



Planning & Development Division
Planning & Economic Development Department

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MEMORANDUM

DATE: July 7, 2020

TO: Planning Commission

FROM: Kyle Deming, Planner II 

RE: Duluth International Airport Joint Zoning Ordinance amendment

Duluth and the other municipalities surrounding the Duluth International Airport jointly regulate land uses in the airport area to provide for safe aircraft operations and the safety of people and property. The existing airport zoning ordinance originated in 1988 and is in the process of being updated by the Joint Airport Zoning Board. Please find attached the most recent draft (May 11, 2020) of the proposed amended airport zoning ordinance.

DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

CREATED BY THE DULUTH INTERNATIONAL AIRPORT

JOINT ZONING BOARD

Formed by and Comprised of:

CITY OF DULUTH

CITY OF HERMANTOWN

TOWNSHIP OF CANOSIA

CITY OF RICE LAKE

ST. LOUIS COUNTY

EFFECTIVE DATE: _____

THIS ORDINANCE AMENDS AND ENTIRELY REPLACES

DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE dated June 18, 1988,

recorded in the Office of the St. Louis, Minnesota, County Recorder as Document

No. _____

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DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

CREATED BY THE

CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP
CITY OF RICE LAKE – ST. LOUIS COUNTY
JOINT AIRPORT ZONING BOARD

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE DULUTH INTERNATIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE DULUTH INTERNATIONAL AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE DULUTH INTERNATIONAL AIRPORT JOINT AIRPORT ZONING BOARD COMPRISED OF THE CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP – CITY OF RICE LAKE – ST. LOUIS COUNTY PURSUANT TO THE AUTHORITY CONFERRED BY THE MINNESOTA STATUTES 360.061 – 360.074, AS FOLLOWS:

SECTION 1: PURPOSE AND AUTHORITY

The Duluth International Airport Joint Airport Zoning Board, created and established by joint action of the City Councils of Duluth, Rice Lake, and Hermantown, and the Board of County Commissioners of St. Louis County, and the Town Board of Canosia pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. The Duluth International Airport is an essential public facility.
- B. An Airport Hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Duluth International Airport and the public investment therein.
- C. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Duluth International Airport.
- D. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.
- E. The prevention of these Airport Hazards and Aircraft Accidents should be accomplished, to the extent legally possible, by the exercise of the police power without compensation

SECTION 2: SHORT TITLE

This Ordinance shall be known as “Duluth International Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in “Exhibit A” which is attached to this Ordinance.

SECTION 3: DEFINITIONS

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings herein given unless otherwise specifically defined by Minnesota Statutes Chapter 360 (Airports and Aeronautics), Section 360.013 (Definitions), and its successors.

Abandoned - has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Airport Zoning Administrator.

Agricultural Uses - land used primarily for the production of crops or livestock including irrigated meadows, irrigated and dry pasture, irrigation ditches, stock drive routes, lands used for barns, corrals and storage of crops or agricultural products, but not including lands used primarily for the production of commercial timber; or

Aircraft - any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes. (Minn. Stat. 360.013)

Aircraft Accident -an occurrence incident to flight in which, because of the operation of an aircraft, a person (occupant or non-occupant) receives fatal or serious injury or an aircraft receives substantial damage. Except as provided below, substantial damage means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Airport- the Duluth International Airport lands located in Sections 1, 2, 3, 11, 12, Township 50, Range 15; Section 6, Township 50, Range 14; and Section 31, Township 51, Range 14 that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

Airport Boundary - those lands including the property owned by the City of Duluth, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated in the Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

Airport Elevation -the established elevation of the highest point on the usable landing area which elevation is established to be 1,428 feet above mean sea level.

Airport Hazard -any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off. (Minn. Stat. 360.013)

Airport Safety Zone - an area subject to land use zoning controls adopted under Minnesota Statutes sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population. (Minn. Stat. 394.22, Subd. 1(a))

Airport Zoning Administrator - the principal zoning official in the affected political subdivision of the underlying land where the applicable Zone is located.

Airport Zoning Map- the Duluth International Airport Zoning Map consisting of _____ pages prepared by RS&H, and adopted and attached hereto as Exhibit C of the Duluth International Airport Zoning Ordinance.

Airspace Zones – the Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, whose locations and dimensions are indicated on the Airport Zoning Map

Airspace Surface or Imaginary Surface - The imaginary areas in space and on the ground that are established by this Ordinance and/or the FAA in relation to the Duluth International Airport and its runways as the basis for regulating obstructions to air travel.

Approach Zone - All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface; as illustrated in Airport Zoning Map.

Board – Duluth International Airport Joint Airport Zoning Board (“JAZB”)

Board of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board (“BOA”)

Building -Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Commissioner - the commissioner of transportation of the State of Minnesota. (Minn. Stat. 360.013)

Conical Zone - all that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of approximately 4,000 feet as measured radially outward from the periphery of the horizontal surface; whose location and dimensions are indicated on the Airport Zoning Map

Department - the Minnesota Department of Transportation. (Minn. Stat. 360.013)

Dwelling - any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Duluth International Airport Joint Zoning Board (“JAZB”) – Board established pursuant to the authority conferred by Minnesota Statutes Sections 360.061-360.074 comprised of appointed representatives of the St. Louis County, City of Duluth, City of Hermantown, Canosia Township, and the City of Rice Lake.

Federal Aviation Administration (FAA) – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promoting the development of a national system of airports.

Federal Aviation Regulations (FAR) – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

FAR Part 36 – Regulation establishing noise standards for the civil aviation fleet.

FAR Part 77 – Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

Hazard to Air Navigation - any object that has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

Height of Building - the vertical distance measured from the average ground elevation adjoining the front wall of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, or to the average height between the eaves and ridge of a gable, hip or gambrel roof.

Height of Tower or Structure - the vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Horizontal Surface - all that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation; whose location and dimensions are indicated on the Airport Zoning Map.

Industrial Use - the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Land - Ground, soil, or earth, including structures on, above, or below the surface.

Landing Area - means the area of the airport used for the landing, taking off or taxiing of aircraft.

Navigable Airspace - airspace at and above the minimum flight altitudes prescribed in the FAR's including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

Non-Precision Instrument Runway - a runway having an existing or Planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are Planned.

Ordinance- This Duluth International Airport Zoning Ordinance, including all exhibits, appendices, and maps attached hereto.

Obstruction - Any structure, tree, plant or other object of natural growth that penetrates one or more of the applicable Navigable Airspaces, imaginary surfaces, or imaginary zones defined and illustrated in this Ordinance.

Permit- type of written authorization that must be granted by a government or other regulatory body before the construction of a new or existing building can legally occur.

Person - any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof. (Minn. Stat. 360.013)

Planned - as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics, and Duluth Airport Authority.

Precision Instrument Approach Zone - all that land which lies directly under an existing or Planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Precision Instrument Runways 9-27 and 3-21, The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of approximately 10,000 feet expanding uniformly to a width of approximately 4,000 feet, then continues upward and outward for an additional horizontal distance of approximately 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of approximately 16,000 feet; whose location and dimensions are indicated on the Airport Zoning Map

Precision Instrument Runway - a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which such a precision instrument approach system is Planned.

Primary Zone -All that land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway and extending beyond each end of Runways 9-27 and 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline; whose location and dimensions are indicated on the Airport Zoning Map

Public Assembly Use – A structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement, sporting events, or similar activities, but excluding air shows. “Public assembly use” does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.

Public, Civic and Institutional Uses - uses of a public, quasi-public, nonprofit, or charitable nature generally providing a local service to the people of the community. Generally, these uses provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. This use category includes the following use types:

- a) Community centers or facilities that have membership provisions or are open to the general public to join at any time; and
- b) Facilities for the provision of public services, including governmental offices and public safety and emergency response services, such as police, fire and ambulance services. Such facilities often need to be located in or near the area where the service is provided.

Religious Assembly - a facility or area for people to gather for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Resource Extraction Use - uses involved in the process of (1) removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth’s crust, including the preliminary treatment of such ore or building stone; and (2) the extraction, exploration or production of oil or natural gas resources, including oil and gas wells and accessory offices, storage buildings, rig camps and gas transmission lines.

Runway - any existing or Planned paved surface or turf-covered area of the airport that is specifically designated and used or Planned to be used for aircraft landing and takeoff.

Safety Zone – The land use safety zones (Zones A, B, and C) established by this Ordinance further illustrated in the Airport Zoning Map. *See also* Airport Safety Zone.

Site - a parcel or several adjoining parcels of land under common ownership.

Slope - an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (e.g., slope = 3:1 = 3 feet horizontal to 1 feet vertical).

Structure - Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances

Substantial Damage -Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred.

Transitional Zone - All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of approximately 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline; whose location and dimensions are indicated on the Airport Zoning Map

Traverse Ways - roads, railroads, trails, waterways, or any other avenue of surface transportation.

Utility Runway - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less and which runway is less than 4,900 feet in length.

Variance – Any modification or variation of application of the airport zoning ordinance’s provisions to a real property structure or use approved in writing by the JAZB or the BOA.

Visual Runway - a runway intended solely for the operation of aircraft using visual approach procedures, with no existing or Planned instrument approach procedures.

Zoning – the partitioning of land parcels in a community by ordinance into zones and the establishment of regulations in the ordinance to govern the land use and the location, height, use and land coverage of buildings within each zone.

SECTION 4: AIRSPACE OBSTRUCTION ZONING

- A. **BOUNDARY LIMITATION:** The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half (1.5) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.
- B. **AIRSPACE ZONES:** Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of this Ordinance, the following Airspace Zones are hereby established:

Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.

- C. **HEIGHT RESTRICTIONS:** Except as otherwise provided in the Ordinance, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in this Section 4(B) . Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION 5: LAND USE SAFETY ZONING

SAFETY ZONE BOUNDARIES INTENT AND SCOPE: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

- A. **SAFETY ZONE 1:** All land in designated as Safety Zone 1 on the Airport Zoning Map, legally described in Exhibit B.
- B. **SAFETY ZONE 2:** All land designated as Safety Zone 2 on the Airport Zoning Map, legally described in Exhibit B.
- C. **SAFETY ZONE 3:** All that land designated as Safety Zone 3 on the Airport Zoning Map, and as legally described in Exhibit B.
- D. **BOUNDARY LIMITATIONS:** The land use zoning restrictions set forth in this Section 5 shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in the portion of an Airport Hazard Area under the approach zone for a distance not exceeding two miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.
- E. **USE RESTRICTIONS**
In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following use restrictions are applied to the land use Safety Zones:
1. **ALL SAFETY ZONES:** No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish

between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. **SAFETY ZONE 1:** Areas designated as Safety Zone 1 shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses include, but are not limited to, Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.
3. **SAFETY ZONE 2:**
 - (a) Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

Group A, Group E, Group I-2, and Group R-1 in the 2018 International Building Code, or its successors.
 - (b) Density Limitation. Other uses not specifically prohibited by Section 5(E) (3)(a) (“Specific Prohibited Uses”) shall be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.
4. **SAFETY ZONE 3:** Areas designated as Safety Zone 3 are only subject to the restrictions set forth in this Section 5(E)(1).

SECTION 6: AIRPORT ZONING MAP

The Zones established in this Ordinance are shown on the Airport Zoning Map attached hereto as Exhibit C and made a part hereof. The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this Ordinance is hereby adopted in its entirety as part of this Ordinance.

SECTION 7: EXISTING USES AND STRUCTURES AS OF ENACTMENT

- A. **THIS ORDINANCE NOT RETROACTIVE:** The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any allowed use, structure, or tree pursuant to the DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE dated June 18, 1988, recorded

in the Office of the St. Louis, Minnesota, County Recorder as Document No. 0456132 or otherwise interfere with the continuance of any such use or structure, or tree after the Effective Date (Section 20 – EFFECTIVE DATE) of this Ordinance.

- B. **ACQUISITION IN SAFETY ZONES:** The Duluth International Airport is an essential public facility. Land in Safety Zones 1, 2, and 3 may be acquired by one or more of the JAZB member municipalities, or the Duluth Airport Authority, individually, or jointly by written agreement, at their own public expense for the purposes of preventing and/or reducing Airport Hazards and Aircraft Accidents.

SECTION 8: PERMITS; AND ORDERS TO REMOVE USE OR STRUCTURE, OR TREE

- A. **PERMIT STANDARDS.** Permit applications shall be made in the manner and on the form established by the Airport Zoning Administrator for the jurisdiction. Each Permit application shall indicate the purpose for which the Permit is desired, with sufficient information with respect to the proposed project to allow a determination as to whether it conforms to the regulations herein prescribed. If such determination is in the affirmative, the Permit shall be granted.
- B. **PERMIT REQUIRED.** The following structures or uses shall not be allowed in any Airspace Zone or Safety Zone unless a Permit has first been submitted to and granted by the Airport Zoning Administrator for that jurisdiction:
1. Existing Structures or Uses. Material expansion of structure or change in use requires Permit.
 2. Future Structures or Uses. Permit required.
 3. Abandoned Structure. Permit required for structure to be rebuilt or replaced.
 4. Substantially Damaged Structures. Permit required to rebuild, repair, or replace.
- C. **ORDER TO REMOVE USE, STRUCTURE, OR TREE.** Whether application is made for a Permit under this subdivision or not, the Airport Zoning Administrator may by appropriate action compel the owner of any Structure, use, or tree, at the owner's expense, to lower, remove, reconstruct, or equip the object as may be necessary to conform to the regulations of this Ordinance. If the owner of the Structure, use, or tree neglects or refuses to comply with the order for ten days after notice of the order, the Airport Zoning Administrator may proceed to have the object lowered, removed, reconstructed, or equipped and assess the cost and expense upon the object of the land where it is or was located. Unless an assessment is paid within 90 days from the service of notice on the agent or owner of the object or land, the sum will bear interest at the rate of eight percent per annum until paid, and shall be collected in the same manner as are real estate taxes.

SECTION 9: VARIANCES

- A. **APPLICATION.** Any person desiring to erect or increase the height of any Structure, permit the growth of any tree, or use property in a way prohibited by this Ordinance may apply to JAZB for a Variance from such regulations. Variance applications shall be made in the manner and on the form established by the Airport Zoning Administrator. Variance applications shall be delivered to the Airport Zoning Administrator for that jurisdiction, who shall then deliver the Variance application to the JAZB. JAZB may only receive and consider Variances after the applicable Permit is first denied by the Airport Zoning Administrator for that jurisdiction.
- B. **FAILURE OF BOARD TO ACT ON VARIANCE.** If a person submits a complete application for a Variance by certified mail to the Airport Zoning Administrator for that jurisdiction, and JAZB fails to grant or deny the Variance within four (4) months after receipt of the application, the Variance shall be deemed to be granted by the JAZB. When the Variance is granted by reason of the failure of JAZB to act on the Variance, the person receiving the Variance shall notify JAZB and the Minnesota Department of Transportation Commissioner, by certified mail, that the Variance has been granted. The applicant shall include a copy of the original Permit and Variance applications with the notice. The Variance shall be effective sixty (60) days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6(a).
- C. **VARIANCE STANDARDS.** Variances shall only be granted where it is duly found by JAZB that a literal application or enforcement of the regulations would result in practical difficulty, and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Ordinance provided any Variance so allowed may be subject to any reasonable conditions that the JAZB or Commissioner may deem necessary to effectuate the purpose of this Ordinance. JAZB shall approve an application for a Variance, or approve it with conditions, with a detailed written report, if it finds that the proposed Variance meets one or more of the following criteria.
1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of the requirements of this Ordinance would result in peculiar and practical difficulties to the property owner;
 2. The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant;
 3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
 4. The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;
 5. The relief will not unreasonably imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other

- respect impair the health, safety or public welfare of the inhabitants of the community;
6. The relief may be granted without substantially impairing the intent of this Ordinance

D. VARIANCE REVIEW BY MINNESOTA DEPARTMENT OF TRANSPORTATION.

JAZB may request that the Minnesota Department of Transportation Commissioner review any Variance application prior to JAZB's decision on the Variance. However, JAZB is not bound by the decision and/or recommendations made by the Commissioner.

SECTION 10: HAZARD MARKING AND LIGHTING

The Airport Zoning Administrator or Duluth International Airport Joint Airport Zoning Board, as the case may be, may condition any Permit or Variance granted so as to require the owner of the structure or tree in question at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazards.

SECTION 11: AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Airport Zoning Administrator of each jurisdiction to enforce the regulations prescribed herein in their jurisdiction. Permits and Variance applications shall be made to the Airport Zoning Administrator for that jurisdiction. Permit applications shall be promptly considered and granted or denied by them in accordance with the regulations prescribed herein. Variance applications shall be forthwith transmitted by the Airport Zoning Administrator for that jurisdiction to the JAZB.

SECTION 12: BOARD OF ADJUSTMENT FOR THE DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

- A. ESTABLISHMENT: The Duluth International Airport Joint Airport Zoning Board (JAZB) shall constitute the Board of Adjustment.
- B. POWERS: BOA shall have and exercise the following powers:
 1. Hear and decide appeals from any order, requirement, decision, or determination made by an Airport Zoning Administrator for that jurisdiction in the enforcement of this Ordinance; and
 2. Hear and decide specific Variances.
- C. PROCEDURES
 1. BOA shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of

Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in their absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public, and shall comply with the Minnesota Open Meeting Law.

2. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination that comes before it under the provisions of this ordinance.
3. The concurring vote of a majority of a quorum of Board of Adjustment members shall be sufficient to reverse any order, requirement, decision, or determination of an Airport Zoning Administrator and/or to decide in favor of the applicant.

SECTION 13: APPEALS

A. Who May Appeal:

Any Person directly affected by any decision of the JAZB made in the administration of this Ordinance may appeal that decision to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, township, county, or authority.

B. Procedure:

All appeals hereunder must be commenced in writing within 10 calendar days of the issuance in writing of the decision by the JAZB, by filing with the Airport Zoning Administrator of that jurisdiction a notice of appeal specifying the grounds thereof and the applicable appeal filing and hearing fee set by the BOA. The Airport Zoning Administrator for that jurisdiction shall forthwith transmit to the BOA all the papers constituting the record upon which the action appealed from was taken.

C. Stay of Proceedings:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Airport Zoning Administrator for that jurisdiction certifies to the BOA, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate finds that a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA on written notice to the Airport Zoning Administrator for that jurisdiction and on due cause shown.

D. Hearing:

The BOA shall fix a time for hearing appeals, and then give public notice, notice to St. Louis County, City of Duluth, City of Hermantown, Canosia Township, City of Rice Lake, the Duluth Airport Authority, and written notice by mail to

the appellant. At the hearing, any party may appear in person or by agent or by attorney.

E. Decisions:

The BOA may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, in writing with detailed findings, as may be appropriate under the circumstances, and to that end shall have all the powers of an Airport Zoning Administrator for that jurisdiction.

SECTION 14: JUDICIAL REVIEW

All decisions of the board are final. Any party aggrieved by a decision of the BOA may appeal as authorized by Minnesota law.

SECTION 15: PENALTIES

- A. **CRIMINAL.** Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a Permit or Variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such Permit or Variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense.
- B. **CIVIL.** In addition, an Airport Zoning Administrator may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this Ordinance, or of any order or ruling made in connection with their administration or enforcement of this Ordinance, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case.

SECTION 16: EXEMPTIONS - AERONAUTICAL PURPOSES

- A. **LAND USED FOR AERONAUTICAL PURPOSES:** The restrictions of this Ordinance shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota, the Duluth Airport Authority, or the United States of America and used by the Duluth Airport Authority exclusively for aeronautical purposes.

SECTION 17: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with

respect to the height of structures of trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION 18: SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this State or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

SECTION 19: ADMINISTRATION

- A. Meetings and hearings of the JAZB and BOA shall be held at the Duluth International Airport.
- B. JAZB and BOA shall be supported by the staff of the Duluth Airport Authority and Duluth City Attorney’s Office.

SECTION 20: EFFECTIVE DATE

This Ordinance shall take effect on the _____ day of _____, _____. Copies thereof shall be filed with the State of Minnesota Commissioner of Transportation, Division of Aeronautics, and the St. Louis County Recorder’s Office, City of Duluth, City of Hermantown, Canosia Township, and City of Rice Lake, Minnesota.

Passed and adopted after public hearing by the Duluth International Joint Airport Zoning Board this _____ day of _____, _____.

_____	_____
Chairperson	Member
_____	_____
Member	Member
_____	_____
Member	Member
_____	_____
Member	Member

Member

Member

Member

Member

Member

Member

EXHIBIT A –AFFECTED LAND SECTIONS

This Ordinance affects all of a portion of the following sections of land:

NAME AND NUMBER TOWNSHIP	AIRSPACE OBSTRUCTION ZONING - Section 4 of Ordinance	LAND USE SAFETY OF ZONING - Section 5 of Ordinance
<hr/>		
City of Hermantown	Sections:	Sections:
Township	1, 2, 3, 4, 5, 8, 9, 10,	1, 2, 3, 4, 5, 8, 9, 10,
T50N	11, 12, 13, 14, 15, 16	11, 12, 13, 14, 15, 22,
R15W		23
<hr/>		
Canosia	Sections:	Sections:
Township	22, 23, 24, 25, 26, 27,	22, 24, 25, 26, 27, 32,
T51N	28, 32, 33, 34, 35, 36	33, 34, 35, 36
R15W		
<hr/>		
City of Rice Lake	Sections:	Sections:
Township	19, 20, 28, 29, 30, 31,	10, 20, 21, 29, 30, 31,
T51N	32, 33	32
R14W		
<hr/>		
City of Duluth	Sections:	Sections:
Township	4, 5, 6, 7, 8, 17, 18	4, 5, 6, 7, 8, 9, 18
T50N		
R14W		
<hr/>		

EXHIBIT B –SAFETY ZONE LEGAL DESCRIPTIONS

A. SAFETY ZONE 1: All land in designated as Safety Zone 1 on the Airport Zoning Map, legally described as:

That part of Section 6, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone A; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to the intersection with the north line of the Northeast Quarter of the Southeast Quarter of said Section 6; thence North 89 degrees 17 minutes 03 seconds East, along last described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said point of beginning; thence North 79 degrees 51 minutes 54 seconds West a distance of 4590.59 feet to said point of beginning.

AND

That part of Section 31, Township 51, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 31; thence on an assumed bearing of North 89 degrees 22 minutes 07 seconds East, along the south line of said Southwest Quarter, a distance of 56.31 feet to the intersection with the northeasterly extension of the centerline of Runway 3-21; thence North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 1458.40 feet to the end of the proposed extension of Runway 3-21; thence continuing North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 200.00

feet; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone A; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence North 22 degrees 20 minutes 27 seconds East a distance of 3933.06 feet to the intersection with the north line of the Northeast Quarter of the Northwest Quarter of said Section 31; thence North 89 degrees 06 minutes 56 seconds East, along last described north line, a distance of 470.64 feet to the west line of the East 200.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 00 degrees 40 minutes 03 seconds East, along last described west line, a distance of 1323.05 feet to the south line of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 06 seconds East, along last described south line, a distance of 200.00 feet to the southeast corner of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 19 seconds East, along the south line of the Northwest Quarter of the Northeast Quarter of said Section 31, a distance of 990.90 feet to the west line of the East Half of the East Half of said Northwest Quarter of the Northeast Quarter; thence North 00 degrees 40 minutes 13 seconds West, along last described west line, a distance of 1323.39 feet to the north line of said Northeast Quarter of Section 31; thence North 89 degrees 07 minutes 22 seconds East, along last described north line, a distance of 990.84 feet to the east line of the West Half of the Northeast Quarter of the Northeast Quarter of said Section 31; thence South 00 degrees 40 minutes 22 seconds East, along last described east line, a distance of 185.61 feet to the intersection with a line bearing North 39 degrees 24 minutes 09 seconds East from said point of beginning; thence South 39 degrees 24 minutes 09 seconds West a distance of 5184.44 feet to said point of beginning.

AND

That part of Sections 3 and 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone A; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds

East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said point of beginning; thence North 83 degrees 04 minutes 25 seconds East a distance of 4311.30 feet to said point of beginning.

AND

That part of Sections 11 and 12, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southeasterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone A; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to the intersection with the northeasterly right of way line of Miller Trunk Highway; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said point of beginning; thence North 23 degrees 51 minutes 10 seconds East a distance of 2989.06 feet to said point of beginning.

B. SAFETY ZONE 2: All land designated as Safety Zone 2 on the Airport Zoning Map, legally described as:

That part of Sections 5, 6, and 8, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds

East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to a point on the north line of the Northeast Quarter of the Southeast Quarter of said Section 6 said point being the actual point of beginning of Zone B; thence North 89 degrees 17 minutes 03 seconds East, along last described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said Point "A"; thence South 79 degrees 51 minutes 54 seconds East a distance of 4368.29 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3643.14 feet to the intersection with a line bearing North 83 degrees 04 minutes 25 seconds East from said point of beginning; thence South 83 degrees 04 minutes 25 seconds West a distance of 4667.96 feet to said point of beginning.

AND

That part of Sections 29, 30 and 31, Township 51, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 31; thence on an assumed bearing of North 89 degrees 22 minutes 07 seconds East, along the south line of said Southwest Quarter, a distance of 56.31 feet to the intersection with the northeasterly extension of the centerline of Runway 3-21; thence North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 1458.40 feet to the end of the proposed extension of Runway 3-21; thence continuing North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 200.00 feet; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence North 22 degrees 20 minutes 27 seconds East a distance of 3933.06 feet to a point on the north line of the Northeast Quarter of the Northwest Quarter of said Section 31 said point being the actual point of beginning of Zone B; thence North 89 degrees 06 minutes 56 seconds East, along last described north line, a distance of 470.64 feet to the west line of the East 200.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 00 degrees 40 minutes 03 seconds East, along last described west line, a distance of 1323.05 feet to the south line of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 06 seconds East, along last described south line, a distance of 200.00 feet to the southeast corner of said Northeast Quarter of the Northwest Quarter; thence

North 89 degrees 08 minutes 19 seconds East, along the south line of the Northwest Quarter of the Northeast Quarter of said Section 31, a distance of 990.90 feet to the west line of the East Half of the East Half of said Northwest Quarter of the Northeast Quarter; thence North 00 degrees 40 minutes 13 seconds West, along last described west line, a distance of 1323.39 feet to the north line of said Northeast Quarter of Section 31; thence North 89 degrees 07 minutes 22 seconds East, along last described north line, a distance of 990.84 feet to the east line of the West Half of the Northeast Quarter of the Northeast Quarter of said Section 31; thence South 00 degrees 40 minutes 22 seconds East, along last described east line, a distance of 185.61 feet to the intersection with a line bearing North 39 degrees 24 minutes 09 seconds East from said point "A"; thence North 39 degrees 24 minutes 09 seconds East a distance of 2905.06 feet; thence North 59 degrees 07 minutes 42 seconds West a distance of 3400.00 feet to the intersection with a line bearing North 22 degrees 20 minutes 27 seconds East from said point of beginning; thence South 22 degrees 20 minutes 27 seconds West a distance of 4156.44 feet to said point of beginning.

AND

That part of Section 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of Section 3 of said Township 50; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said Point "A"; thence South 83 degrees 04 minutes 25 seconds West a distance of 5245.33 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3854.41 feet to the intersection with a line bearing North 79 degrees 51

minutes 54 seconds West from said point of beginning; thence South 79 degrees 51 minutes 54 seconds East a distance of 4576.98 feet to said point of beginning.

AND

That part of Sections 11, 12 and 13, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southeasterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to a point on the northeasterly right of way line of Miller Trunk Highway said point being the actual point of beginning of Zone B; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said Point "A"; thence South 23 degrees 51 minutes 10 seconds West a distance of 2068.80 feet; thence North 55 degrees 45 minutes 40 seconds West a distance of 2232.99 feet to the intersection with a line bearing South 37 degrees 59 minutes 48 seconds West from said point of beginning; thence North 37 degrees 59 minutes 48 seconds East a distance of 1822.30 feet to said point of beginning.

C. SAFETY ZONE 3: All that land designated as Safety Zone 3 on the Airport Zoning Map, including but not limited to land legally described as follows:

- I. That part of Section 11, Township 50 North, Range 15 West, St Louis County, Minnesota, described as follows:
 - A. Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at the intersection of the South line of Miller Trunk Highway with the West line Stebner Road, thence Northwesterly along said Miller Trunk Road for a distance of 100 feet, thence Southeasterly to a point on said Stebner Road being 100 feet South of the point of beginning, thence Northerly 100 feet to the point of beginning (395-10-3117).

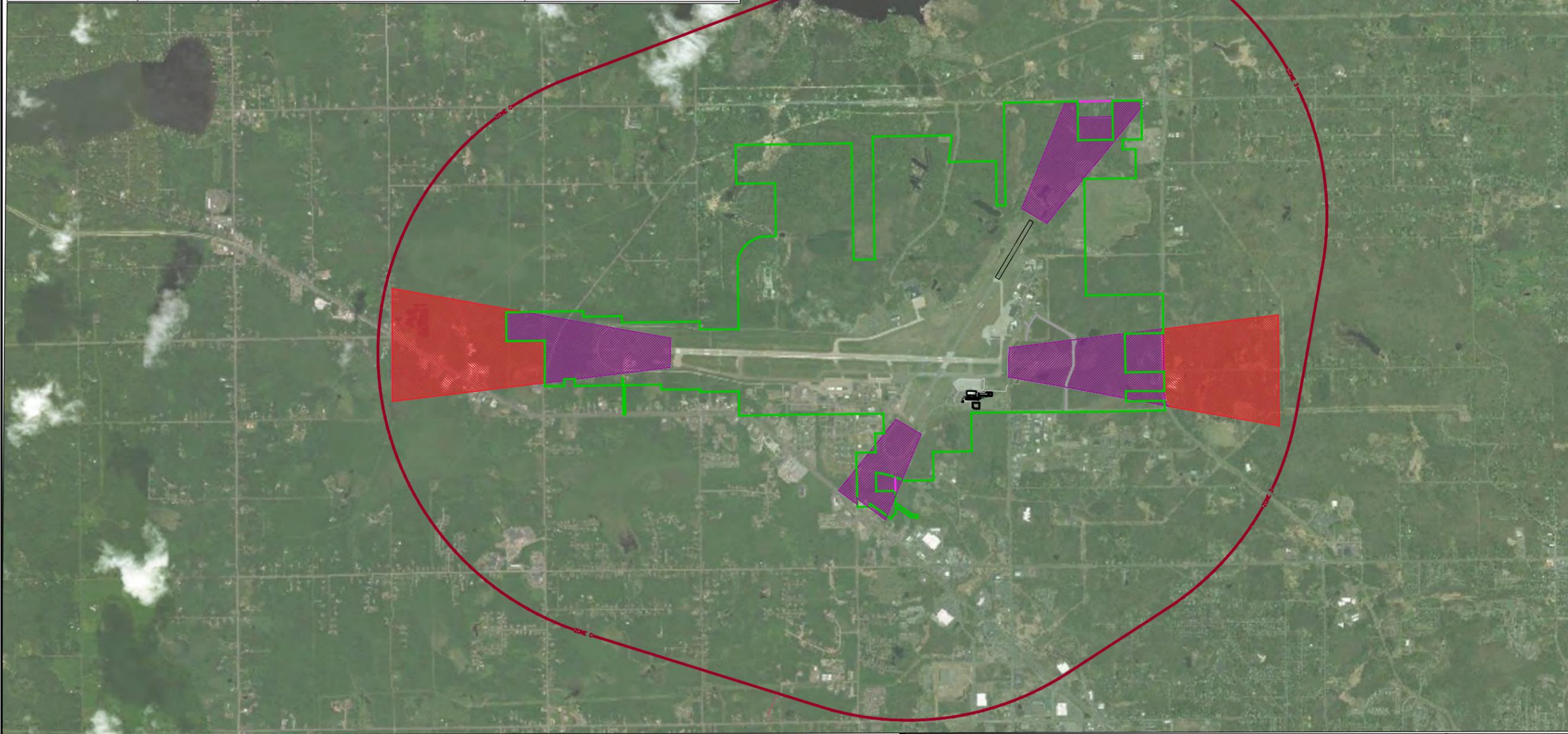
- B. The Southerly 575 feet of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ except the Northerly 525 feet of the Easterly 650 feet (395-10-3110).
 - C. Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at a point 650 feet West of the East line and 575 feet North of the South line of said NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, thence Westerly 200 feet parallel to the South line of said NE $\frac{1}{4}$ of said SE $\frac{1}{4}$, thence Northerly 675 feet to a point on Miller Trunk Highway which is 942.62 feet Northwesterly of the West line of Stebner Road, thence Southeasterly 200 feet along said Miller Trunk Highway to a point 742.62 feet Northwesterly of the West line of Stebner Road, thence Southerly 550 feet to the point of beginning (395-10-3112).
 - D. That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying Southerly of the Southwest right-of-way line of Miller Trunk Highway and Highway 94 except an 11/100-acre tract along highway right-of-way and except a 1-11/100-acre tract along highway right-of-way and except a 2-80/100-acre tract along highway right-of-way and except the Southerly 575 feet lying West of the East 650 feet and except the Southerly 50 feet of the East 650 feet (395-10-3115).
 - E. That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at the intersection of the West line of Stebner Road with the South line of Miller Trunk Highway, thence Northwesterly along said road 390 feet, thence Southerly 150 feet, thence Southeasterly 390 feet, thence Northerly 150 feet to the point of beginning, except for 11/100-acre in the Northeast corner (395-10-3116).
- II. That part of Section 12, Township 50 North, Range 15 West of the Fourth Prime Meridian, St Louis County, Minnesota, described as follows:
- A. The SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ (395-10-3430).
 - B. That part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying West of Miller Trunk Highway (395-10-3360).
 - C. The N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, except the parcel beginning at the Northeast corner, thence Southerly 329.34 feet, thence Westerly 164 feet, thence Northeasterly to the point of beginning (395-10-3410).
 - D. That part of the W $\frac{1}{4}$ of the W $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying Southerly of Miller Trunk Highway except 1/100-acres in the Northwest corner (395-10-3405).
 - E. The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ except that part West of Miller Trunk Highway, except for 21/100-acre for highway right-of-way, except 3-4/100-acres at the Southeast corner, except 2-41/100-acres West of Anderson's Acres Tract North of Miller Trunk Highway and except 10-50/100-acres platted and except a track 400' x 400' at the Northwest corner and except 71/100-acres for a drainage ditch, that lies South of the Easterly extension of the North line of Lot 3, Anderson's Acres Tracts (395-19-3350).
 - F. The Easterly 134.63 feet of the West 267.63 feet of that part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3355).
 - G. The Easterly 165.22 feet of the West 432.85 feet of that part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3356).
 - H. The Easterly 100 feet of the Westerly 133 feet of that part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3354).

- I. That part of the W $\frac{1}{4}$ of the W $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12 beginning at the intersection of the Westerly line of said W $\frac{1}{4}$ of the W $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said section and the Southerly right-of-way line of Miller Trunk Highway, thence Southwesterly along said right-of-way line 24 feet, thence Southwesterly 90 degrees to the right to the aforesaid West line, thence Northerly to the point of beginning (395-10-3400).
 - J. That part of the N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 12 beginning at the Northeast corner of said N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, thence South along the East line of said N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ for a distance of 329.34 feet to a point, thence Westerly 90 degrees to the right for a distance of 164 feet to a point, thence Northeasterly to the point of beginning (395-10-3412).
- III. Lots 1, 2 and 3, Anderson's Acres Tracts, according to the plat on file and of record in the office of the St. Louis County Recorder, St. Louis County, Minnesota (395-15-10).

EXHIBIT C – AIRPORT ZONING MAPS

AIRPORT LAND USE TABLE

AIRPORT ORDINANCE	EFFECTIVE DATE	ORDINANCE PURPOSE	ORDINANCE OVERSIGHT
DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE	ADOPTED: JUNE 18, 1988 AMENDED: MAY 23, 1996 (NOT ADOPTED) AMENDED: NOVEMBER 18, 2010 EFFECTIVE: TBD	THE AIRPORT ZONING ORDINANCE RESTRICTS THE HEIGHT OF BUILDINGS AND OBJECTS, AND REGULATES THE USE OF PROPERTY IN THE VICINITY OF THE AIRPORT. AIRSPACE OBSTRUCTION ZONING IS ACCOMPLISHED THROUGH THE USE OF THE AIRSPACE ZONES ESTABLISHED PER MINNESOTA RULES CHAPTERS 8900.1100/ 1200 AND COINCIDE WITH FAR PART 77 IMAGINARY SURFACES. LAND USE REGULATION IS ACCOMPLISHED THROUGH AIRPORT SAFETY ZONES 'A', 'B' AND 'C' PER MINNESOTA RULES CHAPTER 8900.2400, WHICH REGULATES POPULATION AND BUILDING DENSITIES. THE AIRPORT ZONING ORDINANCE MAPS CONSIST OF SIX SHEETS AS SPECIFIED BY THE ORDINANCE.	THE AIRPORT JOINT ZONING BOARD TO REGULATE THE AIRPORT ZONING ORDINANCE AS COMPRISED OF THE CITY OF DULUTH, CITY OF HERMANTOWN, CANOSIA TOWNSHIP, RICE LAKE TOWNSHIP AND ST. LOUIS COUNTY. PER THE AIRPORT ZONING ORDINANCE, A BOARD OF ADJUSTMENTS IS ESTABLISHED AS COMPRISED OF ONE MEMBER FROM THE DULUTH AIRPORT BOARD, CITY OF DULUTH, CITY OF HERMANTOWN, RICE LAKE TOWNSHIP AND CANOSIA TOWNSHIP.



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DULUTH AIRPORT AUTHORITY

DULUTH CUSTOM ZONING ORDINANCE

CONSULTANTS

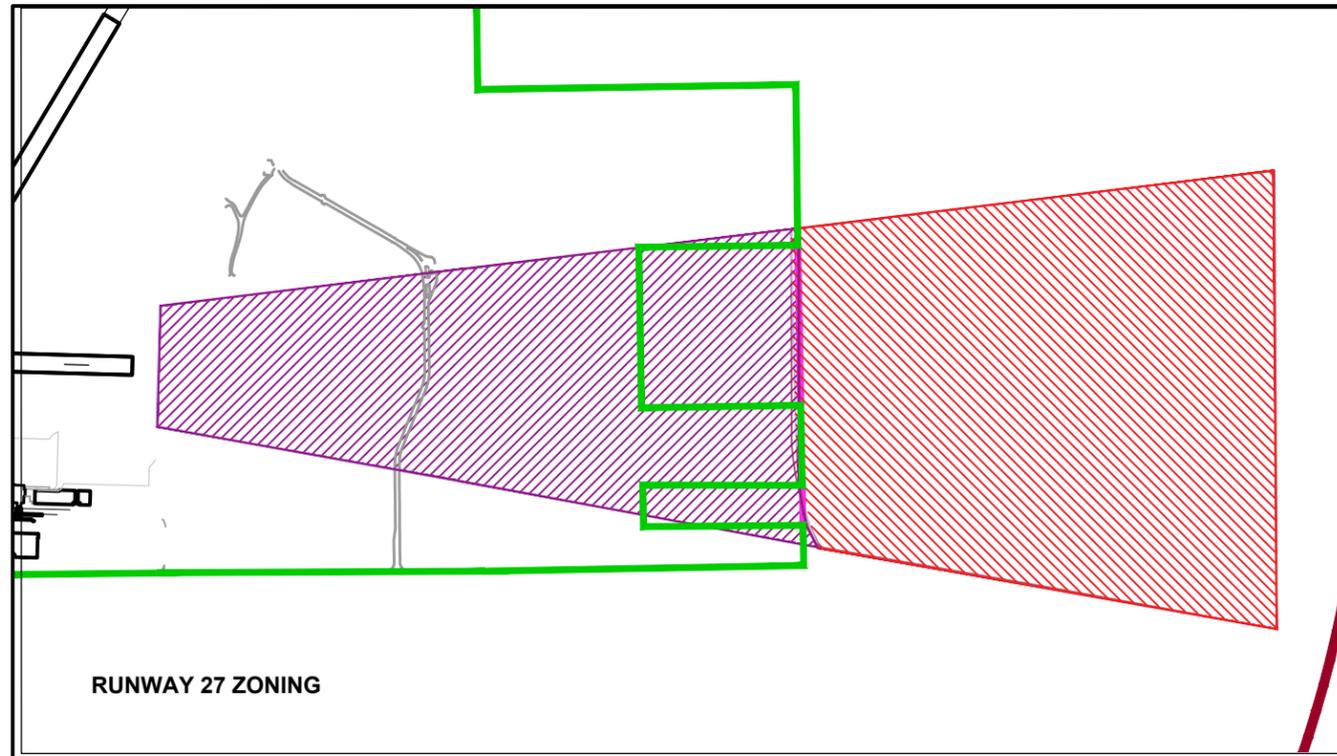
REVISIONS		
NO.	DESCRIPTION	DATE

DATE ISSUED: _____
 REVIEWED BY: _____
 DRAWN BY: _____
 DESIGNED BY: _____

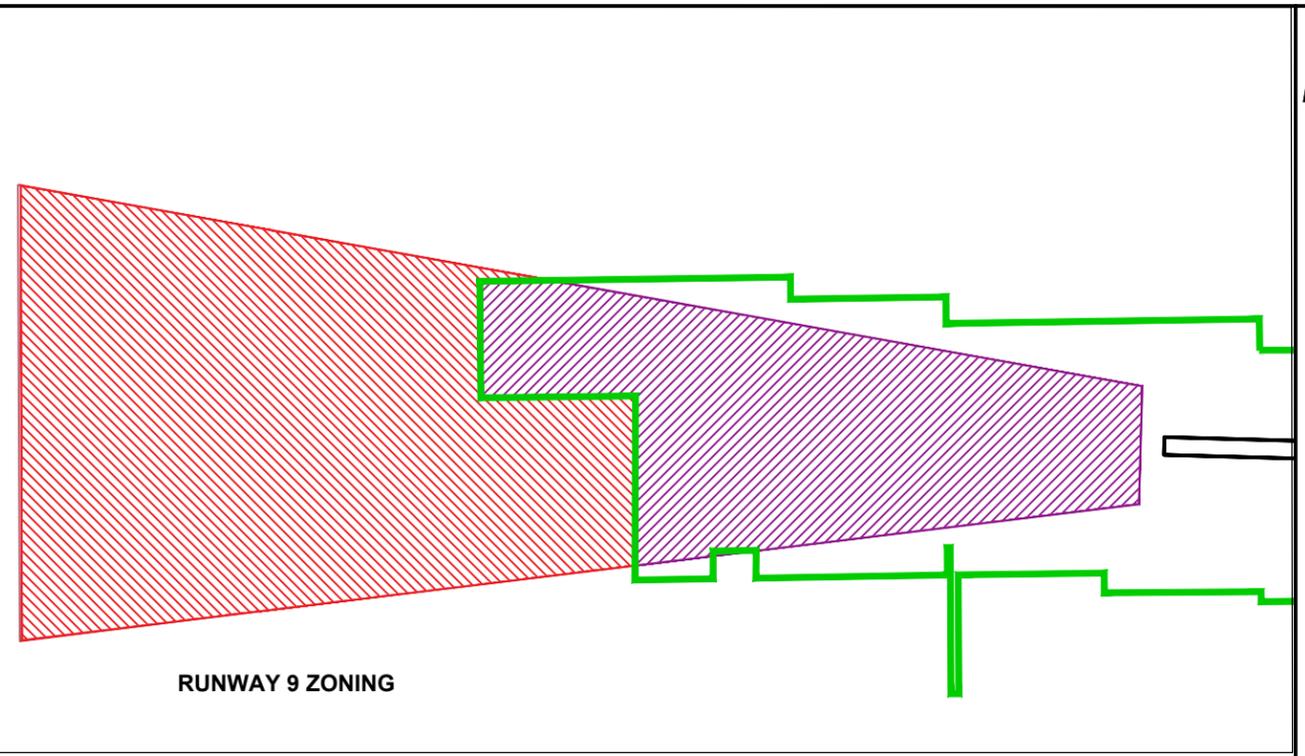
PROJECT NUMBER _____
 © 2020 RS&H INC.
 SHEET TITLE
SAFETY ZONES
 SHEET NUMBER
1

ZONING LEGEND	
AIRPORT PROPERTY BOUNDARY	
FUTURE AIRPORT PROPERTY	
ZONE 1	
ZONE 2	
ZONE 3	

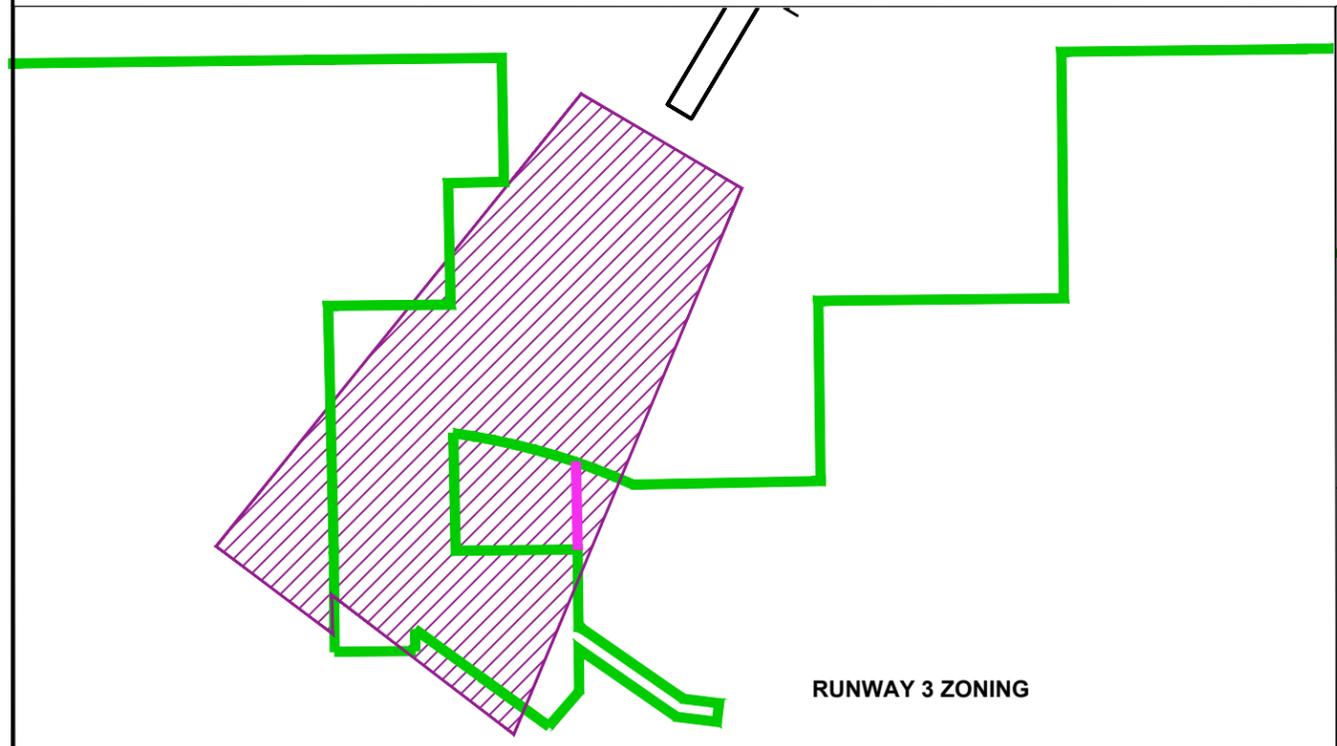




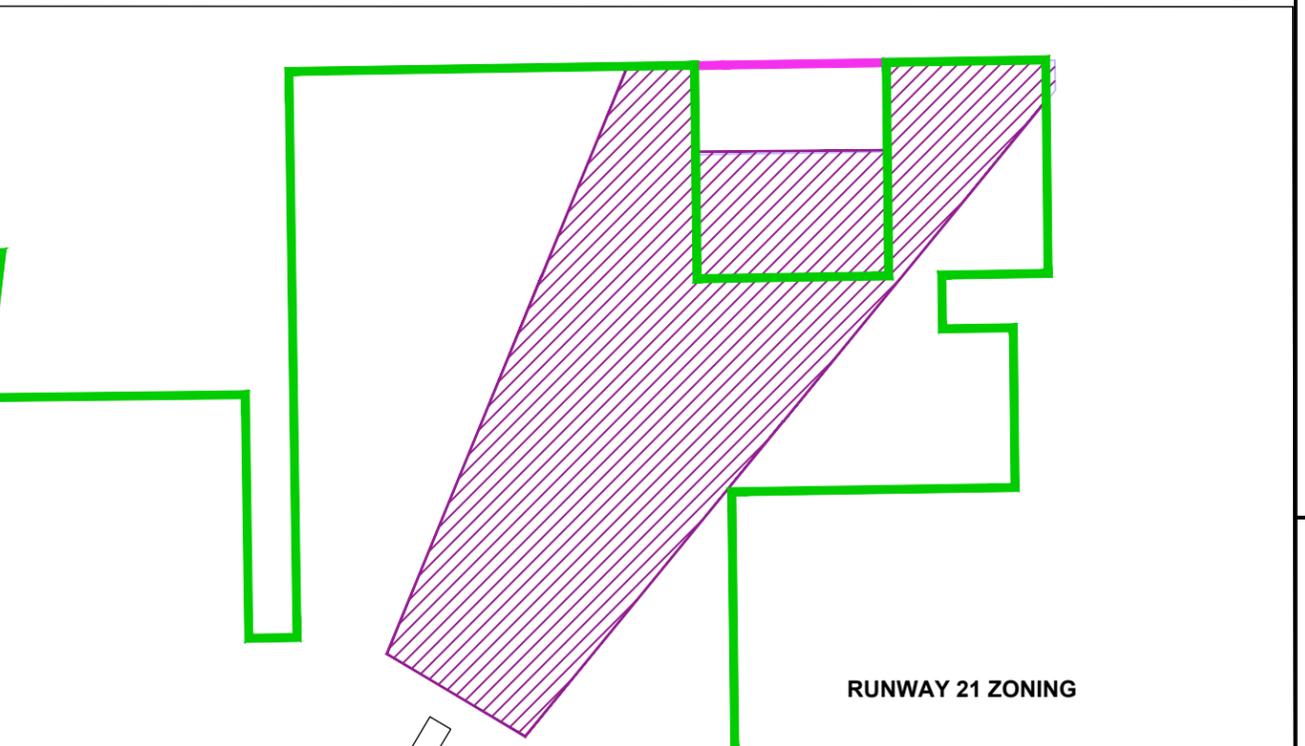
RUNWAY 27 ZONING



RUNWAY 9 ZONING



RUNWAY 3 ZONING



RUNWAY 21 ZONING

REVISIONS

NO.	DESCRIPTION	DATE

DATE ISSUED:
REVIEWED BY:
DRAWN BY:
DESIGNED BY:

PROJECT NUMBER

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SHEET TITLE

**SAFETY ZONES-
RUNWAY ENDS**

SHEET NUMBER

2

ZONING LEGEND	
AIRPORT PROPERTY BOUNDARY	
FUTURE AIRPORT PROPERTY BOUNDARY	
ZONE 1	
ZONE 2	
ZONE 3	

