0456132

Duluth International Airport

-ZONING ORDINANCE-

CREATED BY THE DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD OF:

- City of Duluth
- City of Hermantown
- Township of Canosia
- Township of Rice Lake
- St. Louis County

OR
Bill

OFFICE OF COUNTY RECORDER
STATE OF MINNESOTA } SS.
County of St Louis
I hereby certify that the within instrument was filed in this office for record as Document No 0456132
JUN 17 1988 at 3p M
MARK A MONACELLI
County Recorder
By D. Beelman
Deputy

DATE OF ENACTMENT: APRIL 18, 1988

EFFECTIVE DATE: JUNE 18, 1988

To
Ret: Duluth Airport Authority
Dul. Intl. Airport
Dul. 55811
39.00

attn: Ken Wennberg
4W

0456132

DULUTH INTERNATIONAL AIRPORT

ZONING ORDINANCE

CREATED BY THE DULUTH INTERNATIONAL AIRPORT

JOINT ZONING BOARD OF:

CITY OF DULUTH

CITY OF HERMANTOWN

TOWNSHIP OF CANOSIA

TOWNSHIP OF RICE LAKE

ST. LOUIS COUNTY

EFFECTIVE DATE: JUNE 18, 1988

DIAZO

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DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE

CREATED BY THE

CITY OF DULUTH - CITY OF HERMANTOWN - CANOSIA TOWNSHIP
RICE LAKE TOWNSHIP - 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 CITY OF DULUTH - CITY OF HERMANTOWN - CANOSIA TOWNSHIP - RICE LAKE TOWNSHIP - ST. LOUIS COUNTY JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY THE MINNESOTA STATUTES 360.061 - 360.074, AS FOLLOWS:

SECTION I: PURPOSE AND AUTHORITY

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

A. 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.

B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Duluth International Airport.

C. 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.

D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power.

SECTION II: 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 III: DEFINITIONS

As used in this Ordinance, unless the context otherwise requires:

"AGRICULTURAL USES" means any customary agricultural uses except the raising, keeping and/or feeding of animals or fowl.

"AIRPORT" means the Duluth International Airport 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.

"AIRPORT BOUNDARY" means 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 on Sheet 3 - Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

"AIRPORT ELEVATION" means the established elevation of the highest point on the usable landing area which elevation is established to be 1438 feet above mean sea level.

"AIRPORT HAZARD" means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

"AIRPORT ZONING MAP" means the Duluth International Airport Zoning Map consisting of six sheets, dated April 18, 1988 and adopted as part of the Duluth International Airport Zoning Ordinance. The six sheets are individually titled:

Sheet 1 - Imaginary Surfaces Plan
Sheet 2 - Imaginary Surfaces Sections
Sheet 3 - Height Limitation Zoning Plan
Sheet 4 - Land Use Safety Zones
Sheet 5 - Detailed Land Use Safety Zones
Sheet 5A - Land Ownership Map - Safety Zones A and B

"BUILDING HEIGHT" means the vertical distance measured from the finish grade to the highest point of the structure including antennas, satellite dishes, solar collectors, spires, tanks, chimneys, flag poles, towers, signs, or other appurtenances.

"CHIEF ZONING ADMINISTRATOR" means the principal building official from the City of Duluth whose duties shall be to coordinate, maintain records, and monitor the administration and enforcement of the regulations prescribed in this Ordinance.

"COMMERCIAL OR INDUSTRIAL USES" means any use as defined and permitted by Chapters 10, 11, and 12 of the Uniform Building Code, 1973, as adopted by the State of Minnesota.

"DEPUTY ZONING ADMINISTRATOR" means the zoning officer designated by a local jurisdiction whose duties shall be to administer and enforce the provisions of this Ordinance within his/her respective jurisdiction.

"DWELLING" means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

"EXCEPTED PARCEL" means any parcel of land exempted from any or all of the regulations imposed by this Ordinance because the Joint Airport Zoning Board determines that the otherwise applicable requirements or proscriptions are not reasonably necessary to effectuate the purposes of the Ordinance by reason of character of flying operations expected to be conducted, the location of the Airport, the nature of the terrain within the Airport hazard area, existing land uses and character of the neighborhood around the Airport, the uses to which the property to be zoned are planned and adaptable, and the social and economic costs of restricting land use versus the benefits derived from a strict application of the Ordinance, as authorized by Minnesota Statutes 360.066, Subd. 1.

"HAZARD TO AIR NAVIGATION" means any object which 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" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"LANDING AREA" means the area of the airport used for the landing, taking off or taxiing of aircraft.

"LIGHT OUTDOOR RECREATION" means any recreational or sports activity which does not create, attract or bring together a site population in excess of 15 persons per acre during the same time period.

"LOW DENSITY RESIDENTIAL LOT" means a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

"NAVIGABLE AIRSPACE" means 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 USE" means any structure, tree, natural growth, or use of land lawfully existing prior to adoption of this ordinance which is inconsistent with or prohibited in such location by the provisions of this Ordinance or an amendment hereto.

"NON-PRECISION INSTRUMENT RUNWAY" means 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.

"PERSON" means an individual, firm partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

"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 RUNWAY" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). Also, a runway for which such a precision instrument approach system is Planned.

"RUNWAY" means any existing or planned paved surface or turf-covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

"SITE" means a parcel or several adjoining parcels of land under common ownership.

"SLOPE" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

"STRUCTURE" means an object constructed or installed by man, including, but not limited to buildings, towers, antennas, satellite receiving dishes, smokestacks, and overhead transmission lines.

"TRAVERSE WAYS" for the purpose of determining height limits as set forth in this Ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 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.

"TREE" means any object of natural growth.

"UTILITY RUNWAY" means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

"VISUAL RUNWAY" means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument approach procedure and no instrument designation Planned.

"WATER SURFACES" for the purpose of this Ordinance shall have the same meaning as land for the establishment of protected zones.

SECTION IV: AIRSPACE OBSTRUCTION ZONING

A. AIRSPACE ZONES: Since structure and tree heights must be regulated to protect aircraft from navigational hazards during landings and departures, a number of airspace zones must be established for this purpose. In order to carry out the purposes of this Ordinance, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone and whose locations and dimensions are as follows:

1. PRIMARY ZONE: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of Runways 9-27, 3-21 and 13-31. 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:

   a. 1,000 feet for Runways 9-27 and 3-21.

   b. 250 feet for Runways 13-21.

   c. 500 feet for planned Runway 9L-27R.

2. HORIZONTAL LINE: All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1580 feet above mean sea level, 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:

a. 10,000 feet for Runways 9-27 and 3-21.

b. 6,000 feet for Runway 13-31.

c. 6,000 feet for planned Runway 9L-27R.

When a 6,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 6,000-foot arc shall be disregarded in the construction of the perimeter of the horizontal surface.

3. 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 4,000 feet as measured radially outward from the periphery of the horizontal surface.

4. 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. The approach surface inclines upward and outward at a slope of 20:1 for each end of Runway 13-31 and 40:1 for each end of planned Runway 9L-27R. The approach surface expands uniformly to a width of:

- 4,000 feet for planned Runway 9L-27R at a distance of 10,000 feet from the end of the primary surface.
- 2,250 feet for Runway 13-31 at a distance of 10,000 feet from the end of the primary surface.

5. 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 Runway 9-27 and Runway 3-21, precision instrument runways. The inner edge of the precision instrument approach surface is at the same width and elevations 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 10,000 feet expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of 16,000 feet.

6. 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 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline.

B. 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 in any airspace created in Subsection IV-A so as to project above any of the imaginary airspace surfaces described in said Subsection IV-A hereof. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

C. BOUNDARY LIMITATIONS: The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

SECTION V: LAND USE SAFETY ZONING

A. SAFETY ZONE BOUNDARIES: Safety zones are created to protect the surrounding community and to assist aircraft in the event of emergency landings. Safety zones seek to limit the population and building density, thereby reducing the chances for loss of life and creating emergency landing areas for aircraft. In order to carry out the purpose of this Ordinance, there are hereby created and established the following safety zone boundaries:

1. SAFETY ZONE A: All land in that portion of the approach zones of a runway, designated as Safety Zone A on the Airport Zoning Map.

2. SAFETY ZONE B: All land in that portion of the approach zones of a runway, designated as Safety Zone B on the Airport Zoning Map.

3. SAFETY ZONE C: All that land which is enclosed within the perimeter of the horizontal zone as defined in subsection IV-A hereof and which is not included in Zone A, Zone B or the Exempted Parcels referred to in Section XVI below and as designated as Safety Zone C on the Airport Zoning Map.

B. USE RESTRICTIONS

1. GENERAL: Subject at all times to the height restrictions set forth in Subsection IV-B, no use shall be made of any land in any of the safety zones defined in Subsection V-A which 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, 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. ZONE A: Subject at all times to the height restrictions set forth in Subsection IV-B and to the general restrictions contained in Subsection V-B-1, 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 which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture, horticulture, wildlife habitat, animal husbandry, raising of livestock, light outdoor recreation, cemeteries, auto parking, open space, and natural areas.

3. ZONE B: Subject at all times to the height restrictions set forth in Subsection IV-B, and to the general restrictions contained in subsection V-B-1, areas designated as Zone B shall be restricted in use as follows:

   a. Each use shall be on a site whose area shall not be less than two-and-one-half acres.

   b. Each use shall not create, attract, or bring together a site population that would normally exceed 15 times that of the site acreage at any one time.

1) The determination of the normal site population for a proposed use shall be made by the Deputy Zoning Administrator and shall be based on the seating capacity for those areas with fixed seats or on the following standard whichever is appropriate:

(i) For uses involving fixed booths, benches or pews, the occupant load shall be not less than the number of seats available based on one person for each 18 inches of length of pew or bench. Where booths are used in dining areas, the occupant load shall be based on one person for each 24 inches of booth length or major portion thereof.

(ii) For all other uses, the site population shall be determined by dividing the floor area of all structures on the site expressed in square feet divided by the appropriate "Use Factor" set forth below.

Table of Use Factors

Source: Uniform Building Code

Use	Use Factor
Aircraft Hangars	500
Auction Rooms	7
Assembly Areas, Concentrated Use (without fixed assets)	7
Auditoriums	
Bowling Alleys (assembly areas)	
Churches and Chapels	
Dance Floors	
Lodge Rooms	
Reviewing Stands	
Stadiums	
Assembly Areas, Less Concentrated Use	15
Conference Rooms	
Dining Rooms	
Drinking Establishments	
Exhibit Rooms	
Gymnasiums	
Lounges	
Stages	
Children's Homes and Homes for the Aged	80
Classrooms	20
Dormitories	50
Dwellings	300
Garage, Parking	200
Hospitals and Sanitariums/Nursing Homes	80
Hotels and Apartments	200
Kitchen - Commercial	200
Library Reading Room	50
Locker Rooms	50
Mechanical Equipment Room	300
Nurseries for Children (Day-care)	35
Offices	100
School Shops and Vocational Rooms	50
Skating Rinks	50 on the skating area; 15 on the deck
Stores - Retail Sales Rooms	
Basement	20
Ground Floor	30
Upper Floors	50
Swimming Pools	50 for the pool area; 15 on the deck
Warehouses	300
Lobby Accessory to Assembly Occupancy	7
Malls (see Appendix Chapter 7 U.B.C.)	
All Others	100

Example: To determine normal occupancy of 2400-square-foot office building

$$2400 \div 100 = 24 \text{ (normal occupancy load)}$$

2) Where an intended use is not listed, the Deputy Zoning Administrator shall establish an occupant load factor based on a listed use which most nearly resembles the intended use.

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

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

Site Area at least (Acres)	But Less Than (Acres)	Ratio of Site Area to Bldg. Plot Area	Max. Site Population to Acreage Ratio (15 Persons/A)
2.5	4	12:1	15:1
4	6	10:1	15:1
6	10	8:1	15:1
10	20	8:1	15:1
20	and up	4:1	15:1

(EXAMPLE - Total Site Acreage is 5 acres, then total building plot size is .5 acres (21,780 square feet) based on 10:1 ratio. Type of use shall not normally attract a population in excess of 75 people at one time based on 15:1 population ratio.)

e. The following uses are specifically prohibited in Zone B: churches, synagogues, hospitals, nursing homes, schools, lodges, theaters, stadiums, hotels and motels, trailer courts, campgrounds, amusement parks, auditoriums, libraries, sports arenas and other places of frequent public or semipublic assembly. A place of public or semi-public assembly is defined as a building or portion of a building used for the gathering together of persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, dining, or awaiting transportation.

4. ZONE C: Zone C is subject only to height restrictions set forth in Subsection IV-B, and to the general restrictions contained in Subsection V-B-1.

C. BOUNDARY LIMITATIONS: 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 that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

SECTION VI: AIRPORT ZONING MAP

The several zones herein established are shown on the Duluth International Airport Zoning Map consisting of six sheets, prepared for the Joint Airport Zoning Board, and dated April 18, 1988 attached hereto and made a part hereof. Said map, together with such amendments thereto as may from time to time be made, and all notations, references, elevation, data, zone boundaries, and other information thereon, shall here in this Ordinance be referred to as the Airport Zoning Map and the same is hereby adopted as part of this Ordinance.

SECTION VII: NON-CONFORMING USES AS OF ENACTMENT

A. GENERAL: The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed within two years thereof.

B. PROHIBITED USES ON EXCEPTED PARCELS: In addition to the foregoing, nothing herein shall prohibit the expansion of prohibited uses on excepted parcels, as defined in Subparagraph 3 of Paragraph B of Section XVI below, if such prohibited use existed as of the effective date of this Ordinance and if such expansion is permitted by applicable local zoning regulations but no other prohibited use as defined in that subparagraph may be added to or substituted for said pre-existing prohibited use after the effective date of this Ordinance.

C. ACQUISITION IN SAFETY ZONE A: Any land use in Safety Zone A is hereby deemed to be a potential safety hazard and any building lot in Safety Zone A may, therefore, be acquired at public expense.

Section VI

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Airport Zoning Maps

6 pages

filmed on 35mm

+ filed with the plats!

A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use or land and no structure shall be erected, altered, or otherwise established or tree be allowed to grow in any zone hereby created unless an application for an airport zoning permit shall have been made and the permit granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient information with respect to the proposed project to permit a determination as to whether it conforms to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1. A permit for a tree of less than 75 feet of vertical height above ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.

2. Nothing contained in this foregoing exception shall be construed as permitting or intending to permit the growth of any tree in excess of any of the height limitations established by this Ordinance set forth in Section IV.

B. EXISTING USES: Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change or repair. All applications for such a permit shall be granted if the proposed replacement, change or repair inclusive with the existing use or structure conforms with the provisions set forth in Sections IV-B and V-B. A permit to rebuild a structure which has been damaged or destroyed by fire or other casualty shall be granted if the rebuilding will not create a greater airport hazard or hazard to air navigation than it was prior to the casualty loss.

No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto, or than it is when the

application for a permit is made. A proposed replacement, change or repair inclusive with the existing use which by virtue of the proposed action would not comply with the provisions set forth in Sections IV-B and V-B shall be considered to be the establishment or creation of a greater airport hazard or greater hazard to air navigation than on the effective date of this Ordinance.

C. APPLICATIONS:

1. Reviews:

All applications for permits for the construction, addition, alterations or repair of any structure or the growth of any tree within the zones defined and controlled by this ordinance shall be reviewed by the Deputy Zoning Administrator.

2. Submit with Permit:

All applications for airport zoning permits shall be accompanied by accurate plot plans, submitted in triplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the structures then existing and the lines within which the proposed structure or tree shall be erected, altered, or grown, its proposed height, the existing and intended use of each structure or part of a structure, the number of families or housekeeping units the structure(s) is designed to accommodate and such other information as may be necessary to determine and provide for the enforcement of this Ordinance. One copy of such plot plans shall be returned to the owner when such plans have been approved. An inspection period of 15 business days shall be allowed for inspection of plans before a permit shall be issued. Applicant shall receive a response from the Deputy Zoning Administrator within fifteen (15) business days. The failure of the Deputy Zoning Administrator to respond within this specified time will result in the automatic submittal of the application to the Joint Airport Zoning Board.

Exception: The Deputy Zoning Administrator may waive the submission of plans if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this Ordinance.

3. Other Permits:

Permits issued under this Ordinance will not relieve the permittee of any responsibility of obtaining permits or paying fees required under any other applicable ordinance or law.

D. NON-CONFORMING USES ABANDONED: Notwithstanding the provision of Paragraph B above, whenever the Deputy Zoning Administrator determines that a non-conforming structure or tree has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the Deputy Zoning Administrator may order the owner of such structure or tree, at the owner's expense, to lower, remove, reconstruct or equip the same in the manner necessary to conform to the provisions of this Ordinance. In the event the owner of such structure or tree shall fail to comply with the order for fifteen days after transmission of written notice of the order, the Deputy Zoning Administrator may, by appropriate legal action, proceed to have such structure or tree lowered, removed, reconstructed or equipped and assess the cost and expense thereof against the land on which the structure or tree is or was located. Unless such assessment is paid within ninety (90) days from the service of notice on the agent or owner of the land, the sum shall bear interest at the prevailing legal rate per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

SECTION IX: VARIANCES

A. Application and Granting:

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in the Ordinance may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulations. An applicant shall submit an application for a variance by certified mail to the Deputy Zoning Administrator of the appropriate jurisdiction who shall forward it together with his recommendations to the Chief Zoning Administrator for action by the Board of Adjustment. If the Board of

Adjustment fails to grant or deny the variance within 60 calendar days after the Chief Zoning Administrator receives the application, the variance shall be deemed to be granted. When the variance is granted by reason of the failure of the Board of Adjustment to act on the variance, the person receiving the variance shall notify the Joint Airport Zoning Board and the Minnesota State Commissioner of Transportation (the "Commissioner") by certified mail that the variance has been so granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 calendar days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Section 360.063, Subdivision 6a, "Procedure when Zoning Board Fails to Act." Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and that the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of this Ordinance; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment or Commissioner may deem necessary to effectuate the purpose of this Ordinance.

B. LIMITATION OF SCOPE: In the event that a permit application is denied by the Deputy Zoning Administrator because it violates the terms of this airport zoning ordinance and the terms of any other applicable regulation, the applicant must receive a variance from the Board of Adjustments, as provided for herein and any other permit, variance or other approval so required before the activity sought to be permitted is undertaken.

SECTION X: HAZARD MARKING AND LIGHTING

A. NON-CONFORMING USES: The owner of any non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Chief Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards.

B. PERMITS AND VARIANCES: If such action is deemed advisable to effectuate the purpose of this ordinance and is reasonable in the circumstances, the Deputy Zoning Administrator or Board of Adjustment, as the case may be,

may condition any permit or variance granted so as to require the owner of the structure or tree in question at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

SECTION XI: AIRPORT ZONING ADMINISTRATOR

A. CHIEF ZONING ADMINISTRATOR: It shall be the duty of the Chief Zoning Administrator who shall be the principal building official of the City of Duluth or his authorized representative to administer and enforce the regulations prescribed herein. The Chief Zoning Administrator shall serve at the direction of the Joint Zoning Board and shall be accountable to the Board in the administration of this Ordinance.

It shall be the duty of the Chief Zoning Administrator to:

1. Coordinate and monitor the overall administration and enforcement of the regulations for the Joint Airport Zoning Board.

2. Review all permit applications granted or denied by the Deputy Zoning Administrator for conformance with the provisions of this Ordinance and to report any non-conformities to the Joint Airport Zoning Board.

3. Maintain a central permanent file of all official records related to the provisions of this Ordinance.

4. Provide clerical and technical assistance in the pursuit of his duties.

5. Disseminate information, revisions, amendments, recording requirements and other procedures or forms as necessary to the Deputy Zoning Administrator.

6. Provide a certified copy of permits and variances granted to the County Recorder of St. Louis County.

7. Serve as an ex officio member of the Board of Adjustment and act as Secretary for said Board.

8. Act as Deputy Zoning Administrator within the City of Duluth.

Should a local governmental jurisdiction fail to designate a Deputy Airport Zoning Administrator, or in the event of a vacancy of said position, the Chief Zoning Administrator or his authorized representative

upon approval by the Joint Airport Zoning Board shall administer and enforce the regulations prescribed herein within that jurisdiction.

B. DEPUTY ZONING ADMINISTRATOR: Each governmental jurisdiction whose land is affected by this Ordinance shall designate a local representative from their zoning or building inspection department who shall serve as Deputy Zoning Administrator, who shall coordinate with the Chief Zoning Administrator and who shall administer and enforce within his jurisdiction the regulations prescribed herein. Applications for permits and variances shall be made to the respective Deputy Zoning Administrator upon a form furnished by him.
It shall be the duty of the Deputy Zoning Administrator to:

1. Review all applications for permits together with supporting documents and promptly grant or deny them based upon conformance with the provisions of this Ordinance.

2. Issue Airport Zone Permits for those applications granted by him.

3. Transmit variance applications and supporting documents to the Chief Zoning Administrator.

4. Maintain a current file of all permits and all copies of notices of violation for such time as necessary to insure continuous compliance with the provisions of this Ordinance and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.

5. Periodically inspect buildings and uses of land to determine compliance with the terms of this Ordinance. The Deputy Zoning Administrator shall have the power to enter at reasonable times upon any private or public property for the purpose of investigating conditions relating to the enforcement of this Ordinance.

6. Notify, in writing, any person responsible for violating a provision of this Ordinance, indicating the nature of the violation and ordering the action necessary to correct it.

7. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

8. Maintain permanent and current records of the Zoning Ordinance, including all maps, amendments, special uses, and variations.

9. Provide clerical and technical assistance in the pursuit of his duties.

A copy of all permit and variance applications and supporting documents shall be submitted within five (5) business days to the Chief Zoning Administrator by the Deputy Zoning Administrators. A copy of all approvals, denials and notice of violations shall similarly be submitted to the Chief Zoning Administrator within five (5) business days by the Deputy Zoning Administrator.

In the event that a Deputy Zoning Administrator willfully or knowingly circumvents or fails to enforce the regulations prescribed herein or neglects the duties entrusted to him by this Ordinance, Joint Airport Zoning Board shall relieve him of his duties, notify the appropriate governmental jurisdiction, and if such jurisdiction does not appoint a replacement Deputy within ten (10) days, the Joint Zoning Board shall then be empowered to replace said Deputy Zoning Administrator or take responsible charge of administration and enforcement of the Airport Zoning Ordinance within that jurisdiction.

SECTION XII: BOARD OF ADJUSTMENT

A. ESTABLISHMENT: The members of the Board of Adjustment shall serve for a term of three years and until their successors are duly appointed and qualified. The Board of Adjustment shall be comprised of one member each appointed by the Cities of Duluth and Hermantown, the Duluth Airport Authority, and the Townships of Rice Lake and Canosia. Of the members first appointed, one shall be appointed for a term of one year, two for a term of two years and two for a term of three years. Upon their appointment, the members shall select a chairman to act at the pleasure of the Board of Adjustment. Members shall be subject to removal by the Joint Airport Zoning Board for just cause, upon written charges, after a public hearing. In addition to the regular members, the Chief Zoning Administrator shall be an ex officio member of the Board and shall act as Secretary for the Board but shall not be entitled to vote on matters presented to the Board.

B. POWERS: The Board of Adjustment shall have and exercise the following powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Chief or Deputy Zoning Administrators in the enforcement of this Ordinance.

2. To hear and decide specific variances.

C. PROCEDURES

1. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment 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 Chief Zoning Administrator and shall be a public record. A certified copy of any variance granted shall be transmitted to the Chief Zoning Administrator to be filed with the County Recorder of St. Louis County.

2. The Board of Adjustment shall make written findings of fact upon which it acted and its conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance.

3. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to uphold or reverse any order, requirement, decision or determination of the Chief or Deputy Zoning Administrator.

SECTION XIII: APPEALS

A. Who May Appeal:

Any person aggrieved, or any taxpayer affected by any decision of the Deputy Zoning Administrator made in the administration of this Ordinance may appeal that decision to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, township, county, authority or airport zoning board which is of the opinion that a decision of the Deputy Zoning Administrator is an improper application of this Ordinance as it concerns such governing body or board.

B. Procedure:

All appeals hereunder must be commenced within 30 days of notice of the Deputy Zoning Administrator's decision by filing with the Deputy Zoning Administrator a notice of appeal specifying the grounds thereof. The Deputy Zoning Administrator shall send a copy of said notice together with his recommendations by certified mail to the Chief Zoning Administrator to be forwarded to the Board of Adjustment together with all the papers constituting the records upon which the action appealed from was taken. In addition, any person aggrieved by any decisions of the Deputy Zoning Administrator made in his administration of this Ordinance who desires to appeal such decision shall submit an application for a variance by certified mail to the Chief Zoning Administrator as set forth in Section IX above.

C. Stay of Proceedings:

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

D. Hearing:

The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice, notice to St. Louis County, the municipalities of Duluth and Hermantown, the townships of Canosia and Rice Lake, and to the

Duluth Airport Authority, and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

E. Decisions:

The Board of Adjustment may, in conformity with the provisions of this Ordinance, affirm or reverse, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Deputy Zoning Administrator for the purpose of enforcing the Airport Zoning Ordinance.

SECTION XIV: JUDICIAL REVIEW

Any person, including any taxpayer, affected by any decision of the Board of Adjustment, and the governing body of any municipality, county, authority, or airport zoning board aggrieved by a decision of the Board of Adjustment may appeal that decision to the District Court for St. Louis County by filing a verified pleading setting forth the decision being appealed from and specifying the grounds of the appeal. Such petition shall be filed with the Court within 30 days after the decision is filed in the office of the Chief Zoning Administrator. The Appellant must exhaust the remedies provided in this Ordinance before availing himself of the right to petition the Court as provided by this section.

SECTION XV: PENALTIES

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 provisions 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, or fail to install, operate, and maintain markers and lights on new construction or tree growth as stipulated in such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than $700 or imprisonment for not more than 90 days or both.

Each day a violation continues to exist shall constitute a separate offense. The Chief Zoning Administrator or a Deputy Zoning Administrator may enforce all provisions of this Ordinance through such proceedings for injunctive relief and other relief as may be proper the laws of Minnesota Statutes 360.073 (Violations, Penalties) and other applicable law.

SECTION XVI: EXEMPTIONS

A. LANDS USED FOR AERONAUTICAL PURPOSES: The provisions of the 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 or political subdivisions thereof or the United States of America and used by the Duluth Airport Authority exclusively for aeronautical purposes.

B. EXCEPTED PARCELS: The lands designated as excepted parcels on Sheet 5 of the Airport Zoning Map are exempt from the USE RESTRICTIONS of Sections V-B-3. Said parcels are shown on the Airport Zoning Map and are described on Exhibit B attached hereto and made a part hereof. The exemption provided by this Paragraph B of Section XVI shall apply to all subsequent parcels of land created from the above-described parcels. The following restrictions shall apply to the use of Excepted Parcels:

1. Land uses consistent with those designated in any applicable local zoning regulation or which existed as of the effective date of this Ordinance in the Excepted Parcels set forth in Section XVI-B above, and as shown on the Airport Zoning Map are subject to the height restrictions of Section IV-B, and the general restrictions of Section V-B-1.

2. Land uses not consistent with those designated in any applicable local zoning regulation unless they are in existence as of the date of this Ordinance are subject to the Zone B restrictions in their entirety.

3. The following uses are specifically prohibited in the excepted parcels: churches, synagogues, hospitals, nursing homes, schools, lodges, theaters, stadiums, hotels and motels, mobile home parks, campgrounds, amusement parks, auditoriums, libraries, sports arenas and other places of frequent public or semi-public assembly. A place of public of semi-public assembly is defined as a building or portion

of a building used for the gathering together of persons for such purposes as deliberation, education, instruction, worship, or awaiting transportation.

SECTION XVII: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION XVIII: SEVERABILITY

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

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

SECTION XIX: EFFECTIVE DATE

0456132

This Ordinance shall take effect on the 18 day of June, 1988. Copies thereof shall be filed with the Commissioner of Transportation, Division of Aeronautics, State of Minnesota, and the County Recorder, St. Louis County, Cities of Duluth and Hermantown, Townships of Canosia and Rice Lake, Minnesota.

Passed and adopted after public hearing by the Duluth - Hermantown - Canosia - Rice Lake - St. Louis County Joint Airport Zoning Board this 18 day of April, 1988.

Chairman

Member

Member

Member

Member

Member

Member

Member

Member

Member

Member

Member

JOSEPH M. LASKY
Court Administrator
By: Janice M. McGuire
Deputy
6/17/88

EXHIBIT A

DULUTH INTERNATIONAL AIRPORT

ZONING ORDINANCE

0456132

This ordinance affects all or a portion of the following sections of land:

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

EXHIBIT B

0456132

The below-described properties are excepted proposals as provided for and described in Section XVI(B). (The number appearing at the end of each parcel description is the St. Louis County Property Identification Number as of the effective date of this ordinance).

I. The parcels described in this Section of this Exhibit B are all located in Section 11, Township 50 North, Range 15 West, St. Louis County, Minnesota, and are further described as follows:

A. Part of the NE¼ of the SE¼ beginning at the intersection of the South line of Miller Trunk Highway with the West line of Stebner Road, thence Northwesterly along said Miller Trunk Highway for a distance of 100 feet, thence Southeasterly to a point on said Stebner Road being 100 feet South of the point of beginning, thence Northerly 100 feet to the point of beginning (395-10-3117).

B. The Southerly 575 feet of the NE¼ of the SE¼ except the Northerly 525 feet of the Easterly 650 feet (395-10-3110).

C. Part of the NE¼ of the SE¼ beginning at a point 650 feet West of the East line and 575 feet North of the South line of said NE¼ of the SE¼, thence Westerly 200 feet parallel to the South line of said NE¼ of said SE¼, thence Northerly 675 feet to a point on Miller Trunk Highway which is 942.62 feet Northwesterly of the West line of Stebner Road, thence Southeasterly 200 feet along said Miller Trunk Highway to a point 742.62 feet Northwesterly of the West line of Stebner Road, thence Southerly 550 feet to the point of beginning (395-10-3112).

D. That part of the NE¼ of the SE¼ lying Southerly of the Southwest right-of-way line of Miller Trunk Highway and Highway 94 except an 11/100-acre tract along highway right-of-way and except a 1-11/100-acre tract along highway right-of-way and except a 2-80/100-acre tract along highway right-of-way and except the Southerly 575 feet lying West of the East 650 feet and except the Southerly 50 feet of the East 650 feet (395-10-3115).

E. That part of the NE¼ of the SE¼ beginning at the intersection of the West line of Stebner Road with the South line of Miller Trunk Highway, thence Northwesterly along said road 390 feet, thence Southerly 150 feet, thence Southeasterly 390 feet, thence Northerly 150 feet to the point of beginning, except for 11/100 acre in the Northeast corner (395-10-3116).

II. The following parcels are located in Section 12, Township 50 North, Range 15 West of the Fourth Prime Meridian, St. Louis County, Minnesota, and are further described as follows:

A. The SW¼ of the SW¼ of the SW¼ (395-10-3430).

B. That part of the NW¼ of the SW¼ lying West of Miller Trunk Highway (395-10-3360).

C. The N½ of the NW¼ of the SW¼ of the SW¼, except that parcel beginning at the Northeast corner, thence Southerly 329.34 feet, thence Westerly 164 feet, thence Northeasterly to the point of beginning (395-10-3410).

D. That part of the W½ of the W½ of the NE¼ of the SW¼ of the SW¼ lying Southerly of Miller Trunk Highway except 1/100 acres in the Northwest corner (395-10-3405).

E. The NW¼ of the SW¼ except that part West of Miller Trunk Highway, except for 21/100 acres for highway right-of-way, except 3-4/100 acres at the Southeast corner, except 2-41/100 acres West of Anderson's Acres Tract North of Miller Trunk Highway and except 10-50/100 acres platted and except a tract 400' x 400' at the Northwest corner and except 71/100 acres for a drainage ditch, that lies South of the Easterly extension of the North line of Lot 3, Anderson's Acres Tracts (395-10-3350).

F. The Easterly 134.63 feet of the West 267.63 feet of that part of the NW¼ of the SW¼ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3355).

G. The Easterly 165.22 feet of the West 432.85 feet of that part of the NW¼ of the SW¼ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3356).

H. The Easterly 100 feet of the Westerly 133 feet of that part of the NW¼ of the SW¼ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3354).

I. That part of the W½ of the W½ of the NE¼ of the SW¼ of the SW¼ of said Section 12 beginning at the intersection of the Westerly line of said W½ of the W½ of the NE¼ of the SW¼ of the SW¼ of said section and the Southerly right-of-way line of Miller Trunk Highway, thence Southeasterly along said right-of-way line 24 feet, thence Southwesterly 90 degrees to the right to the aforesaid West line, thence Northerly to the point of beginning (395-10-3400).

J. That part of the N½ of the NW¼ of the SW¼ of the SW¼ of Section 12 beginning at the Northeast corner of said N½ of the NW¼ of the SW¼ of the SW¼, thence South along the East line of said N½ of the NW¼ of the NW¼ of the SW¼ for a distance of 329.34 feet to a point, thence Westerly 90 degrees to the right for a distance of 164 feet to a point, thence Northeasterly to the point of beginning (395-10-3412).

III. Lots 1, 2 and 3, Anderson's Acres Tracts, according to the plat on file and of record in the office of the St. Louis County Recorder, St. Louis County, Minnesota (395-15-10).