Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802

218-730-5580
planning@duluthmn.gov

Date: January 5, 2022
To: Planning Commission
From: Steven Robertson, Senior Planner
RE: PL 21-210 Amendment to the Airport Overlay

Staff are proposing an ordinance to amend the Unified Development Chapter related to land use controls regulated by the airport overlay (50-18.2). Following almost two years of meetings and discussions between representatives from Duluth, Hermantown, Rice Lake, St. Louis County, and Canosia Township, an updated Duluth International Airport Zoning Ordinance was approved. Each local unit of government is required to incorporate elements of the airport ordinance within their city code. The proposed ordinance removes and replaces existing text in 50-18.2 with all new text, with additional definitions.

Recommendation:
Staff recommends that the Planning Commission hold a public hearing, discuss the proposed modifications to the UDC and provide further modifications as appropriate, and recommend approval of the UDC updates to the City Council. It may be appropriate to table this item until the February 8, 2022, Planning Commission following to allow for more time for review. In addition to the ordinance text and definitions, the new airport overlay map and approval documents from MnDOT are included at the end of this document.

The Planning Staff are recommending a change to the UDC related to the airport overlay district. The major elements of the proposed ordinance are as follows:

-Remove all existing language and replace with new language in UDC 50-18.2, Airport Overlay.
-Preserve current UDC rules and standards that apply only to the Sky Harbor Airport. This results in slightly atypical code language, but effectively retains land use controls and protections near Sky Harbor.
-Incorporate rules and standards that were adopted in the October 6, 2021, Duluth International Airport Zoning Ordinance.
-Update UDC definitions, were appropriate. Approximately 20 definitions currently exist in the UDC (as shown in red), but an additional 80 definitions (in black text) are new definitions and are very specific to the airport overlay, and are instead of being incorporated in to the UDC they are simply referenced in the airport ordinance.
-Reference the airport ordinance as it relates to variance appeals and the JAZB board of adjustment.
-Clarify that other UDC standards (wetland preservation, stormwater management, regulation of land uses) still apply, and that when there is a conflict between the overlay and other standards in the UDC, the most restrictive standard is applied.
-Adopt a new airport overlay map, but refer to the airport ordinance for the specific legal description. Airport Safety Zones A, B, and C now identified as Zone 1, 2, 2.5, and 3. New airport zone 2.5 (Hermantown) has reduced impairments and controls on land uses, to allow for more development and redevelopment. In Duluth, Safety Zone A is markedly the same area as new Zone 1, Zone B is markedly the same as new Zone 2, but Safety Zone C covered a larger area than new Zone 3 (Zone C had extended at least one mile past the end of Zone B).

Strategies and Policies From Imagine Duluth 2035:

Economic Development, Policy 2 (Foster Growth of Existing Employers and strategically Recruit New Employers to Duluth), Strategy 7: Support the work of the Duluth Seaway Port Authority and the Duluth Airport Authority to maximize opportunities for economic growth on and around port and airport properties, consistent with their respective priorities.

Economic Development, Policy 3 (Build on Existing Economic Strength and Competitive Advantages), Strategy 3: Promote opportunities for easing travel for employees to and from Duluth, especially via initiatives such as the Northern Lights Express and through air service to key Great Lakes regional destinations like Chicago or Toronto.

Transportation, Policy 6 (Protect and Enhance Regional Transportation Networks, Especially for Purposes of Expanding Opportunities for Movement of Freight), Strategy 4: Support infrastructure improvements at the Duluth International Airport, including through development of the 3-21 crosswind runway. Structure economic development policies and opportunities for growth in such a way as to support increased activity at the airport.

50-18.2 Airport Overlay (A-O)

The A-O district is intended to protect the lives and property of users of Duluth International Airport and Sky Harbor Municipal Airport from hazards and to protect the lives and property of residents living in the vicinity of the airports from risks and impacts of airport-related activities. The purpose of this district is also to prevent and, when possible, to minimize, reduce or remove hazards that interfere with the safe operation of the respective airports.

A. Purpose and authority.

The council, pursuant to the provisions and authority of Minnesota Statute Sec. 360.063, hereby finds and declares that:

1. The Duluth International Airport is an essential public facility;
2. 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;
3. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Duluth International Airport;
4. 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;
5. 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.

B. Definitions

Definitions within this section shall be as defined by the Duluth International Airport Zoning Ordinance, created by the Duluth International Airport Joint Zoning Board, effective date October 6, 2021, Document Number 0456132.

C. DIA Airspace Obstruction Zoning.

1. 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.
2. 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 Imaginary 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.
3. Height Restrictions. Except as otherwise provided in the section, 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. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

DRAFT

D. DIA Land Use Safety Zoning

In order to carry out the purpose of this section, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the 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:

1. Safety Zone 1: All land designated as Safety Zone 1 on the Airport Zoning Map;
2. Safety Zone 2: All land designated as Safety Zone 2 on the Airport Zoning Map;
3. Safety Zone 2.,5: All land designated as Safety Zone 2.5 on the Airport Zoning Map;
4. Safety Zone 3: All land designated as Safety Zone 3 on the Airport Zoning Map.

The land use zoning restrictions set forth in this Section 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 one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.

E. DIA Use Restrictions

Table 50-19.8, Permitted Use Table, lists land uses and indicates whether they are allowed by right or with a special use permit, or prohibited in each base zone district. In addition to 50-19.8, 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 additional 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 may include Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking, as allowed in 50-19.8;
3. Safety Zone 2. The following classifications of building and structures as to use and occupancy are prohibited: Group A Uses; Group E Uses; Group I-2 Uses; and Group R-1 Uses, as allowed in 50-19.8. Other uses not specifically prohibited by this section must 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 2.5. The following classifications of building and structures as to use and occupancy are prohibited: Childcare or daycare centers; State licensed residential care facilities and housing with service establishments serving 7 or more persons; State licensed adult daycare facility serving 13 or more persons; State licensed group family daycare facility serving 13 or more children; Public or private school; and Public or private Hospital.
5. Safety Zone 3: Areas designated as Safety Zone 3 are only subject to the restrictions set forth in section 50-18.2.E.1, and as allowed in 50-19.8.

F. DIA Airport Zoning Map

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 section are adopted in its entirety.

G. DIA Existing Uses and Structures

The regulations prescribed by this section shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or Structure, or tree after October 6, 2021.

H. DIA Permits and Orders to Remove Use or Structure or Tree

1. Permit Standards. Permit applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator pursuant to their applicable Local Airport Zoning Ordinance. 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 applicable Local Airport Zoning Ordinance. If such determination is in the affirmative, the Permit shall be granted. Copies of applications for permits shall be provided to the DAA.
2. Permit Required. The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been submitted to and granted by the Local Airport Zoning Administrator for that jurisdiction:

    1. Material expansion of an Existing Structure or Use. Permit required.
    2. New structures or uses. Permit required.
    3. Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
    4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
    5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.

3. Order to Remove Use, Structure, or Tree. Whether application is made for a Permit under this subdivision or not, the Local 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 the applicable Local Airport Zoning 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 Local Airport Zoning Administrator may take whatever lawful actions they deem necessary and appropriate to obtain compliance with the provisions of the applicable Local Airport Zoning Ordinance.

DRAFT

I. DIA Variances

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 section, may apply for a variance as established in Section 9, 11, 12, and 14 of the Duluth International Airport Zoning Ordinance, created by the Duluth International Airport Joint Zoning Board, effective date October 6, 2021, Document Number 0456132.

J. DIA Hazard Marking and Lighting

The Local Airport Zoning Administrator or the BOA may condition any Permit or Variance granted so as to require the owner of the Structure or tree or use in question at their 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.

K. DIA Local Airport Administrator

It shall be the duty of the Local Airport Zoning Administrator to enforce the regulations prescribed by this section. Regulations prescribed by the applicable Local Airport Zoning Ordinance for which a Permit is not required to be obtained under the Local Airport Zoning Ordinance shall be enforced and administered as determined by the Local Airport Zoning Administrator.

Permit applications shall be made to the Local Airport Zoning Administrator for that jurisdiction. Copies of Permit applications shall be provided to the DAA. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the applicable Local Airport Zoning Ordinance. Variance applications shall be made to both the Local Airport Zoning Administrator for that Jurisdiction and the BOA. Copies of Variance applications shall be provided to the DAA.

L. DIA Limited Land Use Exemption For Aeronautical Purposes

The restrictions of this section or any other section of the UDC 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 solely for aeronautical purposes.

M. General, Conflicts

Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same area, the more stringent limitation or regulation shall govern and prevail.

DRAFT

N. Sky Harbor Municipal Airport, Safety Zones

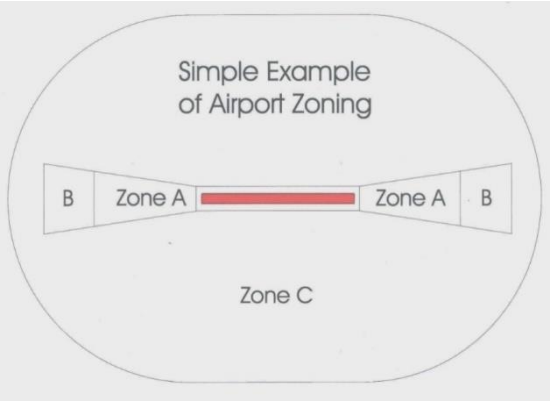
For the Sky Harbor Municipal Airport, the following land use safety zones are established:

1. Safety Zone A. All land in that portion of the approach zones of a runway, that extends outward from the end of primary surface a distance equal to 2/3 of the planned length of the runway, which distance is 2,230 feet for Sky Harbor Municipal Airport runway 14-32;
2. Safety Zone B. All land in that portion of the approach zones of a runway that extends outward from Safety Zone A a distance equal to 1/3 of the planned length of the runway, which distance is o1,120 feet for Sky Harbor Municipal Airport runway 14-32;
3. Safety Zone C. All that land that is enclosed within the perimeter of the horizontal zone and that is not included in Safety Zone A, Safety Zone B, or the exempted parcels referred to below.
4. Exemptions. Land uses that existed as of January 1, 1994, for Sky Harbor Municipal Airport, and that were established residential neighborhoods in built-up urban areas on those dates, are subject to the height restrictions above, but are not subject to the additional restrictions in subsection O. Land uses that came or come into existence after those dates, are treated as though they were or are not in a listed established residential neighborhood and are subject to the restrictions in subsections O, as applicable based on the location of the property.

O. Sky Harbor Municipal Airport, Land Use Restriction

1. General.
   No use shall be made of any land in any land use safety zone that creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make 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. Zone A.
   Areas designated as Zone A 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 that will not create, attract or bring together an assembly of more than 100 persons on the property. Permitted uses may include but are not limited to: agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non spectator), cemeteries and automobile parking;



3. Zone B.
   Areas designated as Zone B shall be restricted in use as follows:
   (a) Each use shall be on a site of not less than three acres;
   (b) Each use shall not create, attract or bring together a site population that would exceed 15 times that of the site acreage. Compliance with this subsection shall be determined by multiplying the number of required parking spaces for each use on the site by the vehicle occupancy rates for each use on the site, as provided in Table 50-18.2.-1;

DRAFT

TABLE 50-18.2-1: Vehicle Occupancy Rates	
Land Use	**Vehicle Occupancy Rate**
Industrial / Storage / Transportation	1.2
Educational	1.2
Health Care	1.7
Retail Store	1.5
Restaurant / Community and Cultural Facility / Recreational	2.0
Example: The site population for a 1,500 sq. ft. restaurant is calculated as follows: 15 (i.e., 1 parking space per 100 sq. ft) X 2.0 (i.e., vehicle occupancy rate) = 30 people. Therefore, the site would need to be at least 2 acres in size to meet the 15 people / acre maximum site population limit.	

(c) Each site shall have no more than one building plot upon which any number of structures may be erected;

(d) A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

TABLE 50-18.2-2: Ratio of Site Area to Building Area		
Site area	**Ratio of site area to building plot area**	**Building plot area (sq. ft)**
3.00 – 3.99 acres	12:1	10,900
3:00 – 5.99 acres	10:1	17,400
6:00 – 9.99 acres	8:1	32,700
10:00 – 19.99 acres	6:1	72,600
20:00 acres or more	4:1	218,000

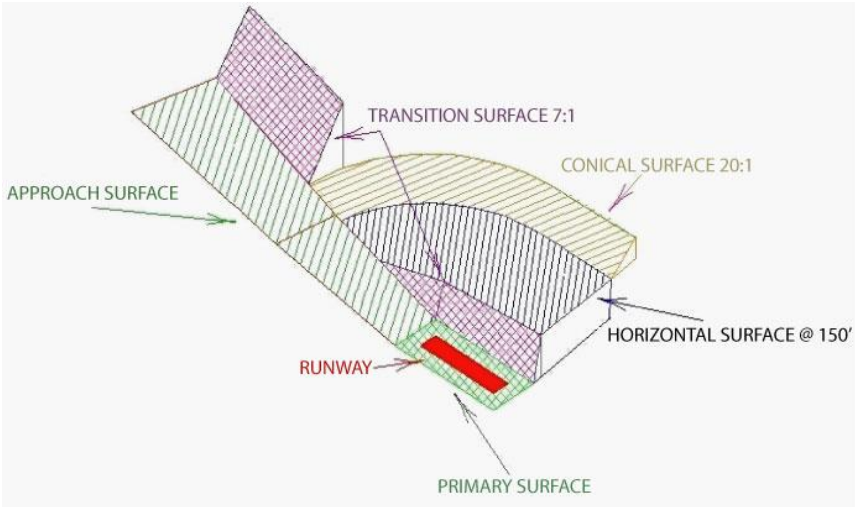
(e) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds and other places of frequent public or semi public assembly;

4. Zone C.
Zone C is subject only to height restrictions set forth in subsection D above and to the general restrictions contained in subsection F.1 above;

P. Sky Harbor Municipal Airport, Land Affected

1. Air space zones.
In order to carry out the purpose of this Section, the following air space zones are hereby established: primary zone, horizontal zone, conical zone, approach zone, and transitional zone;

DRAFT



2. Primary zone.
   All land that lying directly under an imaginary primary surface longitudinally centered on a runway and (a) extending 200 feet beyond each end of Sky Harbor Municipal Airport Runway 14-32 and (b) coinciding with each end of Runway 14-32. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for Sky Harbor Municipal Airport Runway 14-32;

3. Horizontal zone.
   All land lying directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 760 feet above mean sea level for Sky Harbor Municipal Airport, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 6,000 feet for Sky Harbor Municipal Airport Runway 14-32;

4. Conical zone.
   All land lying directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface;

5. Approach zone.
   All land lying directly under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to the end of a runway based on the type of approach available or planned for that runway.
   (a) The inner edge of the approach surface is the width as the primary surface and it expands uniformly to a width of: (i) 1,250 feet for that end of a utility runway with only visual approaches; (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches; (iii) 2,000 feet for that end of a utility runway with a nonprecision instrument approach; (iv) 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; (v) 4,000 feet from that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and (vi) 16,000 feet for precision instrument runways;
   (b) The approach surface extends for a horizontal distance of (i) 5,000 feet at a slope of 20:1 for all utility and visual runways; (ii) 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility, and (iii) 10,000 feet at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1 for all precision instrument runways;
   (c) The outer width of an approach surface to an end runway will be that width prescribed in this subsection 5 for the most precise approach existing or planned for that runway end;

DRAFT

6. Transitional zone.
   All land lying directly under surfaces that extend outward and upward 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 surfaces. Transitional surfaces for those portions of the precision approach surface that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline;

7. Height restrictions.
   Except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any air space obstruction zone so as to project above any of the imaginary air space surfaces described in subsections 1 through 6. Where an area is covered by more than one height limitation, the more restrictive limitation shall apply;

8. Traverse ways.
   For the purpose of determining height limits in this Section 50-18.2, traverse ways shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it;

Q. Sky Harbor Municipal Airport, Variances

Variances to this section, as it applies to land on, near, or around the Sky Harbor Municipal Airport, shall be administered as provided in 50-37.9.

DRAFT

Abandoned Structure – a Non-Conforming Structure that has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Local Airport Zoning Administrator.

Abandoned Use – a Non-Confirming Use that has ceased to have been actively conducted for at least one (1) consecutive year as determined by the Local 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 and related facilities (UDC). An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

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 boundary (UDC). Those lands including the property owned by the city, state, and the United States, and their respective political subdivisions, that are used for aeronautical purposes and are contiguous with the runway and building area facilities. The Duluth International Airport boundaries are illustrated on Sheet 3, airport property map, of the approved set of airport layout plans on file in the offices of the Duluth Airport Authority. The Sky Harbor Municipal Airport boundaries are illustrated on Exhibit 50-18.2-2.

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 elevation (UDC). 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 for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

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 hazard (UDC). Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

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 Map- the Duluth International Airport Zoning Map 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 of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board.

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.

Building (UDC). 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 from the end of Runway 9-27 and Runway 3-21 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.

Dwelling (UDC). Any building or portion of a building that is designed for or used for residential purposes and has a principal entrance facing the front lot line and provides basic requirements for living, sleeping, cooking, eating, and sanitation, and is constructed on compliant and permanent footings or foundation, with permanent connections to public sanitary sewer and water. No recreational vehicle, or structure on a chassis, shall constitute a dwelling, except as allowed and provided for in manufactured home parks or recreational vehicle parks.

Duluth Airport Authority ("DAA") – A political subdivision of the State of Minnesota established pursuant to Minnesota Laws of 1969, Chapter 577 for the purpose of controlling and managing City of Duluth airport facilities. DAA has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds in the control and management of the City of Duluth airport facilities.

Duluth International Airport Joint Airport Zoning Board ("JAZB") – The joint airport zoning 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.

Entities or, individually, Entity – mean the Cities of Hermantown, Duluth, Rice Lake, Canosia Township and County of St. Louis, Minnesota.

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.

FAA (UDC). The federal aviation administration or its duly designated and authorized successor agency.

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.

Group A Use – means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

Group E Use – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

Group I-2 Use – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

Group R-1 Use – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

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 highest ground elevation adjoining the front wall of the building to the highest point of the building

Height of building (UDC). The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and 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.

Height of tower or structure (UDC). 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.

Hospital - an institution that is built, staffed, and equipped for the diagnosis of disease; for the medical and surgical treatment of in-patients whether they be sick or injured and for their overnight housing during this process. Hospital services include the care and treatment of non-

ambulatory patients, intensive care units and acute care services. Outpatient surgery and other treatment centers where overnight stays are provided are not hospitals for the purposes of this definition.

Hospital. (UDC) An institution or place where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are given care and treatment on a prolonged or permanent basis.

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.

Local Airport Zoning Administrator - the person or position designated in the Local Airport Zoning Ordinance to administer and enforce the Local Airport Zoning Ordinance within their political subdivision

Local Airport Zoning Ordinance – means the ordinances as adopted by the City of Hermantown, City of Rice Lake, City of Duluth, Canosia Township, and St. Louis County and codified as a zoning ordinance of that political subdivision.

Material Change in Use – means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion – means an increase in the floor or building coverage area or volume of an existing building.

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-Conforming Lot - a lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Structure - any structure constructed, converted or adopted for a use prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Use - any use of a structure or land or arrangement of land and structures existing prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Nonconforming use (UDC). Any building or land lawfully occupied by a use at the time of passage of this Chapter or an amendment to this Chapter that does not conform after the passage of this Chapter or amendment to this Chapter with the use regulations of the district in which it is situated.

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.

Obstruction (UDC). In the context of flood protection, any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood plain that may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Permit- type of written authorization that must be granted by a government or other regulatory body before any activity regulated by the Local Airport Zoning Ordinance 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.

Precision instrument runway (UDC). A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR), or a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

Primary Zone -All that land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet 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.

Religious assembly (UDC). A facility or area for people to gather together 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.

Runway. (UDC) 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 the landing or taking off of aircraft.

Safety Zone – The land use safety zones (Zones 1, 2 and 3) 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.

Site (UDC). A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.

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).

Slope (UDC). 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.

Structure (UDC). Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas.

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 Non-Conforming 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 St. Louis County 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 St Louis County Assessor before the damage occurred.

Substantial damage (UDC). 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.

Substantially Damaged Structure – means a Non-Conforming Structure that has sustained Substantial Damage.

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.

Utility runway (UDC). **A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.**

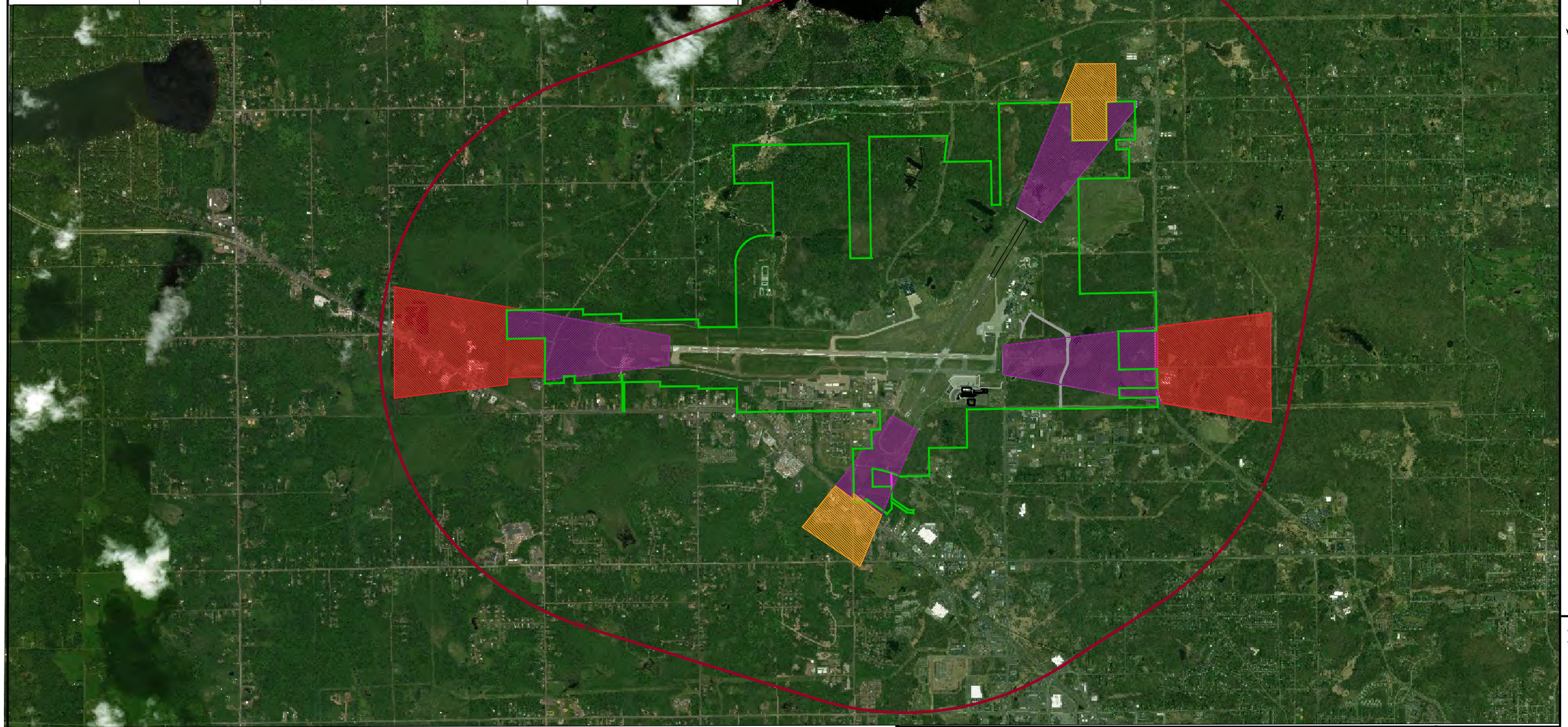
Variance – Any modification or variation of application of this Ordinance to a real property structure or use approved in writing by the BOA.

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.

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	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 8800.1100/.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 8800.2400, 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.



N

0 3700 7400 Feet

ZONING LEGEND

AIRPORT PROPERTY BOUNDARY	
FUTURE AIRPORT PROPERTY	
ZONE 1	
ZONE 2	
ZONE 2.5	
ZONE 3	

RS&H

RS&H, Inc.
4525 Airport Approach Road, Suite A
Duluth, Minnesota 55811
218-722-1227 FAX 218-722-1052
www.rsandh.com

DULUTH AIRPORT AUTHORITY

DULUTH CUSTOM ZONING ORDINANCE

CONSULTANTS

REVISIONS

NO.	DESCRIPTION	DATE

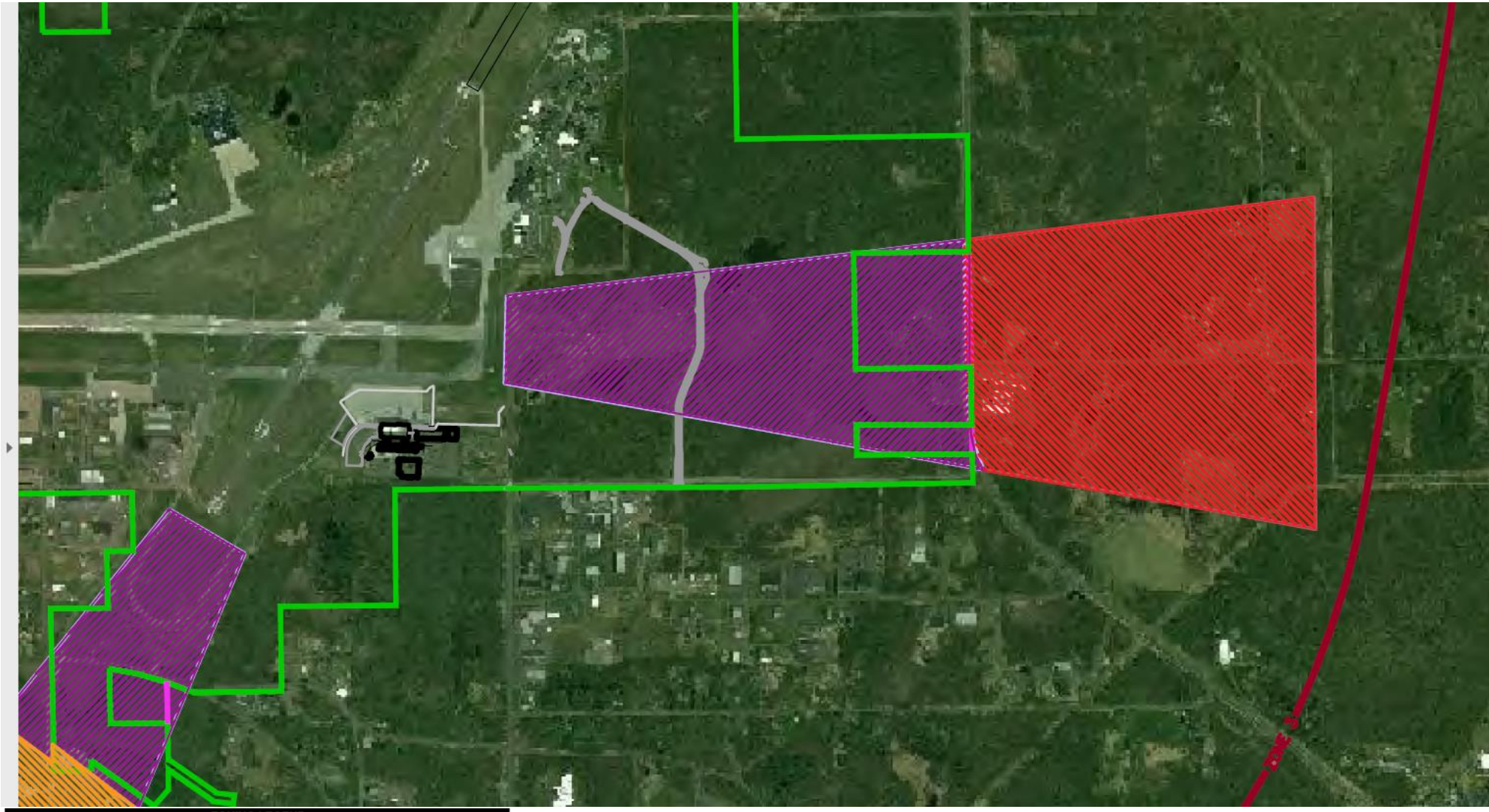
DATE ISSUED:
REVIEWED BY:
DRAWN BY:
DESIGNED BY:

PROJECT NUMBER

© 2020 RS&H INC.

SHEET TITLE

SHEET NUMBER



ZONING LEGEND	
AIRPORT PROPERTY BOUNDARY	
FUTURE AIRPORT PROPERTY	
ZONE 1	
ZONE 2	
ZONE 2.5	
ZONE 3	

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF:

Docket No. 61
Order No. 638

The approval of zoning regulations for the Duluth International Airport

FINDINGS, CONCLUSIONS AND ORDER

FINDINGS

1. The Joint Airport Zoning Board of the Duluth International Airport has drafted the "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record including a detailed analysis that explains how the proposed custom airport zoning regulations addressed the factors listed in Minnesota Statutes, Section 360.0656, Subd. 1 to provide a reasonable level of safety.

2. The Joint Airport Zoning Board of the Duluth International Airport provided notice to the commissioner of their intention to establish and adopt a custom airport zoning ordinance under the regulations of Minnesota Statutes, Section 360.0656.

3. A public hearing on the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" was held on September 24, 2020 giving parties in interest and citizens an opportunity to be heard. Notice of this hearing was published three times during the period between 15 days and 5 days before the hearing in an official newspaper, a second newspaper of wide circulation in the area affected by the proposed regulations and on the Joint Airport Zoning Board's website. No notices were published in the legal section of either newspaper.

4. Notice was sent by mail at least 10 days before the hearing to persons and landowners where the location or size of a building, or density of population, will be regulated, and to persons or municipalities that had previously requested such notice.

5. A copy of the notice and a list of the owners and addresses to which the notice was sent was attested to by the responsible person and made a part of the records of the proceedings.

6. The Joint Airport Zoning Board of the Duluth International Airport submitted the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record to the commissioner for review on November 10, 2020.

7. The commissioner examined the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and, within 90 days of receipt of the proposed regulations, objected on the grounds that the proposed regulations did not provide a reasonable level of safety.

8. The Joint Airport Zoning Board of the Duluth International Airport responded to the objections of the commissioner and submitted a revised "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record to the commissioner for review on August 11, 2021.

9. A second public hearing on the revised "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" was held on July 21, 2021 giving parties in interest and citizens an opportunity to be heard. Notice of this hearing was published three times during the period between 15 days and 5 days before the hearing in an official newspaper, a second newspaper of wide circulation in the area affected by the proposed regulations and on the Joint Airport Zoning Board's website. No notices were published in the legal section of either newspaper.

10. Notice was sent by mail at least 10 days before the hearing to persons and landowners where the location or size of a building, or density of population, will be regulated, and to persons or municipalities that had previously requested such notice.

11. A copy of the notice and a list of the owners and addresses to which the notice was sent was attested to by the responsible person and made a part of the records of the proceedings.

12. The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" was made available for public inspection on the Duluth International Airport website from July 6, 2021 to the date of the hearing.

CONCLUSIONS

1. Adoption of the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" is necessary for both the operation of the Airport and the safety of both the public frequenting that airport and the occupants of land in its vicinity.

2. The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record evaluate the criteria under 360.0656, Subd. 1 and provide a reasonable level of safety.

3. A bona fide effort to comply with the requirements of Minnesota Statutes, Section 360.065, Subd. 1, was made prior to the approval of the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE".

Based upon the foregoing Findings and Conclusions, the substantial evidence contained in the record, and the applicable law, the Director of the Office of Aeronautics of the Department of Transportation of the State of Minnesota, issues the following:

ORDER

The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" is hereby approved.

BY ORDER OF THE DIRECTOR OF THE OFFICE OF AERONAUTICS OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF MINNESOTA

Cassandra Isackson

Digitally signed by Cassandra Isackson
Date: 2021.09.24 08:57:54 -05'00'

Cassandra Isackson
Director Office of Aeronautics
Minnesota Department of Transportation

DATE: _____

https://duluthairport.com/about/board-of-directors/jazb-agendas-minutes/

Overview

The State of Minnesota has adopted legislation for airports to implement height and land use regulations to minimize airport safety hazards and protect airport operations as described in Chapter 360 of the Minnesota Statutes. Included in the legislation was the implementation of Land Use Safety Zones A, B, and C. These land use safety zones were established to restrict incompatible land uses that may be hazardous to the operational safety of aircraft and to protect the property and safety of people on the ground near an airport.

In 2019, the Minnesota Legislature revised its Airport Land Use statute and the Minnesota Department of Transportation (MnDOT)-Aeronautics has created a process that allows communities to create custom Land Use Safety Zones that reflect the unique environment around each airport while ensuring that general prohibitions are taken to protect the safety of flight and the general public.

As a result, the Joint Airport Zoning Board (JAZB) has elected to establish and adopt a custom airport zoning ordinance for Duluth International Airport as defined by Minnesota Statute 360.0656. This allows the JAZB to tailor the zones to the local land uses adjoining the airport to reduce the economic penalty faced by landowners while ensuring compatibility between the surrounding community and Duluth International Airport. The JAZB is made up of members through the municipalities that will be affected by airport zoning that is the City of Duluth, City of Hermantown, City of Rice Lake, and Canosia Township. The proposed custom zones support the economic development vision for each of these communities and the zoning is consistent with how land around the airport has been developed since the last zoning ordinance went into effect in 1988.

The JAZB and Duluth Airport Authority hope to share information with all interested persons, elected and appointed officials, tenants, agencies, and surrounding communities and receive feedback.

Frequently Asked Questions

What is an airport zoning ordinance?

- Airport zoning ordinances are specific local regulations that govern land uses and structures within a boundary to promote the public health of communities. Airport zoning ordinances can establish zone districts, the uses allowed in each zone, and other site layout elements. This allows the airport to be a better neighbor to its surrounding communities. In Minnesota, communities in the airport influence area enact zoning. A set of Procedural Steps is prescribed that meets the requirements set forth in Minnesota Statutes Chapter 360 sections 360.061 to 360.074.

Why is the Airport completing a zoning ordinance revision? What are the benefits of this ordinance?

- The JAZB is pursuing a custom airport zoning ordinance that achieves a balance between allowing for compatible community development and providing for a realistic level of safety. The overarching goal is to develop an airport zoning ordinance for review and approval by the Mn/DOT Commissioner of Transportation, subsequent adoption of that ordinance by the board, and then incorporation of the ordinance by local municipalities. Mn/DOT reserves the authority to determine whether the proposed zoning ordinance meets the reasonable level of safety threshold. Mn/DOT will not grant monies to a public airport for construction projects unless the public airport has in place airport zoning regulations, such as the model ordinance, that comply with Minnesota Statutes Chapter 360 and Minnesota Rules. Similarly, one of the grant assurances for receipt of federal airport funding is affirmative action taken to promote compatible land uses around the airport. In all cases, once a local government invokes its airport zoning authority under Chapter 360, the governing body must comply with the minimum airport zoning regulations in Chapter 360 and the minimum standards in Rule 8800.2400.

What is custom zoning?

- Custom zoning is intended to make it easier for communities and airports to zone based on their specific needs. Custom zoning will provide a comprehensive analysis of all the factors that affect land use surrounding an airport. These factors must be weighed in totality to determine the appropriateness of any given use. Airports and communities can choose to use a custom zone if there are issues that the standard zone design does not address. Liability is not different between the two and the zones should not be compared.

What are the boundaries of the area being affected?

- There are three custom zones associated with the ordinance: Zone 1, Zone 2, and Zone 3, as shown on the graphic below. The specific limitations are outlined in the proposed ordinance, but in general the zones include:
    - Zone 1: In approach zones of a runway, shall not contain buildings
    - Zone 2: Extends outward from Zone 1, each use shall not be less than 2.5 acres and prohibits uses that attract/house crowds
    - Zone 3: Subject to uses that do not create or cause interference with airport operations

Will this ordinance replace the existing zoning classification of property?

- An airport zoning ordinance will not modify the existing zoning classification of any property. The airport zoning ordinance will address local land uses specific to DLH that may hazardous to the operational safety of aircraft while also protecting the property and safety of people on the ground near an airport.

Will this ordinance involve modifying existing limitations such as height?

- If a proposed development seeks to penetrate the height limitations that are stipulated by the airspace zone, a variance will have to be granted by a board of adjustment.

Does this ordinance include plans to construct or extend any runways at the airport?

- This is not a public hearing about aircraft noise or any proposed improvements of the Duluth International Airport. Adoption of an airport zoning ordinance will not alter the number or frequency of flights or the noise level of traffic at the airport.

How can I comment on the zoning ordinance revision?

- We welcome and look forward to the public's involvement in this process. Project information and updates will be provided throughout the project on a dedicated project webpage on the Duluth Airport website and DLH social media. Project updates, meeting agenda, meeting minutes, and review documents will all be posted on this page throughout the project. All comments will be reviewed and considered. Comments can be e-mailed to JAZB@duluthairport.com or provided to one of your local JAZB representatives.

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: October 6, 2021

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. 0456132

TABLE OF CONTENTS

		Page
INTRODUCTION		3
SECTION 1:	PURPOSE AND AUTHORITY	3
SECTION 2:	SHORT TITLE	3
SECTION 3:	DEFINITIONS	4
SECTION 4:	AIRSPACE OBSTRUCTION ZONING	10
SECTION 5:	LAND USE SAFETY ZONING	11
SECTION 6:	AIRPORT ZONING MAP	12
SECTION 7:	EXISTING USES AND STRUCTURES AS OF ENACTMENT	12
SECTION 8:	PERMITS AND ORDERS TO REMOVE	13
SECTION 9:	VARIANCES	13
SECTION 10:	HAZARD MARKING AND LIGHTING	14
SECTION 11:	LOCAL AIRPORT ZONING ADMINISTRATOR	14
SECTION 12:	BOARD OF ADJUSTMENT (DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD)	15
SECTION 13:	APPEALS	15
SECTION 14:	JUDICIAL REVIEW	16
SECTION 15:	PENALTIES	16
SECTION 16:	EXEMPTIONS-LAND USED FOR AERONAUTICAL PURPOSES	17
SECTION 17:	CONFLICTS	17
SECTION 18:	SEVERABILITY	17
SECTION 19:	ADMINISTRATION	17
SECTION 20:	LOCAL AIRPORT ZONING ORDINANCE	18
SECTION 21:	EFFECTIVE DATE	18
EXHIBIT A:	LEGAL DESCRIPTION OF SAFETY ZONES	19
EXHIBIT B:	AIRPORT ZONING MAPS	24

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 Structure – a Non-Conforming Structure that has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Local Airport Zoning Administrator.

Abandoned Use – a Non-Confirming Use that has ceased to have been actively conducted for at least one (1) consecutive year as determined by the Local 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 Map- the Duluth International Airport Zoning Map 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 of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board.

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 from the end of Runway 9-27 and Runway 3-21 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 Airport Authority ("DAA") – A political subdivision of the State of Minnesota established pursuant to Minnesota Laws of 1969, Chapter 577 for the purpose of controlling and managing City of Duluth airport facilities. DAA has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds in the control and management of the City of Duluth airport facilities.

Duluth International Airport Joint Airport Zoning Board ("JAZB") – The joint airport zoning 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.

Entities or, individually, Entity – mean the Cities of Hermantown, Duluth, Rice Lake, Canosia Township and County of St. Louis, Minnesota.

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.

Group A Use – means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

Group E Use – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

Group I-2 Use – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

Group R-1 Use – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

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 highest ground elevation adjoining the front wall of the building to the highest point of the building

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.

Hospital - an institution that is built, staffed, and equipped for the diagnosis of disease; for the medical and surgical treatment of in-patients whether they be sick or injured and for their overnight housing during this process. Hospital services include the care and treatment of non-ambulatory patients, intensive care units and acute care services. Outpatient surgery and other treatment centers where overnight stays are provided are not hospitals for the purposes of this definition.

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.

Local Airport Zoning Administrator - the person or position designated in the Local Airport Zoning Ordinance to administer and enforce the Local Airport Zoning Ordinance within their political subdivision

Local Airport Zoning Ordinance – means the ordinances as adopted by the City of Hermantown, City of Rice Lake, City of Duluth, Canosia Township, and St. Louis County and codified as a zoning ordinance of that political subdivision.

Material Change in Use – means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion – means an increase in the floor or building coverage area or volume of an existing building.

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-Conforming Lot - a lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Structure - any structure constructed, converted or adopted for a use prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Use - any use of a structure or land or arrangement of land and structures existing prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

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 any activity regulated by the Local Airport Zoning Ordinance 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 200 feet 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 1, 2 and 3) 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 Non-Conforming 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 St. Louis County 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 St Louis County Assessor before the damage occurred.

Substantially Damaged Structure – means a Non-Conforming Structure that has sustained Substantial Damage.

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 this Ordinance to a real property structure or use approved in writing by 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 Imaginary 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 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 designated as Safety Zone 1 on the Airport Zoning Map and as legally described in Exhibit B.

B. **SAFETY ZONE 2:** All land designated as Safety Zone 2 on the Airport Zoning Map and legally described in Exhibit B.

C. **SAFETY ZONE 2.5**: All land designated as Safety Zone 2.5 on the Airport Zoning Map and legally described in Exhibit B.

D. **SAFETY ZONE 3:** All land designated as Safety Zone 3 on the Airport Zoning Map and legally described in Exhibit B.

E. **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 one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.

F. **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 may include 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:**

3.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

3.1.1 Group A Uses;

3.1.2 Group E Uses;

3.1.3 Group I-2 Uses; and

3.1.4 Group R-1 Uses.

3.2 Density Limitation. Other uses not specifically prohibited by Section 3.1 must 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 2.5:**

4.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2.5;

4.1.1 Childcare or daycare centers;

4.1.2 State licensed residential care facilities and housing with service establishments serving 7 or more persons;

4.1.3 State licensed adult daycare facility serving 13 or more persons;

4.1.4 State licensed group family daycare facility serving 13 or more children;

4.1.5 Public or private school.

4.1.6 Public or private Hospital.

5. **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 AND ANY LOCAL AIRPORT ZONING ORDINANCE <u>NOT</u> RETROACTIVE:** The regulations prescribed by this Ordinance and any Local Airport Zoning Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or Structure, or tree after the Effective Date (Section 21 – EFFECTIVE DATE) of this Ordinance.

B. **ACQUISITION IN SAFETY ZONES:** The Airport is an essential public facility. The DAA or City of Duluth may acquire land at their own 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 Local Airport Zoning Administrator pursuant to their applicable Local Airport Zoning Ordinance. 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 applicable Local Airport Zoning Ordinance. If such determination is in the affirmative, the Permit shall be granted. Copies of applications for permits shall be provided to the DAA.

B. **PERMIT REQUIRED.** The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been submitted to and granted by the Local Airport Zoning Administrator for that jurisdiction:

1. Material expansion of an Existing Structure or Use. Permit required.
2. New structures or uses. Permit required.
3. Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.

C. **ORDER TO REMOVE USE, STRUCTURE, OR TREE.** Whether application is made for a Permit under this subdivision or not, the Local 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 the applicable Local Airport Zoning 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 Local Airport Zoning Administrator may take whatever lawful actions they deem necessary and appropriate to obtain compliance with the provisions of the applicable Local Airport Zoning Ordinance.

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 the applicable

Local Airport Zoning Ordinance may apply to both the Local Airport Zoning Administrator and the BOA for a Variance from such regulations. Variance applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator. The Local Zoning Administrator may also establish, collect, and retain a Variance application fee. Variance applications shall be delivered to the Local Airport Zoning Administrator, who shall then deliver the Variance application to the BOA and DAA. The Variance applications may only be made after the Local Airport Zoning Administrator determines that a Variance is required. Copies of Variance applications shall be provided to the DAA.

B. **FAILURE OF BOARD TO ACT ON VARIANCE.** This Section 9B is intended to implement the provisions of Minnesota Statutes § 360.063, Subd. 6a and § 360.067, Subd. 2. If a person submits a complete application for a Variance by certified mail to both the Local Airport Zoning Administrator and the BOA, and they both fail 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 BOA, unless the BOA has made its decision within a longer time period authorized in writing by applicant. When the Variance is granted by reason of the failure of the BOA to act on the Variance, the person receiving the Variance shall notify the BOA and the Commissioner, in writing 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.** The provisions of Minnesota Statutes § 360.067, Subd. 2 shall be applicable to an application for a Variance. Variances shall only be granted where it is duly found by the BOA that a literal application or enforcement of the regulations would result in practical difficulty, or undue hardship, and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the applicable Local Airport Zoning 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 the applicable Local Airport Zoning Ordinance.

SECTION 10: HAZARD MARKING AND LIGHTING

The Local Airport Zoning Administrator or the BOA may condition any Permit or Variance granted so as to require the owner of the Structure or tree or use in question at their 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: LOCAL AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Local Airport Zoning Administrator to enforce the regulations prescribed by the applicable Local Airport Zoning Ordinance. Regulations prescribed by the applicable Local Airport Zoning Ordinance for which a Permit is not required to be obtained under the Local Airport Zoning Ordinance shall be enforced and administered as determined by the Local Airport Zoning Administrator. Permit applications shall be made to the Local Airport Zoning Administrator for that jurisdiction. Copies of Permit applications shall be provided to the DAA. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the applicable Local Airport Zoning Ordinance. Variance applications shall

be made to both the Local Airport Zoning Administrator for that Jurisdiction and the BOA. Copies of Variance applications shall be provided to the DAA.

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

A. Establishment: The Board of Adjustment ("BOA") shall consist of five members, one member each appointed by:

1. Canosia Township
2. City of Duluth;
3. City of Hermantown;
4. City of Rice Lake; and
5. Duluth Airport Authority.

Each member shall serve for a term of three years and until their successor is duly appointed and qualified. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. BOA members may be removed by the Entity which appointed such member at any time, with or without cause. JAZB members may also serve on the BOA.

B. Powers: The BOA shall have and exercise the following powers:

(1) to hear and decide appeals from any order, requirement, decision, or determination made by the Local Airport Zoning Administrator in the enforcement of the Local Airport Zoning Ordinance;

(2) to hear and decide any special exceptions to the terms of the Local Airport Zoning Ordinance upon which the BOA may be required to pass under such Local Airport Zoning Ordinance; and

(3) to hear and decide Variances.

C. Majority Vote: The concurring vote of a majority of the members of the BOA shall be sufficient for any action or any order, requirement, decision, or determination of the Local Airport Zoning Administrator, or to make a decision on any matter upon which it is required to pass under the Local Airport Zoning Ordinance or to make a decision on a Variance.

D. Rules and Procedures: The BOA shall adopt rules in accordance with the provisions of this Ordinance. Upon their appointment the BOA members shall select a chair to act at the pleasure of the BOA. Meetings of the BOA shall be held at the call of the chair and at such other times as the BOA may determine. The chair, or if absent, the acting chair, may administer oaths and compel the attendance of witnesses. All hearings of the BOA shall be public. The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the BOA and shall be a public record.

SECTION 13: APPEALS

A. Who May Appeal:

Any Person directly affected by any decision of the Local Airport Zoning Administrator in connection with the administration of a Local Airport Zoning Ordinance may appeal that decision to the BOA. Such appeals may also be made by any governing body of the Entities.

B. Procedure:

All appeals hereunder must be commenced in writing within 10 business days of the issuance in writing of the decision by the Local Airport Zoning Administrator, by filing with the Local Airport Zoning Administrator and the BOA a notice of appeal specifying the grounds thereof and the applicable appeal filing and hearing fee set by the BOA. The Local Airport Zoning Administrator shall forthwith transmit to the BOA all data constituting the record upon which the action appealed from was taken. Copies of the data shall also be provided to the DAA.

C. Stay of Proceedings:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Local Airport Zoning Administrator 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 Local Airport Zoning Administrator and on due cause shown.

D. Hearing:

The BOA shall fix a time for hearing appeals, and then give public notice to the Entities and the DAA, 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 Local Airport Zoning Administrator.

SECTION 14: JUDICIAL REVIEW

All decisions of the BOA are final. Any party aggrieved by a decision of the BOA may appeal as authorized by Minnesota law provided that such appeal is made within thirty (30) days of the date of the decision of the BOA.

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, a Local Airport Zoning Administrator or the DAA may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the Local Airport Zoning 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 – LAND USED FOR AERONAUTICAL PURPOSES

The restrictions of this Ordinance or any Local Airport Zoning 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 including but not limited to the Local Airport Zoning Ordinance, whether the conflict be with respect to the height of Structures or 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 United States or State of Minnesota Constitutions, 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.

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 administratively by the staff of the Duluth Airport Authority and Duluth City Attorney's Office.
C. The BOA shall be supported by the staff and legal counsel provided by the Entity in whose jurisdiction the property affected by the Variance is located with respect to the requested Variance.
D. The BOA shall be supported administratively by the staff of the Duluth Airport Authority and legal counsel provided by the Duluth Airport Authority in connection with any judicial review of any actions of the BOA pursuant to Section 14 hereof.

E. The DAA shall provide reasonable technical advice and assistance to Local Zoning Administrators with respect to the administration and enforcement of a Local Zoning Ordinance upon request by a Local Zoning Administrator.

SECTION 20: LOCAL AIRPORT ZONING ORDINANCE

Each of the Entities shall consider the adoption of amendments to its comprehensive plan and thereafter amendments to the zoning for its jurisdiction that incorporate the applicable provisions of this Ordinance. Any such amendments to Entities' zoning shall become effective only after this Ordinance has been approved by the Commissioner.

SECTION 21: EFFECTIVE DATE

This Ordinance shall take effect upon recordation in the St. Louis County Recorder's Office, which shall occur after approval of the Ordinance by the Commissioner. Copies thereof shall be filed with the State of Minnesota Commissioner of Transportation, Division of Aeronautics, and the Entities.

Passed and adopted by the Duluth International Joint Airport Zoning Board ("JAZB") on October 6, 2021 after public hearing by the JAZB, and after approval by the Commissioner on September 24, 2021.

DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

_____
Kevin Comnick
JAZB Chairperson

ATTEST:

_____
Mary Ann Wittkop
JAZB Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this 6th day of October, 2021 by Kevin Comnick and Mary Ann Wittkop, the Chairperson and Secretary of the Duluth International Airport Joint Airport Zoning Board.

_____
Notary's Signature

EXHIBIT A–SAFETY ZONE LEGAL DESCRIPTIONS

Safety Zone 1 of East End of Runway 9-27

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 1; 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.

Safety Zone 2 of East End of Runway 9-27

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 2; 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.

Safety Zone 1 of North End of Runway 3-21

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 1; 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.

Safety Zone 2.5 of North End of Runway 3-21

The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, Section 30 and the West Three Quarters of the Northwest Quarter of the Northeast Quarter and the East 200.00 feet of the Northeast Quarter of the Northwest Quarter, Section 31, all located in Township 51, Range 14, St. Louis County, Minnesota.

Safety Zone 1 of West End of Runway 9-27

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 1; 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.

Safety Zone 2 of West End of Runway 9-27

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 a point on the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4 said point being the actual point of beginning of Zone 2; 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 1325.00 feet to the north line of the Southeast Quarter of the
Southeast Quarter of said Section 4; thence South 89 degrees 14 minutes 37 seconds West, along last said north line, a distance of 1304.68 feet to the northwest corner of said Southeast Quarter of the Southeast Quarter; thence South 00 degrees 13 minutes 11 seconds East, along the west line of said Southeast Quarter of the Southeast Quarter, a distance of 253.87 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 3932.53 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.

<u>Safety Zone 1 of South End of Runway 3-21</u>

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 southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly 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 southwesterly 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 1; 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.

Safety Zone 2.5 of South End of Runway 3-21

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 southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly 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 southwesterly 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 2.5; 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.

EXHIBIT B – AIRPORT ZONING MAPS