.

17-604. Nighttime outdoor shooting range operations

A. Outdoor shooting ranges that are located in areas that are zoned for residential use or any other use that includes a school, hotel, motel, hospital or church shall not operate from 10:00 p.m. through 7:00 a.m.

B. This section does not apply to any outdoor shooting range while it is providing law enforcement or military training. These ranges must provide adequate public notice including posting in four public locations within one mile of the exterior boundaries of the range each calendar quarter of the schedule of when the range will operate from 10:00 p.m. through 7:00 a.m. and the purpose for those nighttime operations. Nighttime operations under this subsection must comply with the nighttime noise standards prescribed by section 17-602.

17-605. Noise pollution; nuisance; defense; costs

A. It is an affirmative defense to any civil liability or claim for equitable relief arising from any allegation regarding noise or noise pollution that results from owning, operating or using an outdoor shooting range if the entity or individual owning, operating or using the range complies with this article.

B. In any action where a defense has been raised pursuant to subsection A, the court shall award the prevailing party its costs and all expenses, including the party's costs incurred in measuring noise emitted from the range and reasonable attorney fees.

17-621. Recording proximity to shooting range; definition

A. A city with a population of more than one million persons shall execute and record in the office of the county recorder a document relating to real property located within one-half mile of the exterior boundaries of any shooting range that is owned by this state and that is located within or adjacent to the exterior municipal boundaries on or before January 1, 2004. The city attorney shall prepare the document in recordable form. The document must be on eight and one-half inch by eleven inch paper containing the following information in twelve point type:

1. A legal description of the property within one-half mile of the exterior boundaries of the shooting range. To assist in identifying that property, the game and fish commission shall submit the legal description of the shooting range to the city attorney.

2. The following disclosure:

This property is located within one-half mile of the exterior boundaries of a shooting range and may be subject to:

1. Increased noise.

2. Restrictions on the use of the property under the city's general plan and zoning ordinances.

B. The game and fish commission shall not close a shooting range described in this section unless all of the following occur:

1. The director of the department recommends the closure in writing.

2. The commission issues a report detailing the basis for the recommendation.

3. The commission unanimously approves the closure after public hearings have been held to discuss the closure in the three counties with the highest population.

4. The joint committee on capital review reviews the closure recommendation.

5. The governor approves the closure in an executive order.

C. For the purposes of this section, "shooting range" means a permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting in an outdoor environment. Shooting range does not include:

1. Any area for the exclusive use of archery or air guns.

2. An enclosed indoor facility that is designed to offer a totally controlled shooting environment and that includes impenetrable walls, floor and ceiling, adequate ventilation, lighting systems and acoustical treatment for sound attenuation suitable for the range's approved use.
3. A national guard facility located in a city or town with a population of more than one million persons.
4. A facility that was not owned by this state before January 1, 2002.

28-624. Authorized emergency vehicles

- A. If an authorized emergency vehicle is driven in response to an emergency call, in pursuit of an actual or suspected violator of law or in response to but not on return from a fire alarm, the driver may exercise the privileges provided in this section subject to the conditions stated in this section.
- B. If the driver of an authorized emergency vehicle is operating at least one lighted lamp displaying a red or red and blue light or lens visible under normal atmospheric conditions from a distance of five hundred feet to the front of the vehicle, the driver may:
 1. Notwithstanding this chapter, park or stand.
 2. Proceed past a red or stop signal or stop sign, but only after slowing down as necessary for safe operation.
 3. Exceed the prima facie speed limits if the driver does not endanger life or property.
 4. Disregard laws or rules governing the direction of movement or turning in specified directions.
- C. The exemptions authorized by this section for an authorized emergency vehicle apply only if the driver of the vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as reasonably necessary and if the vehicle is equipped with at least one lighted lamp displaying a red or red and blue light or lens visible under normal atmospheric conditions from a distance of five hundred feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red or red and blue light or lens visible from in front of the vehicle.
- D. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of the driver's reckless disregard for the safety of others.

28-954. Horns and warning devices

- A. A motor vehicle when operated on a highway shall be equipped with a horn that is in good working order and that is capable of emitting sound audible under normal conditions from a distance of at least two hundred feet. Any horn or other warning device shall not emit an unreasonably loud or harsh sound or a whistle.
- B. If reasonably necessary to ensure the safe operation of a motor vehicle, the driver shall give an audible warning with the driver's horn but shall not otherwise use the horn when on a highway.
- C. A vehicle shall not be equipped with and a person shall not use on a vehicle a siren, whistle or bell, except as otherwise permitted in this section.
- D. A vehicle may but is not required to be equipped with a theft alarm signal device that is arranged so that it cannot be used by the driver as an ordinary warning signal.

E. An authorized emergency vehicle may be equipped with a siren, whistle or bell that is capable of emitting sound audible under normal conditions from a distance of at least five hundred feet and that is of a type approved by the department. The siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law or when necessary to serve a civil traffic complaint. During these events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of the approach of the emergency vehicle.

F. A siren shall be allowed on a fire engine that is solely used for hobby or display purposes and that has been issued a historic vehicle license plate pursuant to section 28-2484 if either of the following applies:

1. The siren is covered and is not activated while a person is transporting or driving the vehicle to or from a parade, authorized assemblage of historic vehicles or test.
2. The siren is activated only in a parade, for an authorized assemblage of historic vehicles or for testing purposes.

28-955. Mufflers; noise and air pollution prevention; emissions control devices; civil penalty; exception

A. A motor vehicle shall be equipped at all times with a muffler that is in good working order and that is in constant operation to prevent excessive or unusual noise.

B. A person shall not use a muffler cutout, bypass or similar device on a motor vehicle on a highway.

C. The engine and power mechanism of a motor vehicle shall be equipped and adjusted to prevent the escape of excessive fumes or smoke.

D. Beginning with motor vehicles and motor vehicle engines of the 1968 model year, motor vehicles and motor vehicle engines shall be equipped with emissions control devices that meet the standards established by the director of environmental quality.

E. A person who violates this section is subject to a civil penalty of at least one hundred dollars.

F. This section does not apply to an electrically powered motor vehicle.

28-955.01. Motorcycles; noise level equipment; unauthorized equipment

A. A person shall not operate or as an owner permit the operation of a motorcycle in this state that is not equipped with the manufacturer's original muffler or other original noise reduction equipment or with a replacement muffler or replacement noise reduction equipment capable of reducing the noise levels below the maximum operating noise levels established by the department pursuant to section 28-955.02.

B. A person shall not use a muffler cutout, bypass or similar device on a motorcycle operated in this state.

28-955.02. Motorcycle noise level rules

A. The department shall establish by rule maximum operating noise levels for motorcycles operated in this state.

B. The rules shall:

1. Provide for varying maximum operational noise levels for motorcycles, categorized by year of manufacture and speed of operation of the motorcycle.
2. Be based on noise reduction levels achieved by reasonable and prudent operation of a motorcycle and proper maintenance of the noise reduction equipment.

28-955.03. Exemption for racing motorcycles; definition

A. Sections 28-955.01 and 28-955.02 do not apply to a racing motorcycle operated in a racing event or in a facility used for a racing event.

B. For the purposes of this section, "racing motorcycle" means either:

1. A motorcycle that is intended by the manufacturer to be operated at a facility used for a racing event.
2. A motorcycle that has been modified by the owner to be operated at a facility used for a racing event.

28-955.04. Exhaust system; visual inspection; requirements; civil penalty

A. A commercial motor vehicle that operates in this state shall have an exhaust system that is detectable by a visual inspection and that meets all of the following:

1. Is free from a defect that adversely affects sound reduction.
2. Is equipped with either a muffler or other noise dissipative device.
3. Is not equipped with a cutout, bypass or similar device.

B. A person who violates this section is subject to a civil penalty of at least five hundred dollars. If the person shows the court that a muffler has been installed or the existing muffler has been serviced to comply with subsection A, the court may reduce or waive the civil penalty.

28-1179. Off-highway vehicle equipment requirements; rule making; exception

A. An off-highway vehicle in operation in this state shall be equipped with all of the following:

1. - 2.
3. Except when operating on a closed course, either a muffler or other noise dissipative device that prevents sound above ninety-six decibels. The director shall adopt the current sound measurement standard of the society of automotive engineers for all-terrain vehicles and motorcycles and the current sound measurement standard of the international organization for standardization for all other off-highway vehicles.
4. - 5.

B. A person who is under eighteen years of age may not operate or ride on an off-highway vehicle on public or state land unless the person is wearing protective headgear that is properly fitted and fastened, that is designed for motorized vehicle use and that has a minimum United States department of transportation safety rating.

C. In consultation with the department of transportation, the Arizona game and fish commission may:

1. Adopt rules necessary to implement this section.
2. Prescribe additional equipment requirements not in conflict with federal laws.

D. This section does not apply to a private landowner or lessee performing normal agricultural or ranching practices while operating an all-terrain vehicle or an off-highway vehicle on the private or leased land in accordance with the landowner's or lessee's lease.

28-8277. Low altitude flying prohibited

Flight of aircraft over lands and waters of this state is lawful, unless either:

1. It is at a low altitude that interferes with the existing use to which land, water or space over the land or water is put by the owner.
2. It is conducted in a manner that is imminently dangerous to persons or property lawfully on the land or water beneath the flight.

28-8481. Planning and zoning; military airport and ancillary military facility's operation compatibility; compliance review; penalty; definitions

A. A political subdivision that has territory in the vicinity of a military airport or ancillary military facility that includes property in a high noise or accident potential zone shall adopt comprehensive and general plans and school district development plans, if applicable, for property in the high noise or accident potential zone to assure development compatible with the high noise and accident potential generated by military airport and ancillary military facility operations that have or may have an adverse effect on public health and safety. Each political subdivision, excluding school districts, shall adopt and enforce zoning regulations for property in the high noise or accident potential zone to assure development compatible with the high noise and accident potential generated by military airport and ancillary military facility operations that have or may have an adverse effect on public health and safety.

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

C. A political subdivision that has territory in the vicinity of a military airport or ancillary military facility that includes property in a high noise or accident potential zone shall adopt, administer and enforce the zoning regulations or school district development plans authorized by subsection A of this section in the same manner as the comprehensive zoning ordinance or school district development plans of the political subdivision as provided by law, except that a variance shall not be granted without a specific finding that the purpose of military airport or ancillary military facility compatibility is preserved.

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

E. This section does not restrict, limit or modify, or authorize or require any political subdivision to restrict, limit or modify, the right of a landowner to undertake and complete development and use of any property under the terms and conditions of a development plan or school district development plan approved on or before December 31, 2000, or on or before December 31 of the year in which the development's property becomes territory in the vicinity of a military airport or ancillary military facility or pursuant to a written determination of compatibility issued by the military airport or ancillary military facility on or before December 31, 2004, by the political subdivision in whose territory or area of jurisdiction the property is located, except that the development must comply with the sound attenuation standards and specifications incorporated into any building code adopted pursuant to section 28-8482 by the political subdivision in whose territory or area of jurisdiction the development is located.

F. This section does not restrict, limit or modify, or authorize or require any political subdivision to restrict, limit or modify, the right of a landowner to undertake and complete development and use of any property located in a high noise or accident potential zone that is appurtenant to an ancillary military facility under the terms and conditions of a development plan or school district

development plan approved on or before December 31, 2004 by the political subdivision in whose territory or area of jurisdiction the property is located or pursuant to a written determination of compatibility issued by the military airport or ancillary military facility on or before December 31, 2004, except that the development shall comply with the sound attenuation standards and specifications incorporated into any building code adopted pursuant to section 28-8482 by the political subdivision in whose territory or area of jurisdiction the development is located.

G. On or after July 1, 2001 or on or after December 31 of the year in which the property becomes territory in a high noise or accident potential zone, a political subdivision that has property in a high noise or accident potential zone shall notify the owner or owners of property in the high noise and accident potential zone of any additions or changes under this section to the general plan, comprehensive plan, zoning regulations or school district development plan of the political subdivision applicable to property in the high noise or accident potential zone. The political subdivision shall provide a notice of such additions or changes by publication as provided in section 9-462.04, subsection A or section 11-829, subsection C, including a statement that the property is located in a high noise or accident potential zone, at least thirty days before final approval of the addition to or change in the general plan, permitted land uses, zoning regulation or school district development plan and within thirty days following the final approval of such an addition to or change in the general plan, permitted land uses, zoning regulation or school district development plan.

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

I. If a political subdivision includes property in the high noise or accident potential zone of a military airport or ancillary military facility, the political subdivision shall send notice to the attorney general of any approval, adoption or re-adoption of, or major amendment to, the general or comprehensive plan that impacts property in the high noise or accident potential zone of a military airport or ancillary military facility within three business days after the approval, adoption or re-adoption. If the attorney general determines the approval, adoption or re-adoption of the general or comprehensive plan or the major amendment to the general or comprehensive plan is not in compliance with subsection J of this section, the attorney general shall notify the political subdivision by certified mail, return receipt requested, of the determination of noncompliance. Within thirty days after the receipt of a determination of noncompliance by the attorney general as prescribed by this section, the governing body of the political subdivision shall reconsider any approval, adoption or re-adoption of, or major amendment to, the general or comprehensive plan that impacts property in the high noise or accident potential zone of a military airport or ancillary military facility. If the governing body reaffirms a prior action subject to an attorney general's determination of noncompliance pursuant to this section, the attorney general may institute a civil action pursuant to subsection L of this section. If a political subdivision timely sends notice pursuant to this subsection and the attorney general fails to timely notify the political subdivision of a determination of noncompliance, the general or comprehensive plan or major amendment to the general or comprehensive plan shall be deemed to comply with subsection J of this section.

J. The attorney general shall determine compliance with this section in accordance with the following requirements applicable to zoning and development in a high noise or accident potential zone and to zoning and development in accident potential zone one and accident

potential zone two. Compliance with respect to territory located in the arrival and departure corridor but outside the accident potential zone one, two and noise contour lines as described in section 28-8461, paragraph 9, subdivision (c) shall be determined in accordance with the requirements applicable to territory located in the 65-69 Day-Night sound level as listed below. Compliance with respect to the property described in section 28-8461, paragraph 9, subdivision (b) shall be determined in accordance with the compatible land use plan in the joint land use study completed in February 2004. If the political subdivision and the military airport mutually agree that an individual use is compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility, as applicable, the use shall be deemed to comply with this subsection. Alternatively, for an individual use or a plan for development submitted to a military airport or ancillary military facility before December 31, 2004, this subsection does not preclude the military airport from determining that the individual use or plan for development is compatible and consistent with the high noise or accident potential zone of the military airport or ancillary military facility.

Zone	Day-Night Sound Level, dB					Accident Potential Zone	
	65-69	70-74	75-79	80-84	85 or more	One	Two
Residential	No (13)	No (13)	No (13)	No (13)	No	No	No
Single Family before 2001	Yes(9)	Yes(10)	Yes(11)	No(13)	No(13)	No	No(13)
Single Family, agricultural	Yes(9)	Yes(10)	Yes(11)	No(13)	No(13)	No	No(13)
See statute for detailed list of table entries							

() refers to restrictions listed below

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

(2) Measures to achieve an outdoor to indoor noise reduction level of thirty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(3) Measures to achieve an outdoor to indoor noise reduction level of thirty-five decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express finding, as part of the approval, that use of noise reduction level criteria will not alleviate outdoor noise.

(4) Measures to achieve an outdoor to indoor noise reduction level of forty decibels pursuant to an ordinance adopted under section 28-8482 must be incorporated into the design and construction of all buildings and the political subdivision must make an express

finding, as part of the approval, that use of noise reduction level criteria will not alleviate outdoor noise.

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

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

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

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

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

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

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

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

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

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

(15) No aboveground buildings or structures.

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

(a) Steam, dust and smoke.

(b) Direct or indirect reflective light emissions.

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

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

(e) Explosives facilities or similar activities.

(17) If located in the extended portion of accident potential zone two in territory of a political subdivision described in section 28-8461, paragraph 9, subdivision (a).

(18) Uses not listed are presumed to not be compatible. If the political subdivision and the military airport mutually agree that an individual use is compatible and consistent with the high noise or accident potential of the military airport or ancillary military facility, the use shall be presumed to be compatible.

K. Pursuant to subsection I of this section, the attorney general shall notify a political subdivision by certified mail, return receipt requested, if the attorney general has probable cause to believe that the political subdivision has not complied with the requirements set forth in subsection J of this section. Nothing in this section shall authorize or permit a finding of probable cause of noncompliance with respect to property that is the subject of a development plan.

L. The following apply to enforcement actions brought under this section:

1. The attorney general may institute a civil action in the name of this state in the superior court in the county of the alleged violation against a political subdivision that is required to notify the attorney general pursuant to subsection I of this section to restrain, enjoin, correct or abate a violation of this section, to collect a civil penalty ordered pursuant to this section and to collect attorney fees and costs ordered pursuant to this section if the attorney general has probable cause to believe that an action to reaffirm an approval, adoption or re-adoption of, or major amendment to, the general or comprehensive plan made by a political subdivision is not in compliance with subsection J of this section.

2. If the attorney general institutes a civil action pursuant to subsection I of this section, the civil action shall be filed within thirty days after the action to reaffirm an approval, adoption or re-adoption of, or major amendment to, the general plan or comprehensive plan.

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

4. The court may assess civil penalties in favor of this state to be deposited in the state general fund. The political subdivision may be liable for a civil penalty of up to five hundred dollars for each day for the first ten days and up to five thousand dollars for each subsequent day up to a maximum of fifty thousand dollars.

M. A political subdivision that has territory in the vicinity of a military airport or ancillary military facility that includes property in a high noise or accident potential zone shall submit any proposed comprehensive or general plan amendments that are applicable to property within the high noise or accident potential zone to the attorney general at least fifteen days before the first public hearing required pursuant to section 9-461.06 or 11-805.

N. A political subdivision shall not permit or approve a division of land zoned for residential use that is in a high noise or accident potential zone of an ancillary military facility if the division would result in a lot, parcel or fractional interest being four acres or less unless the land division is part of a development plan or a development agreement approved before July 30, 2004 or is determined by the military airport or ancillary military facility to be compatible with its operations before December 31, 2004. A political subdivision may grant a waiver from this subsection.

O. For purposes of determining the fair market value of property located in a high noise or accident potential zone, or the development rights appurtenant to the property, for acquisition by an agency or instrumentality of the United States, this state or a political subdivision of this state, property located in a high noise or accident potential zone that is not the subject of a development plan under subsection E or F of this section shall be deemed to have zoning allowing at least one residential dwelling per acre.

P. For the purposes of this section:

1. "Development plan":

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

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

(c) Means a conceptual plan for development that generally depicts densities on a particular property that a military airport, as described in section 28-8461, paragraph 9, subdivision (a), deems is compatible with the operation of the ancillary military facility.

2. "Major amendment" means a substantial alteration of a political subdivision's land use mixture or balance as established in the political subdivision's existing general or comprehensive plan land use element.

28-8482. Incorporation of sound attenuation standards in building codes

A. A political subdivision that includes territory in the vicinity of a military airport or ancillary military facility shall incorporate the sound attenuation standards and specifications prescribed in this section into any building code in existence on or adopted after December 31, 2001 or adopted on or after the date the land becomes territory in the vicinity of a military airport or ancillary military facility. These standards and specifications apply to new development and alterations for first occupancy that are the subject of building permits issued after December 31, 2001 or after December 31 of the year in which the land becomes territory in the vicinity of a military airport or ancillary military facility and that are located on property within the territory in the vicinity of a military airport or ancillary military facility and do not apply to new development and alterations that are located on property within corporate limits of a municipality but outside territory in the vicinity of a military airport or ancillary military facility.

B. Not later than December 31, 2001 or not later than December 31 of the year in which the land becomes territory in the vicinity of a military airport or ancillary military facility, a political subdivision that has territory in the vicinity of a military airport or ancillary military facility shall adopt an ordinance that requires a noise level reduction to be incorporated in the design and construction of any residential building or portions of buildings where the public is received, office areas and where normal noise level is low for first occupancy, including libraries, schools and churches, pursuant to building permits issued after December 31, 2001 in order to achieve a maximum interior noise level of forty-five decibels in areas within the noise contours described in section 28-8461, paragraph 9, subdivision (a), (b), (c) or (d), as applicable. In order to comply with this section, an ordinance shall require that all residential buildings in territory in the vicinity of a military airport or ancillary military facility but outside the noise contours as described in this section shall be constructed with a minimum of R18 exterior wall assembly, a minimum of R30 roof and ceiling assembly, dual glazed windows and solid wood, foam filled fiberglass or metal doors to the exterior or, if the specified building standards are not met, the political subdivision may approve, as an alternative, a certification by an architect or engineer

registered pursuant to title 32, chapter 1 to achieve a maximum interior noise level of forty-five decibels at the time of final construction. A sound attenuation ordinance adopted by a political subdivision pursuant to this subsection shall not require a maximum interior noise level that is less than the maximum interior noise level required by this subsection.

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

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

E. For the purposes of this section, political subdivision does not include a school district.

28-8485. Airport influence areas; notice

A. After notice and hearing, this state or the governing body of a political subdivision that has established or operates an airport may designate as an airport influence area all property that is in the vicinity of the airport, that is currently exposed to aircraft noise and overflight and that either has a day-night average sound level of sixty-five decibels or higher or is within such geographical distance from an existing runway that exposes the area to aircraft noise and over flights as determined by the airport owner or operator.

B. If this state or the governing body of a political subdivision establishes an airport influence area, this state or the governing body shall prepare and file a record of the airport influence area in the office of the county recorder in each county that contains property in the airport influence area. The record shall be sufficient to notify owners or potential purchasers of property in the airport influence area that property in the area is currently subject to aircraft noise and aircraft over flights.