

DOCKET NO. 287
ORDER NO. 523

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
AERONAUTICS DIVISION

ORDER APPROVING REVISED PROPOSED ORDINANCE
OF THE
CITY OF ELY - LAKE COUNTY - ST. LOUIS COUNTY
AND THE TOWN OF MORSE JOINT AIRPORT ZONING BOARD

Pursuant to the provisions of Minnesota Statutes 1974, Sections 360.061 to 360.076, as amended, known as the "Airport Zoning Act," the City of Ely - Lake County - St. Louis County and Town of Morse Joint Airport Board, through Mr. Laurence J. Klun, City Attorney, on December 2, 1982, submitted to the Assistant Commissioner of Transportation, Aeronautics Division, for his approval, a revised proposed ordinance establishing zoning regulations for the Ely Municipal Airport, together with an airport zoning map showing the airport and the area to be zoned as established by the ordinance.

NOW, THEREFORE, IT IS HEREBY ORDERED by the Assistant Commissioner that the zoning regulations as submitted by and proposed to be adopted by the City of Ely - Lake County - St. Louis County and the Town of Morse Joint Airport Zoning Board for the Ely Municipal Airport comply with Minnesota Statutes and Division of Aeronautics Rules and Regulations relating to zoning of public airports and the proposed zoning regulations are hereby approved.

Richard B. Keinz
Assistant Commissioner
Department of Transportation
Aeronautics Division

December 6, 1982

354630

OFFICE OF COUNTY RECORDER
STATE OF MINNESOTA }
County of St. Louis } ss.

I hereby certify that the said instru-
ment was filed in this office for record
as Document No. 354630

JAN 14 1983 at 2 P M

CLARK A. ILSE

County Recorder

By

Marion Davis

Deputy

L. J. Klum

Clk. 1900 P.M.

ELY MUNICIPAL AIRPORTZONING ORDINANCE

Adopted December 8, 1982

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ELY MUNICIPAL AIRPORT
ZONING ORDINANCE
Created by the
Ely - Lake County - St. Louis County and Town of Morse
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 ELY MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE ELY MUNICIPAL AIRPORT ZONING MAP WHICH IS 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 ELY - LAKE COUNTY - ST. LOUIS COUNTY AND TOWN OF MORSE JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES 360.061 - 360.074, AS FOLLOWS:

SECTION I. PURPOSE AND AUTHORITY

The Ely - Lake County - St. Louis County and Town of Morse Joint Airport Zoning Board, hereinafter referred to as "Joint Airport Zoning Board", created and established by joint action of the Common Council of the City of Ely and the Board of County Commissioners of St. Louis and Lake Counties and supervisors of the Town of Morse, pursuant to the provisions and authority of Minnesota Statutes 350.063, hereby finds and declares that:

A. An airport hazard endangers the lives and property of users of the Ely Municipal Airport, and property or occupants of land in its vicinity, and also, if of 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 Ely Municipal Airport and 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 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 preservation of this Airport should be accomplished, to the extent legally possible, by the exercise of the power without compensation.

E. The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds.

F. The lands subject to the regulations of this ordinance are presently subject to zoning ordinances adopted by the counties of Lake and St. Louis, as amended from time to time, copies of which ordinance and other ordinances are available from:

- 1) Lake County - Lake County Planning and Zoning
Court House
Two Harbors, Mn. 55616
- 2) St. Louis County - St. Louis County Planning
and Zoning
St. Louis County Court House
Duluth, Mn. 55802

SECTION II. SHORT TITLE

This ordinance shall be known as "Ely Municipal Airport Zoning Ordinance". Those sections of land affected by this ordinance are indicated in "Exhibit A", which is attached hereto and incorporated into this ordinance by reference.

SECTION III. DEFINITIONS

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

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

"AIRPORT" means the Ely Municipal Airport, owned by said City and land located in part of Township 62N, Range 12W, in SECTIONS:

- | | |
|----|--|
| 25 | NW-SW, SW-SW, SE-SW, and diagonal SW 1/2 of SW 1/4 of SE 1/4; |
| 26 | Part of G.L. 1, G.L. 2, part of SW-NW, SE-NW, NW-SW, E 1/2 of SW 1/4, SE 1/4, SW-NE and part of SE-NE; |
| 27 | G.L. 1, 2, 3 and part of G.L. 5; |
| 36 | NW-NE and NE-NW. |

"AIRPORT BOARD OF ADJUSTMENT", for purposes of this ordinance, shall be constituted and appointed as provided by this Ordinance as adopted by the Joint Airport Zoning Board and as amended from time to time. The Airport Board of Adjustment may be a different entity for property lying in St. Louis or Lake County.

"AIRPORT BOUNDARY" means the outer edge of the Primary Zone as defined in Section IV., A., Paragraph 1.

"AIRPORT ELEVATION" means the established elevation of the highest point on the useable landing area which elevation is established to be 1461 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 the 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 HAZARD AREA": The Joint Airport Zoning Board does define and declare all those areas lying within the approach zones designated under this ordinance to be airport hazard area, and said Board further finds that all other areas within one and one-half miles of the airport boundary are airport hazard areas.

"APPROACH ZONE" means all that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is the same width and elevation as, and coincides with, the end of the primary surface, and the width of which is designated as safety zones A and B for any runway.

"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 and amended from time to time.

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

"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.

"LANDING STRIP" means any grass or turf-covered area of the airport specifically designated and used for the landing and/or take-off of aircraft. This term shall have the same meaning throughout this ordinance as does the term "runway".

"LIGHT OUTDOOR RECREATION" means any recreational or sports facility which does not create, attract or bring together a site population in excess of fifteen persons per acre.

"NON-CONFORMING USE" means any pre-existing structure, tree, natural growth or use of land which is inconsistent with 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 or indicated on an approved planning document.

"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 the ordinance, refers only to those proposed future aviation developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation and the City of Ely, a Municipal Corporation of the State of Minnesota.

"PRECISION INSTRUMENT RUNWAY" means a runway equipped or to be equipped with a precision electronic navigation aid or landing aid or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

"RUNWAY" means any paved surface of the airport which is specifically designated and used for the landing and/or take-off of aircraft.

"SLOPE" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude:
SLOPE = 3:1 = 3 ft. horizontal to 1 ft. vertical

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

"TRAVERSE WAYS", for the purpose of determining height limits 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 traverseways 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 designation indicated on an approved planning document.

"WATER SURFACE", for the purpose of this ordinance, shall have the same meaning as land for the establishment of protected zones.

"ZONING ADMINISTRATOR": for the purpose of this ordinance, the method of designation and the appointment of the Zoning Administrator shall be as provided in this Ordinance of the Joint Airport Zoning Board as adopted and as amended from time to time. The Zoning Administrator may be a different person for property lying in St. Louis County or Lake County.

SECTION IV. AIRSPACE OBSTRUCTION ZONING

A. AIRSPACE ZONES: Since structure heights must be regulated to protect aircraft from navigational hazards during landings and departures, a number of aircraft 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, Precision Instrument Approach Zone, Non-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 the runway; 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 1,000 feet for runways 12 and 30. The width of the primary surface is 500 feet for runways 02 and 20.

2. HORIZONTAL ZONE: All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1611 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 area by lines tangent to these arcs. The radius of each arc is 10,000 feet for runways 12 and 30 and 6,000 feet for the runways 2 and 20. When a 6,000 ft. arc is encompassed by tangents connecting two adjacent 10,000 ft. arcs, the 6,000 ft. 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 from the horizontal distance of 4,000 feet.

4. a) PRECISION INSTRUMENT FINAL APPROACH ZONE TO RUNWAY 30: All that land which lies directly under an imaginary instrument approach surface longitudinally centered on the extended centerline at the end of runway 30. The inner edge of the instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The instrument approach surface inclines upward and outward for a horizontal distance of 10,000 feet at a slope of 50 to 1, 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 to 1 expanding uniformly to a width of 16,000 feet.

b) NON-PRECISION APPROACH TO RUNWAY 12: All that land which lies directly under the imaginary approach surface longitudinally centered on the extended centerline at the end of runway 12. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward for a horizontal distance of 10,000 feet at a slope of 40 to 1, expanding uniformly to a width of 4,000 feet.

5. NON-PRECISION INSTRUMENT FINAL APPROACH ZONE TO RUNWAYS 02 AND 20: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway 02 and 20. The inner edge of the non-precision instrument approach surface is at the same width and elevation as, and coincides with, the primary surface. The approach surface inclines upward and outward at a slope of 40 to 1, expanding uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet and then continuing at the same rate of divergence to the periphery of the conical surface.

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 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

Transitional surfaces for those portions of the precision instrument approach 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 precision instrument approach surface and at right angles to the extended precision instrument runway centerline.

B. HEIGHT RESTRICTIONS: Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, or maintained, allowed to grow in any airspace zone 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 Joint Airport Zoning Board may regulate the location, size and use of buildings and the density of population in that portion of an airport hazard area under the approach zones for a distance not exceeding 7,400 feet from the airport boundary and by height restriction zoning for a distance not to exceed one and one-half 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 land use safety zone boundaries:

1. SAFETY ZONE A: All land in that portion of the approach zones of a runway as defined in Subsection IV.A. hereof, which extends outward from the end of primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be:

- a. 4,933 feet for Runways 12 and 30.
- b. 2,733 feet for Runways 02 and 20.

2. SAFETY ZONE B: All land in that portion of the approach zones of a runway, as defined in Subsection IV.A. hereof, which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be:

- a. 2,467 feet for Runways 12 and 30.
- b. 1,367 feet for Runways 02 and 20.

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 or Zone B.

B. GENERAL 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 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, take 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 thereof. Permitted uses may include agricultural, light outdoor recreation (non-spectator), cemeteries, and vehicle parking lots.

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 used for the following purposes only:

a. Any use permitted in Subsection V.B-2 (Zone A).

b. Residential, provided that there shall be no more than one single family dwelling per three acre site, and which use may include one detached garage or storage building with maximum area of 1,500 square feet.

c. Commercial or Industrial use, subject to the following limitations:

(1) Each such use shall not create, attract or bring together a site population in excess of fifteen persons per acre.

(2) Each such use site shall contain not less than three acres of land.

(3) Each such use shall contain no dwelling units and shall contain not more than one structure per three acres of land.

(4) The maximum ground area covered by a single structure shall not exceed one-twelfth of the land area when the site area is ten acres or less and shall not exceed one-eighth of the land area when the site area exceeds ten acres.

d. The following uses are specifically prohibited in Zone B:

Churches, hospitals, schools, theatres, stadiums, hotels, motels, trailer courts, campgrounds, and other places of public or semi-public assembly.

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

C. BOUNDARY LIMITATIONS: The Joint Airport Zoning Board may regulate the location, size and use of buildings and the density of population in that portion of an airport hazard area under the approach zones for a distance not to exceed 7,400 feet from the airport boundary and in other portions of an airport hazard area not to exceed one and one-half miles from the airport boundary.

SECTION VI. LAND USE NOISE SENSITIVITY

(Reserved for future use)

SECTION VII: AIRPORT ZONING MAP

The several zones herein established are shown on the Ely Municipal Airport Zoning Map consisting of three sheets prepared by PRC - Speas Associates, 3003 New Hyde Park Rd., New Hyde Park, New York, 11040, dated 1979, attached hereto and made a part hereof, which map together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries and other information thereon, shall be and the same is hereby adopted as part of this ordinance.

SECTION VIII. NON-CONFORMING USES

Regulations Not Retroactive: The regulations prescribed by this ordinance shall not be construed to require the removal, lowering or other change 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.

SECTION IX. PERMITS

A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use of the land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a Permit therefore shall have been applied for and granted by the Zoning Administrator, herein provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the Permit shall be granted.

1. However, a Permit for a tree of less than 75 feet of vertical height above the 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, because of terrain, land contour or topographic features, would extend above the height limit prescribed for the respective zone.

2. Nothing contained in this foregoing exception shall be construed as permitting or intending to permit growth of any tree in excess of any of the height limitations established by this Ordinance as 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. 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 Permit is made. Except as indicated, all applications for such a Permit shall be granted.

C. NON-CONFORMING USES ABANDONED OR DESTROYED:

Whenever the Zoning Administrator determines that a non-conforming structure or tree has been abandoned or more than 50% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a Permit under this paragraph or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed non-conforming structure, at his own 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 the non-conforming structure shall neglect or refuse to comply with such order for ten (10) days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed non-conforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety (90) days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight (8) per cent 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, or as otherwise provided by law.

SECTION X. VARIANCES

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 this Ordinance, may apply to the Airport Board of Adjustment, herein provided for for a variance from such regulations. If a person submits an application for a variance by certified mail to the Administrator and the Board fails to grant or deny the variance within four (4) months after the last Board member receives the application, the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the failure of the Board to act on the variance the person receiving the variance shall notify the Board members individually and the Commissioner of Transportation by certified mail that the variance has been 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 sixty (60) days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Section 360.063, Subdivision 6.

Such variance 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 relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Ordinance; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purpose of this Ordinance.

SECTION XI. 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 thereof of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Ely.

B. PERMITS AND VARIANCES: Any permit or variance granted by the Zoning Administrator or Board of Adjustment, as the case may be, may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, so condition such permit or variance 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 XII. AIRPORT ADMINISTRATION

A. ADMINISTRATION: It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by him/her. Permit applications shall be considered and granted or denied by him/her within fifteen (15) days of application. Variance applications, upon receipt by the Zoning Administrator, shall be forthwith transmitted by the Zoning Administrator for action to the members of the Airport Board of Adjustment herein provided for.

B. ZONING ADMINISTRATOR: The Zoning Administrator for land lying in the County of St. Louis shall be the Clerk of the City of Ely; for land lying in the County of Lake shall be the Lake County Planning and Zoning Director.

SECTION XIII. AIRPORT BOARD OF ADJUSTMENT

A. ESTABLISHMENT: The Airport Board of Adjustment for land lying in the County of Lake shall be the Lake County Board of Adjustment. The Airport Board of Adjustment for land lying in the County of St. Louis shall consist of five (5) members, each to be appointed by the Joint Airport Zoning Board; each to serve

a term of three (3) years; and each may be removed by the Joint Airport Zoning Board for cause, upon written charges and after public hearing; provided further that of the five (5) members appointed there shall be two (2) each who are residents of the City of Ely and the Town of Morse, and one who is a resident of the County of St. Louis.

B. POWER: 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 Zoning Administrator in the enforcement of this Ordinance.
2. To hear and decide specific variance applications.
3. To place conditions on 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 Zoning Administrator and shall be a public record.

2. The Board of Adjustment shall make written Findings of Fact and Conclusions of Law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination 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 reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.

SECTION XIV. SCHEDULE OF FEES

The Schedule of Fees and Collection Procedures for Zoning Permits and Variance Applications as required by this Ordinance shall be as adopted by resolution of the Lake County Board of Commissioners for land lying in the County of Lake, and by joint Resolution of the City of Ely and the Town of Morse upon recommendations of the Airport Board of Adjustment for land lying in the County of St. Louis. No zoning Permit or variance shall be issued unless or until such application fee shall have been paid in full with the Zoning Administrator, nor shall any action be taken on proceedings for the Airport Board of Adjustment unless or until fees have been paid in full.

SECTION XV. APPEALS

A. Any person aggrieved or any taxpayer affected by a decision of the Zoning Administrator made in the administration of this Ordinance may appeal to the Board of Adjustment. Such appeal may also be made by any governing body of a town, municipality, county or Joint Airport Zoning Board, which is of the opinion that a decision of the Zoning Administrator is an improper application of this Ordinance as it concerns such governing body, board, or other aggrieved party.

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Zoning Administrator a Notice of Appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken, together with the Notice of Appeal.

C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the 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 cases, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within thirty-five (35) days of close of the hearing. At the hearing, any party may appear in person or be represented by authorized agent.

E. The Board of Adjustment 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, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator. All variance approvals shall be recorded in the Office of the County Recorder by the Zoning Administrator for the appropriate County.

SECTION XVI. JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected by any decisions of the Board of Adjustment, or any governing body of a municipality, town, county or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal, may present to the District Court of the County wherein the subject premises are situated, a verified Petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such Petition shall be filed with the Court within thirty (30) days after the date the decision is filed in the Office of the Zoning

Administrator. The Petitioner must exhaust the remedies provided in this Ordinance before availing himself of the right to Petition a Court as provided by this Section.

SECTION XVII. 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, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or imprisonment for not more than ninety (90) days or both. Each day a violation continues to exist shall constitute a separate offense.

SECTION XVIII. CONFLICT

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable, including but not limited to the Zoning and Land Use Ordinance of Lake and St. Louis Counties, to the same area, whether the conflict be with respect to the height of structure or trees, the use of land, or any other matter, the more stringent limitation or regulations shall govern and prevail.

SECTION XIX. SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are held by the Court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be 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 the United States, such holding shall not affect the application of this ordinance as to other structures and parcel of land and to this end the provisions of this ordinance are declared to be severable.

SECTION XX. VALIDITY

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.

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SECTION XXI. PLANNED RUNWAY 02/20

SUSPENSION OF RESTRICTIONS - Anything to the contrary notwithstanding, the restrictions herein provided for Zones A and B of Planned Runway 02 and 20 shall not apply and said restrictions are hereby suspended ab initio and shall be of no force or effect.

For the purposes of this Ordinance, and controlling in all respects, including but not limited to Safety Zone Boundaries, Air Space Zones, Height Restrictions, Non-Conforming Uses, Use Restrictions, Boundary Limitations, Permits and Variances the approach zones, the Planned Runways 02 and 20, and the Airspace Zones described in Section IV.A. with respect to Planned Runways 02 and 20, are hereby deemed NOT to be established nor created. Further provided that the land and airspace, which would otherwise be controlled if planned Runways 02 and 20 presently existed, shall be controlled. and this Ordinance shall be administered in the following manner:

1. The described Airspace Zones (Section IV.A.) and Safety Zone Boundaries (Section V.A.) with respect to Planned Runways 02 and 20 shall not be operative.

2. The described Airspace Zones (IV.A.), Safety Zone Boundaries (V.A.) and provisions as established with respect to Runways 12 and 30 shall control.


3. All that land which is enclosed within the perimeter of the Horizontal Zone, as defined in Subsection IV.A. hereof as written, and which is not included in Zone A or Zone B of Runways 12 and 30, is hereby created and established as Safety Zone C.

It is the intention and purpose of this Section to create and establish A and B Zones only with respect to Runways 12 and 30 and, further to provide that Zone C restrictions shall control in the remainder of the Horizontal Zone as described herein and shown on the map adopted as part of this Ordinance. The Ordinance shall be administered to reflect the fact that the Planned Runways 02 and 20 are NOT presently in existence, and to create a system of Land Use Zoning which conforms to the minimum standards prescribed by the Commissioner for the Ely Municipal Airport with its existing Runways 12 and 30, pursuant to Minnesota Statutes Sections 360.011 to 360.076.


SECTION XXII. EFFECTIVE DATE

This Ordinance shall take effect on the 1st day of January, 1983. Copies thereof shall be filed with the Commissioner of Transportation, State of Minnesota, and the County Recorders of St. Louis County and Lake County, Minnesota.

Passed and adopted after Public Hearing by the Joint Airport Zoning Board this 8th day of December, 1982.


Chairman

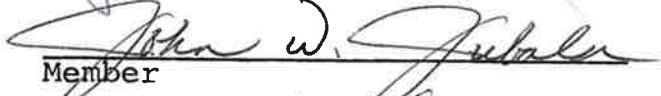

Member


Member


Member


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10/11/82

EXHIBIT A
ELY MUNICIPAL AIRPORT

ZONING ORDINANCE

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

	<u>AIRSPACE OBSTRUCTION ZONING</u>	<u>LAND USE SAFETY ZONING</u>
NAME AND NUMBER OF TOWNSHIP	Section IV of Ordinance Pages 1 of 1 of Zoning Map.	Section V of Ordinance Page 1 of 1 of Zoning Map.
<u>MORSE</u> Township T 62 N R 12 W	<u>Sections:</u> 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36.	<u>Sections:</u> 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36.
<u>Township</u> T 61 N R 12 W	<u>Sections:</u> 1, 2, 3, 4, 10, 11, 12.	<u>Sections:</u> 1, 2, 3.
<u>Township</u> T 61 N R 11 W	<u>Sections:</u> 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, and 36.	<u>Sections:</u> 6.
<u>Township</u> T 62 N R 11 W	<u>Sections:</u> 18, 19, 20, 29, 30, 31, 32, 33, 34, 35.	<u>Sections:</u> 19, 30, 31.
<u>Township</u> T 61 N R 10 W	<u>Sections:</u> 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 29, 30, 31.	<u>Sections:</u>