

## **Lake Elmo Airport Zoning Ordinance**

Adopted xx, xx, 20xx

Adopted by the  
Lake Elmo Airport Joint Airport Zoning Board

Contact Person:  
Lake Elmo Joint Airport Zoning Board  
c/o JAZB Secretary  
Metropolitan Airports Commission  
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**LAKE ELMO AIRPORT  
ZONING ORDINANCE  
ADOPTED BY THE  
LAKE ELMO AIRPORT JOINT AIRPORT ZONING BOARD**

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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 LAKE ELMO AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS; REFERRING TO THE LAKE ELMO AIRPORT ZONING MAP; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

THEREFORE, IT IS HEREBY ORDAINED BY THE LAKE ELMO AIRPORT JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES §§ 360.061 – 360.074, THAT THE LAKE ELMO AIRPORT ZONING ORDINANCE BE EFFECTIVE AS FOLLOWS:

**SECTION I. PURPOSE AND AUTHORITY**

The LAKE ELMO Airport Joint Airport Zoning Board, created and established by joint action of the Metropolitan Airports Commission and the Cities of Lake Elmo and Oak Park Heights, Baytown Township, and West Lakeland Township, 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 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 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 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.

- 63 D. The prevention of these Airport Hazards should be accomplished, to the extent legally
- 64 possible, by the exercise of police power without compensation.
- 65 E. The elimination or removal of existing land uses or their designation as nonconforming
- 66 uses is not in the public interest and should be avoided whenever possible, consistent
- 67 with reasonable standards of safety.
- 68 F. In addition, the social and economic costs of disrupting land uses around the Airport
- 69 often outweigh the benefits of a reduction in Airport Hazards, requiring a balance
- 70 between the social and economic costs to surrounding communities and the benefits
- 71 of regulation.
- 72 G. Preventing the creation or establishment of Airport Hazards and eliminating, removing,
- 73 altering, mitigating, or marking and lighting of existing Airport Hazards are public
- 74 purposes for which political subdivisions may raise and expend public funds, levy
- 75 assessments against land, and acquire land and property interests therein.

76 **SECTION II. TITLE AND SHORT TITLE**

77 This ordinance shall be known as the "Lake Elmo Airport Zoning Ordinance."

78 **SECTION III. DEFINITIONS AND RULES OF CONSTRUCTION**

- 79 A. **Definitions.** As used in this Lake Elmo Airport Zoning Ordinance, unless otherwise
- 80 expressly stated, or unless the context clearly indicates a different meaning, the words
- 81 and phrases in the following list of definitions shall have the meanings indicated. All
- 82 words and phrases not defined shall have their common meaning.
- 83 1. **Airport.** "Airport" means Lake Elmo Airport located in Washington County,
- 84 Minnesota.
- 85 2. **Airport Boundary.** "Airport Boundary" means the boundary shown on
- 86 Exhibit A – Airport Boundary, attached hereto and made a part hereof.
- 87 3. **Airport Hazard.** "Airport Hazard" means any Structure, Tree, or use of land
- 88 that obstructs the airspace required for, or is otherwise hazardous to, the flight
- 89 of aircraft in landing or taking off at the Airport; and, any use of land that is
- 90 hazardous to Persons or property because of its proximity to the Airport.
- 91 4. **Airport Zoning Permit.** "Airport Zoning Permit" means zoning permits as
- 92 required under Section VIII.

- 93 5. **Airspace Surfaces.** "Airspace Surfaces" means the surfaces established in  
94 Section IV.A.
- 95 6. **Airspace Zones.** "Airspace Zones" means the land use zones established in  
96 Section IV.A.
- 97 7. **Board of Adjustment.** "Board of Adjustment" means the body established  
98 in Section XII.
- 99 8. **Commissioner.** "Commissioner" means the Commissioner of the Minnesota  
100 Department of Transportation or, if either the position of Commissioner or the  
101 Minnesota Department of Transportation shall no longer exist or serve its  
102 present functions, such successor state official or officials or entity or entities  
103 as shall either singularly or collectively perform or serve such functions.
- 104 9. **Effective Date.** "Effective Date" means the effective date set forth in  
105 Section XVIII.
- 106 10. **FAA.** "FAA" means the Federal Aviation Administration or, if the Federal  
107 Aviation Administration shall no longer exist or serve its present functions, such  
108 successor federal entity or entities as shall either singularly or collectively  
109 perform or serve such functions.
- 110 11. **FAA 7460 Obstruction Evaluation.** Established FAA process for conducting  
111 aeronautical studies conducted under the provisions of Title 14 CFR, Part 77  
112 (for proposed construction or alteration) or Federal Aviation Act of 1958 (for  
113 existing structures), or any successor to this process.
- 114 12. **Lake Elmo Airport Zoning Map.** "Lake Elmo Airport Zoning Map" means  
115 the Lake Elmo Airport Zoning Map as defined in Section VI.C.
- 116 13. **Lot.** "Lot" means a designated parcel, tract, or area of land established by  
117 plat or subdivision, or otherwise permitted by law.
- 118 14. **Nonconforming Structure.** "Nonconforming Structure" means any Structure  
119 in existence in any Airspace Zone or Safety Zone but not conforming to the  
120 provisions of this Lake Elmo Airport Zoning Ordinance on the Effective Date.
- 121 15. **Nonconforming Use.** "Nonconforming Use" means any use of land in  
122 existence in any Airspace Zone or Safety Zone but not conforming to the  
123 provisions of this Lake Elmo Airport Zoning Ordinance on the Effective Date.
- 124 16. **Person.** "Person" means any individual, firm, partnership, corporation,  
125 company, association, joint stock association, or body politic, and includes a

126 trustee, receiver, assignee, administrator, executor, guardian, or other  
127 representative.

128 17. **Planned.** "Planned" means proposed future Airport developments and  
129 improvements indicated on a planning document having the approval of the  
130 FAA, the Minnesota Department of Transportation, Office of Aeronautics, and  
131 the Metropolitan Airports Commission.

132 18. **Runway.** "Runway" means any existing or planned paved surface of the  
133 Airport which is specifically designated and used or planned to be used for the  
134 landing and/or taking off of aircraft. The individual Runways at the Airport are  
135 defined in this Lake Elmo Airport Zoning Ordinance based on the compass  
136 heading of landing aircraft.

137 19. **Runway 14-32.** "Runway 14-32" means the planned 3,500-foot non-  
138 precision primary runway. Both the Runway 14 and 32 ends are within Baytown  
139 Township.

140 20. **Runway 04-22.** "Runway 04-22" means the planned 2,750-foot non-  
141 precision crosswind runway. Both the Runway 04 and 22 ends are within  
142 Baytown Township.

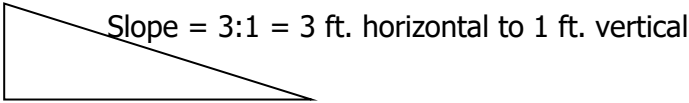
143 21. **Runway Protection Zone.** "Runway Protection Zone" means a zone  
144 mandated by FAA regulations that is longitudinally centered on the extended  
145 centerline at each end of Runways 14-32 and 04/22, whose inner edge is at  
146 the same width and elevation as, and coincides with, the end of the Primary  
147 Surfaces (250 feet) for Runways 14-32 and 04-22; and that extends outward  
148 a horizontal distance of 1,000 feet, expanding uniformly to a width of 450 feet  
149 for Runways 14-32 and 04-22.

150 22. **Safety Zones.** "Safety Zones" means the land use zones established in  
151 Section V.A.

152 23. **School.** "School" means any private or public educational institution for  
153 people in kindergarten through grade ~~twelve (12)~~ and any private or public day  
154 care or pre-school facility that enrolls more than ~~fifty (50)~~ children.

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158 24. **Slope.** "Slope" means an incline from the horizontal expressed in an arithmetic  
159 ratio of horizontal magnitude to vertical magnitude.



160 25. **Structure.** "Structure" means anything anchored, attached, built,  
161 constructed, erected, gathered, located, placed, or piled on the ground or in  
162 or over a water body, whether temporary or permanent, moveable or  
163 immovable, including antennae, buildings, canopies, cranes, decks, derricks,  
164 docks, edifices, equipment, fences, overhead transmission lines, patios, piers,  
165 piles, ponds, posts, roadways, signs, smokestacks, towers, utility poles, wires,  
166 and anything attached to any of the foregoing either temporarily or  
167 permanently.

168 26. **Tree.** "Tree" means any object of natural growth.

169 27. **Zoning Administrator.** "Zoning Administrator" means the public official in  
170 each affected municipality and at the Metropolitan Airports Commission as set  
171 forth in Section XI.B.

172 B. **Rules Of Construction.** In the construction of this Lake Elmo Airport Zoning  
173 Ordinance, the following rules shall be observed and applied, except where the context  
174 clearly indicates otherwise.

175 1. **Computing Time.** In computing the period of time within which an act may  
176 or must be done, the first calendar day from which the designated period of  
177 time begins to run shall not be included. The last day of the period shall be  
178 included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the  
179 period shall run until the end of the next day which is not a Saturday, Sunday,  
180 or legal holiday.

181 2. **Conflicts Between Ordinance Provisions.** If a provision of this Lake Elmo  
182 Airport Zoning Ordinance conflicts with any other provision of this Lake Elmo  
183 Airport Zoning Ordinance, the more restrictive provision shall prevail.

184 3. **Height.** "Height" shall be expressed as elevation in feet above Mean Sea  
185 Level, North American Vertical Datum, 1988 Adjustment, except in reference  
186 to maximum construction height without an Airport Zoning Permit when it shall  
187 be expressed as distance in feet above ground shown on the Maximum

188 Construction Heights Without Permit Plates in the Lake Elmo Airport Zoning  
189 Map.

190 4. **Including, Not Limited To.** The word "including" means including but not  
191 limited to.

192 5. **Land To Include Water Surfaces And Bodies.** The word "land" shall  
193 include water bodies and surfaces for the purpose of establishing Airspace  
194 Zones and Safety Zones.

195 6. **May, Permissive.** The word "may" is permissive.

196 7. **Shall, Mandatory.** The word "shall" is mandatory and not discretionary.

197 8. **Singular And Plural.** The singular shall include the plural, and the plural the  
198 singular.

199 9. **Tense.** The present tense shall include the future.

200 **SECTION IV. AIRSPACE OBSTRUCTION ZONING**

201 A. **Airspace Surfaces And Zones.** In order to carry out the purpose of this Lake Elmo  
202 Airport Zoning Ordinance as set forth in Section I., the following Airspace Surfaces and  
203 Airspace Zones are hereby established, subject to the airspace zoning limits in  
204 Section VI.A.

205 1. **Primary Surface.** An imaginary surface longitudinally centered on each  
206 Runway extending ~~two hundred (200)~~ feet beyond each end of Runways 14-  
207 32 and 04-22 and having a width of ~~five hundred (500)~~ feet. The elevation of  
208 any point on the Primary Surface is the same as the elevation of the nearest  
209 point on the Runway centerline.

210 2. **Primary Zone.** All that land which lies directly under a Primary Surface.

211 3. **Horizontal Surface.** An imaginary surface that is ~~one thousand eighty three~~  
212 ~~(1,083)~~ feet above mean sea level, the perimeter of which is constructed by  
213 swinging arcs of specified radii from the center of each end of the Primary  
214 Surface of each Runway and connecting the adjacent arcs by lines tangent to  
215 those arcs. The radius of each arc is ~~five thousand (5,000)~~ feet for Runways  
216 14-32 and 04-22.

217 4. **Horizontal Zone.** All that land which lies directly under the Horizontal  
218 Surface.



- 219 5. **Conical Surface.** An imaginary surface extending upward and outward from
- 220 the periphery of the Horizontal Surface at a Slope of ~~twenty (20)~~ to ~~one (1)~~ for
- 221 a horizontal distance of ~~four thousand (4,000)~~ feet as measured radially
- 222 outward from the periphery of the Horizontal Surface.
- 223 6. **Conical Zone.** All that land which lies directly under the Conical Surface.
- 224 7. **Approach Surface.** An imaginary surface longitudinally centered on the
- 225 extended centerline at each end of Runways 14-32 and 04-22. The inner edge
- 226 of this surface is at the same width and elevation as, and coincides with, the
- 227 end of the Primary Surface. For Runways 14-32 and 04-22, this surface inclines
- 228 upward and outward at a Slope of ~~twenty (20)~~ to ~~one (1)~~ for a horizontal
- 229 distance of ~~five thousand (5,000)~~ feet expanding uniformly to a width of ~~two~~
- 230 ~~thousand (2,000)~~ feet.
- 231 8. **Approach Zone.** All that land which lies directly under an Approach Surface.
- 232 9. **Transitional Surface.** An imaginary surface extending upward and outward
- 233 at right angles to the centerline and extended centerline of Runways 14-32
- 234 and 04-22 at a Slope of ~~seven (7)~~ to ~~one (1)~~ from both sides of each Primary
- 235 Surface and from both sides of each Approach Surface of Runway 14-32 and
- 236 04-22 until it intersects the Horizontal Surface or the Conical Surface.
- 237 10. **Transitional Zone.** All that land which lies directly under a Transitional
- 238 Surface.
- 239 B. **Height Restrictions.** Except as otherwise provided in this Lake Elmo Airport Zoning
- 240 Ordinance, and except as necessary and incidental to Airport operations, the following
- 241 height restrictions shall apply. Where a Lot is beneath more than one Airspace Surface,
- 242 the height of the more restrictive (lower) Airspace Surface shall control.
- 243 1. **Structures.** No new Structure shall be constructed or established; and no
- 244 existing Structure shall be altered, changed, rebuilt, repaired, or replaced in
- 245 any Airspace Zone so as to project above any Airspace Surface. Nor shall any
- 246 equipment used to accomplish any of the foregoing activities be allowed to
- 247 project above any Airspace Surface.
- 248 2. **Trees.** No Tree shall be allowed to grow or be altered, repaired, replaced, or
- 249 replanted in any Airspace Zone so as to project above any Airspace Surface.
- 250 Nor shall any equipment used to accomplish any of the foregoing activities be
- 251 allowed to project above any Airspace Surface.

- 252 a. Public Nuisance; Order. If the whole or any part of any Tree shall be
- 253 determined to be an Airport Hazard by the FAA, or any successor
- 254 entity, after proper investigation, the Metropolitan Airports
- 255 Commission may issue an order in writing for the owner or owners,
- 256 agent or occupant of the property upon which such hazardous tree is
- 257 located, to forthwith cause such hazardous tree, or portion thereof if
- 258 the removal of a portion will remove the hazard, to be taken down
- 259 and removed.
- 260 b. Notice. Said order is to be mailed to the last known address of the
- 261 owner, agent or occupant and shall be accompanied by a notice
- 262 setting forth the authority to remove such hazardous Tree at such
- 263 owner's, agent's or occupant's expense in the event such owner,
- 264 agent or occupant fails to comply with or file a notice of appeal from
- 265 said order within ~~ten (10)~~ days of mailing. The notice shall include
- 266 instructions for filing a notice of appeal from said order.
- 267 c. Removal. If within ~~ten (100)~~ days after said order has been mailed,
- 268 as above provided for, the owner or owners, agent or occupant of the
- 269 property upon which such hazardous Tree is located neglects or
- 270 refuses to comply with said order, or has failed to file a notice of
- 271 appeal from said order with the Metropolitan Airports Commission,
- 272 then the Commission or its designee(s) may enter upon said premises
- 273 and take down or remove said tree or portion thereof declared to be
- 274 hazardous, and to do any and all things which in his opinion may be
- 275 necessary for the protection of life, limb or property.
- 276 d. Assessment of Expense. If, after the notice hereinbefore provided for
- 277 has been given, the owner, agent or occupant has failed to remove
- 278 such hazardous tree or portion thereof, and it becomes necessary for
- 279 the Metropolitan Airports Commission to remove same, the
- 280 Commission or its designee shall mail a statement of the expense of
- 281 such removal to the owner, agent or occupant of the property from
- 282 which such tree or portion thereof has been removed, and if within
- 283 ~~thirty (30)~~ days therefrom the owner, agent or occupant has not
- 284 remitted to the Commission for the expense incurred by the

285 Commission in said removal, the Commission or its designee may  
286 forthwith recover the amount of such expense from the owner or  
287 owners of said property in any civil court of competent jurisdiction, in  
288 the manner provided by law.

289 C. **FAA 7460 Obstruction Evaluation.** All construction of new Structures or alteration  
290 of existing Structures in an Airspace Zone shall comply with the requirements for filing  
291 notice to the FAA under the FAA 7460 Obstruction Evaluation process.

292 **SECTION V. LAND USE SAFETY ZONING**

293 A. **Safety Zones.** In order to carry out the purpose of this Lake Elmo Airport Zoning  
294 Ordinance, as set forth in Section I., the following Safety Zones are hereby established,  
295 subject to the safety zoning limits in Section VI.B.

296 1. **Safety Zone 1.** Designated land, the extents of which are shown in Exhibit  
297 B. Safety Zone 1 overlies the Runway Protection Zones.

298 2. **Safety Zone 2.** All land enclosed within the perimeter of the Horizontal Zone,  
299 as shown in Exhibit C, except that land within Safety Zone 1.

300 B. **Land Use Restrictions.**

301 1. **General Restrictions.** Subject at all times to the height restrictions set forth  
302 in Section IV.B., no use shall be made of any land in any of the Safety Zones  
303 that creates or causes interference with the operations of radio or electronic  
304 facilities at the Airport or with radio or electronic communications between  
305 Airport and aircraft, makes it difficult for pilots to distinguish between Airport  
306 lights and other lights, results in glare in the eyes of pilots using the Airport,  
307 impairs visibility in the vicinity of the Airport, is deemed a "hazard" to air  
308 navigation by FAA or MNDOT as part of an FAA 7460 Obstruction Evaluation,  
309 or otherwise endangers the landing, taking off, or maneuvering of aircraft.

310 2. **Safety Zone 1 Restrictions.** Subject at all times to the height restrictions  
311 set forth in Section IV.B. and to the general restrictions contained in  
312 Section V.B.1., areas designated as Safety Zone 1 for each end of Runways 14-  
313 32 and 04-22 shall contain no buildings, exposed high-voltage transmission  
314 lines, or other similar land use structural hazards, and shall be restricted to  
315 those uses which will not create, attract, or bring together an assembly of  
316 persons thereon. Permitted uses may include, but are not limited to, such uses

317 as agriculture (seasonal crops), horticulture, ~~raising of livestock,~~ animal  
318 husbandry, wildlife habitat, light outdoor recreation (non-spectator, including  
319 trails), cemeteries, roadways and vehicle parking, railroads, and other  
320 approved aeronautical uses. Where Safety Zone 1 overlies the Runway  
321 Protection Zone, land uses and Structures within the Runway Protection Zone  
322 will be governed by Federal laws and regulations or by FAA advisory circulars,  
323 orders, or guidance.

- 324 3. **Safety Zone 2 Restrictions.** No land use in Safety Zone 2 shall violate the  
325 height restrictions set forth in Section IV.B. or the general restrictions  
326 contained in Section V.B.1.

327  
328 **SECTION VI. AIRPORT ZONING LIMITS AND LAKE ELMO AIRPORT ZONING MAP**

- 329 A. **Airspace Zoning Limits.** Exhibit D – Airport Boundary and Airspace Zoning Limits  
330 and Exhibit E – Airport Boundary and Airspace Contours, attached hereto and made a  
331 part hereof, show these limits.
- 332 B. **Safety Zoning Limits.** Exhibit F – Airport Boundary and Safety Zoning Limits,  
333 attached hereto and made a part hereof, shows these limits.
- 334 C. **Lake Elmo Airport Zoning Map.** The locations and boundaries of the Airspace  
335 Surfaces, Airspace Zones, Safety Zones, and the Maximum Construction Heights  
336 without an Airport Zoning Permit established by this Lake Elmo Airport Zoning  
337 Ordinance are set forth on the Lake Elmo Airport Zoning Map consisting of ~~one-~~  
338 ~~hundred and two (102)~~ plates – Airspace Zones, Plates A-A2 to A-F6; Maximum  
339 Construction Heights Without Permit, Plates MCH-A2 to MCH-F6; and Safety Zones,  
340 Plates SZ-A2 to SZ-F6 prepared by the Metropolitan Airports Commission, attached  
341 hereto and made a part hereof. These plates, together with such amendments thereto  
342 as may from time to time be made, and all notations, references, elevations, heights,  
343 data, surface and zone boundaries, and other information thereon, shall be and the  
344 same are hereby adopted as part of this Lake Elmo Zoning Ordinance.

345 **SECTION VII. NONCONFORMING USES**

- 346 A. **Lake Elmo Airport Zoning Ordinance.** The provisions of this Lake Elmo Airport  
347 Zoning Ordinance shall not be construed to require the removal, lowering, other  
348 change, or alteration of any Nonconforming Structure or Tree, or otherwise interfere

349 with the continuance of any Nonconforming Use. Nonconforming Structures and  
350 Nonconforming Uses are permitted under this Lake Elmo Airport Zoning Ordinance,  
351 subject to the provisions in Section VIII. (Airport Zoning Permits) and Section IX.  
352 (Variances). Nothing herein contained shall require any change in the construction,  
353 alteration, or intended use of any Structure, the construction or alteration of which  
354 was begun prior to the Effective Date, and was diligently prosecuted and completed  
355 within ~~two (2)~~ years of the Effective Date.

356 **SECTION VIII. AIRPORT ZONING PERMITS**

357 A. **Permit Required.** The following activities shall not take place on a Lot in any  
358 Airspace Zone or Safety Zone unless an Airport Zoning Permit shall have been granted  
359 therefore by the Zoning Administrator for the jurisdiction in which the Lot is located.

- 360 1. **Existing Structures.** Except as specifically provided in Section VIII.B., no  
361 existing Structure shall be altered, changed, rebuilt, repaired, or replaced.
- 362 2. **New Structures.** Except as specifically provided in Section VIII.B., no  
363 Structure shall be newly constructed or otherwise established.
- 364 3. **Nonconforming Structures.** No Nonconforming Structure shall be replaced,  
365 substantially altered or repaired, or rebuilt.

366 B. **Exception To Permit Requirement.**

- 367 1. **Maximum Construction Height Without A Permit.** No Airport Zoning  
368 Permit shall be required for an existing Structure to be altered, changed,  
369 rebuilt, repaired, or replaced on a Lot, or for a new Structure to be constructed  
370 or otherwise established on a Lot, if the highest point on the Structure or on  
371 any equipment used to accomplish any of the foregoing activities, whichever  
372 is higher (measured in feet from curb level or from natural grade at a point ~~ten~~  
373 ~~(10)~~ feet away from the front center of the Structure, whichever is lower) does  
374 not exceed the "maximum construction height above ground without an Airport  
375 Zoning Permit" shown for the Lot on the applicable Maximum Construction  
376 Heights Without Permit Plate in the Lake Elmo Airport Zoning Map. The  
377 permitting process will require an FAA 7460 Obstruction Evaluation for all  
378 structures with proposed heights in excess of the maximum allowable  
379 construction height without a permit.

380 2. **No Violation Of Height Or Land Use Restriction Permitted.** Nothing in  
381 this Section VIII.B. shall be construed as permitting or intending to permit a  
382 violation or a greater violation of any provision of this Lake Elmo Airport Zoning  
383 Ordinance.

384 C. **Permit Application.** An Airport Zoning Permit application for activities on a Lot shall  
385 be made in the manner and on the form established by the Zoning Administrator of  
386 the jurisdiction in which the Lot is located as designated in Section XI.B.

387 D. **Permit Standard.** An Airport Zoning Permit shall be granted unless the Zoning  
388 Administrator determines that granting the permit (1) would allow a conforming  
389 Structure or use to violate any provision of this Lake Elmo Airport Zoning Ordinance  
390 or (2) would permit a Nonconforming Structure or a Nonconforming Use to become a  
391 greater violation of any provision of this Lake Elmo Airport Zoning Ordinance. Any  
392 Airport Zoning Permit may be granted subject to any reasonable conditions that the  
393 Zoning Administrator may deem necessary to effectuate the purpose of this Lake Elmo  
394 Airport Zoning Ordinance. In making any determination, the Zoning Administrator  
395 need not give public notice of, or hold a public hearing on, the Airport Zoning Permit  
396 application or the determination.

397 E. **Abandoned Or Deteriorated Nonconforming Uses.** Whenever a Zoning  
398 Administrator determines that a Nonconforming Structure, Nonconforming Use, or  
399 Tree has been abandoned or more than ~~eighty percent (80%)~~ torn down, deteriorated,  
400 or decayed, no Airport Zoning Permit shall be granted that would allow such  
401 Nonconforming Structure, Nonconforming Use, or Tree to exceed the height  
402 restrictions of Section IV.B. or otherwise violate any provision of this Lake Elmo Airport  
403 Zoning Ordinance. Whether application is made for an Airport Zoning Permit or not,  
404 a Zoning Administrator may order the owner of the abandoned, torn down,  
405 deteriorated, or decayed Nonconforming Structure, Nonconforming Use, or Tree at the  
406 owner’s expense, to lower, remove, reconstruct, or equip the same in the manner  
407 necessary to conform to the provisions of this Lake Elmo Airport Zoning Ordinance. In  
408 the event the owner shall neglect or refuse to comply with such order for ~~ten (10)~~  
409 days after receipt of written notice of such order, the Zoning Administrator may, by  
410 appropriate legal action, proceed to have the Nonconforming Structure,  
411 Nonconforming Use, or Tree lowered, removed, reconstructed, or equipped and assess  
412 the cost and expense thereof against the land on which the Nonconforming Structure,

413 Nonconforming Use, or Tree is, or was, located. Unless such an assessment is paid  
414 within ~~ninety (90)~~ days from the service of notice thereof on the owner of the land,  
415 the sum shall bear interest at the rate of ~~eight percent (8%)~~ per annum from the date  
416 the cost and expense is incurred until paid, and shall be collected in the same manner  
417 as are general taxes, all as authorized by Minnesota Statutes § 360.067.

418 **SECTION IX. VARIANCES**

419 A. **Variance Application.** Any Person desiring to use his or her property in violation of  
420 any provision of this Lake Elmo Airport Zoning Ordinance, whether to construct or  
421 establish a new Structure; to alter, change, rebuild, repair, or replace an existing  
422 Structure; to allow a Tree to grow higher; to alter, repair, replace, or replant a Tree; or  
423 to otherwise use his or her property in violation of any provision of this Lake Elmo  
424 Airport Zoning Ordinance, may apply to the Board of Adjustment for a variance from  
425 such provision. A variance application shall be made by sending the application on  
426 the form provided by the Board of Adjustment by certified United States Mail to (1) the  
427 members of the Board of Adjustment and (2) the Board of Adjustment at the mailing  
428 address specified in Section XII.C. The applicant shall also mail a copy of the  
429 application by regular United States Mail to the Zoning Administrator of the jurisdiction  
430 in which the Structure or property is located, as designated in Section XI.B. The Board  
431 of Adjustment may charge a fee for processing the application.

432 B. **Failure Of Board To Act.** If the Board of Adjustment fails to grant or deny the  
433 variance within ~~four (4)~~ months after the last Board member receives the variance  
434 application, the variance shall be deemed to be granted by the Board of Adjustment,  
435 but not yet effective. When the variance is granted by reason of the failure of the  
436 Board of Adjustment to act on the variance, the Person receiving the variance shall  
437 send notice that the variance has been granted by certified United States Mail to  
438 (1) the Board of Adjustment at the mailing address specified in Section XII.C. and  
439 (2) the Commissioner. The applicant shall include a copy of the original application  
440 for the variance with the notice to the Commissioner. The variance shall be effective  
441 ~~sixty (60)~~ days after this notice is received by the Commissioner, subject to any action  
442 taken by the Commissioner pursuant to Minnesota Statutes § 360.063, subd. 6.a.

443 C. **Variance Standard.** A variance shall be granted where it is found that a literal  
444 application or enforcement of the provisions of this Lake Elmo Airport Zoning

445 Ordinance would result in practical difficulty or unnecessary hardship and relief  
446 granted would not be contrary to the public interest but do substantial justice and be  
447 in accordance with the spirit of this Lake Elmo Airport Zoning Ordinance and Minnesota  
448 Statutes Chapter 360. Any variance granted may be granted subject to any reasonable  
449 conditions that the Board of Adjustment, or the Commissioner acting under  
450 Section IX.B., may deem necessary to effectuate the purpose of this Lake Elmo Airport  
451 Zoning Ordinance or Minnesota Statutes Chapter 360.

452 **SECTION X. HAZARD MARKING AND LIGHTING**

453 A. **Nonconforming Structure.** The Metropolitan Airports Commission may require the  
454 owner of any Nonconforming Structure to permit the installation, operation, and  
455 maintenance thereon of such markers and lights as shall be deemed necessary by the  
456 Metropolitan Airports Commission to indicate the presence of the Structure to the  
457 operators of aircraft in the vicinity of the Airport. Such markers and lights shall be  
458 installed, operated, and maintained at the expense of the Metropolitan Airports  
459 Commission.

460 B. **Permits And Variances.** Any Airport Zoning Permit or variance granted by a Zoning  
461 Administrator or the Board of Adjustment may, if such action is deemed advisable to  
462 effectuate the purpose of this Lake Elmo Airport Zoning Ordinance and be reasonable  
463 in the circumstances, be granted subject to a condition that the owner of the Structure  
464 in question permit the Metropolitan Airports Commission, at its expense, to install,  
465 operate, and maintain thereon such markers and lights as may be necessary to indicate  
466 to pilots the presence of an Airport Hazard.

467 **SECTION XI. ZONING ADMINISTRATOR**

468 A. **Duties.** It shall be the duty of each Zoning Administrator to administer and enforce  
469 the provisions of this Lake Elmo Airport Zoning Ordinance. Applications for Airport  
470 Zoning Permits shall be made to a Zoning Administrator as provided herein. A Zoning  
471 Administrator may charge a fee for processing the application. Airport Zoning Permit  
472 applications shall be considered and acted upon by the Zoning Administrator in  
473 accordance with the provisions of this Lake Elmo Airport Zoning Ordinance and within  
474 the timelines established by Minnesota Statutes § 15.99, as it may be amended. The



475 Zoning Administrator shall remind each applicant that it is the responsibility of the  
476 applicant to record any conditions of an Airport Zoning Permit, if required by law.

477 **B. Designated Zoning Administrators.** For the purpose of this Lake Elmo Airport  
478 Zoning Ordinance, the Zoning Administrator shall be the official entitled as follows: the  
479 Lake Elmo Zoning Administrator for lands located in the City of Lake Elmo; the Oak  
480 Park Heights Zoning Administrator for lands located in the City of Oak Park Heights;  
481 the Baytown Township Zoning Administrator for lands located in Baytown Township;  
482 and the West Lakeland Township Zoning Administrator for lands located in West  
483 Lakeland Township. In the event that ~~one~~(1) or more of the above described Zoning  
484 Administrators does not administer or enforce this Lake Elmo Airport Zoning  
485 Ordinance, the Lake Elmo Airport Joint Airport Zoning Board hereby appoints the  
486 Metropolitan Airports Commission to administer or enforce this Lake Elmo Airport  
487 Zoning Ordinance in the municipality or municipalities. If any official position  
488 designated above as a Zoning Administrator ceases to exist or to perform or serve its  
489 present function, the successor position as designated by the applicable entity shall  
490 become the Zoning Administrator for that entity and shall perform or serve such  
491 functions.

492 **SECTION XII. BOARD OF ADJUSTMENT**

493 **A. Establishment Of Board And Selection Of Chair.** There is hereby established a  
494 Board of Adjustment that shall consist of ~~five~~(5) members appointed by the  
495 Metropolitan Airports Commission, and each shall serve for a term of ~~three~~(3) years  
496 and until a successor is duly appointed and qualified. Of the members first appointed,  
497 ~~one~~(1) shall be appointed for a term of ~~one~~(1) year, ~~two~~(2) for a term of ~~two~~(2)  
498 years, and ~~two~~(2) for a term of ~~three~~(3) years. Upon their appointment, the members  
499 shall select a chair to act at the pleasure of the Board of Adjustment. Members shall  
500 be removable by the Metropolitan Airports Commission for cause, upon written  
501 charges, after a public hearing.

502 **B. Board Powers.** The Board of Adjustment shall have the power to hear and decide  
503 appeals from any order, requirement, decision, or determination made by any Zoning  
504 Administrator or the Metropolitan Airports Commission in the enforcement of this Lake  
505 Elmo Airport Zoning Ordinance and to hear and grant or deny variances.

506 **C. Board Procedures.**

- 507 1. **Rules, Meetings, And Records.** The Board of Adjustment shall adopt rules  
508 for its governance and procedure in harmony with the provisions of this Lake  
509 Elmo Airport Zoning Ordinance. Meetings of the Board of Adjustment shall be  
510 held at the call of the chair and at such other times as the Board of Adjustment  
511 may determine. The chair, or in his or her absence the acting chair, may  
512 administer oaths and compel the attendance of witnesses. All hearings of the  
513 Board of Adjustment shall be public. The Board of Adjustment shall keep  
514 minutes of its proceedings showing the vote of each member upon each  
515 question or, if absent or failing to vote, indicating such fact, and shall keep  
516 records of its examinations and other official actions, all of which shall  
517 immediately be filed in the offices of the Metropolitan Airports Commission and  
518 the Zoning Administrator of the jurisdiction in which the affected Structure or  
519 Lot is located, and shall be a public record.
- 520 2. **Written Findings And Conclusions.** The Board of Adjustment shall make  
521 written findings of fact and conclusions of law giving the facts upon which it  
522 acted and its legal conclusions from such facts in affirming, modifying, or  
523 reversing an order, requirement, decision, or determination of a Zoning  
524 Administrator or the Metropolitan Airports Commission and in granting or  
525 denying a variance.
- 526 3. **Majority Vote Required.** The concurring vote of a majority of the members  
527 of the Board of Adjustment shall be sufficient to affirm, modify, or reverse an  
528 order, requirement, decision, or determination of a Zoning Administrator or the  
529 Metropolitan Airports Commission, to decide to grant or deny a variance, or to  
530 act on any other matter upon which the Board of Adjustment is required to  
531 pass under this Lake Elmo Zoning Ordinance.
- 532 4. **Mailing Address.** The mailing address for the Board of Adjustment is:  
533 Lake Elmo Airport Zoning Ordinance Board of Adjustment  
534 c/o Executive Director  
535 Metropolitan Airports Commission  
536 6040 28<sup>th</sup> Avenue South  
537 Minneapolis, MN 55450

538 **SECTION XIII. APPEALS**

539 A. **Who May Appeal.** Any Person aggrieved, or any taxpayer affected by any order,  
540 requirement, decision, or determination of a Zoning Administrator made in  
541 administration of this Lake Elmo Airport Zoning Ordinance may appeal to the Board of  
542 Adjustment. Such appeals may also be made by any governing body of a municipality  
543 or county, or any joint airport zoning board, which is of the opinion that an order,  
544 requirement, decision, or determination of a Zoning Administrator is an improper  
545 application of this Lake Elmo Airport Zoning Ordinance as it concerns such governing  
546 body or board.

547 B. **Commencement Of Appeals.** All appeals hereunder must be commenced within  
548 ~~thirty (30)~~ days of a Zoning Administrator’s decision by filing with the Zoning  
549 Administrator a notice of appeal specifying the grounds thereof. The Zoning  
550 Administrator shall forthwith transmit to the Board of Adjustment the notice of appeal  
551 and all papers constituting the record upon which the order, requirement, decision, or  
552 determination appealed from was taken.

553 C. **Stay Of Proceedings.** An appeal shall stay all proceedings in furtherance of the  
554 order, requirement, decision, or determination appealed from, unless the Zoning  
555 Administrator certifies to the Board of Adjustment, after the notice of appeal has been  
556 filed with it, that by reason of the facts stated in the certificate a stay would, in the  
557 Zoning Administrator’s opinion, cause imminent peril to life or property. In such case,  
558 proceedings shall not be stayed except by order of the Board of Adjustment on notice  
559 to the Zoning Administrator and on due cause shown.

560 D. **Appeal Procedures.** The Board of Adjustment shall fix a reasonable time for hearing  
561 an appeal, give public notice and due notice to the parties in interest, and decide the  
562 same within a reasonable time. At the hearing, any party may appear in Person, by  
563 agent, or by attorney.

564 E. **Decision.** The Board of Adjustment may, in conformity with the provisions of  
565 Minnesota Statutes Chapter 360 and this Lake Elmo Airport Zoning Ordinance, affirm  
566 or reverse, in whole or in part, or modify the order, requirement, decision, or  
567 determination appealed from and may make such order, requirement, decision, or  
568 determination, as may be appropriate under the circumstances and, to that end, shall  
569 have all the powers of a Zoning Administrator.

570 **SECTION XIV. JUDICIAL REVIEW**

571 Any Person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment or any  
572 action of the Commissioner taken under Minnesota Statutes 360.063, subd. 6 or 6a, or any governing  
573 body of a municipality or county, or any joint airport zoning board, which is of the opinion that an  
574 order, requirement, decision, or determination of the Board of Adjustment or action of the  
575 Commissioner is illegal, may seek judicial review as provided in Minnesota Statutes § 360.072. The  
576 petitioner must exhaust the remedies provided in this Lake Elmo Airport Zoning Ordinance before  
577 availing himself or herself of the right to seek judicial review as provided by this Section XIV.

578 **SECTION XV. PENALTIES AND OTHER REMEDIES**

579 Every Person who violates any provision of this Lake Elmo Airport Zoning Ordinance, any zoning  
580 approval granted hereunder, any condition of any zoning approval granted hereunder, or any order,  
581 requirement, decision, or determination of a Zoning Administrator or the Board of Adjustment shall  
582 be guilty of a misdemeanor and shall be punished by a fine, imprisonment, or both of not more than  
583 the fine and imprisonment established for misdemeanors by state law. Each day a violation continues  
584 to exist shall constitute a separate offense for the purpose of the penalties and remedies specified in  
585 this section. This Lake Elmo Zoning Ordinance may also be enforced through such proceedings for  
586 injunctive relief and other relief as may be proper under Minnesota Statutes § 360.073, as it may be  
587 amended, and other applicable law.

588 **SECTION XVI. RELATION TO OTHER LAWS, REGULATIONS, AND RULES**

- 589 A. **Compliance Required.** In addition to the requirements of this Lake Elmo Airport  
590 Zoning Ordinance, all Structures, Trees, and uses shall comply with all other applicable  
591 city, local, regional, state, or federal laws, regulations, and rules, including Minnesota  
592 Statutes §§ 360.81-360.91 – Regulation Of Structure Heights, Minnesota  
593 Rules 8800.1100 – Regulation Of Structure Heights, and 14 Code of Federal  
594 Regulations Part 77 – Objects Affecting Navigable Airspace.
- 595 B. **Conflicts With Other Regulations.** Where a conflict exists between any provision  
596 of this Lake Elmo Airport Zoning Ordinance and any city, local, regional, state, or  
597 federal law, regulation, or rule applicable to the same area, whether the conflict be  
598 with respect to the height of Structures or Trees, the use of land, or any other matter,  
599 the more stringent law, regulation, or rule shall govern and prevail.

600 C. **Current Versions And Citations.** All references to city, local, regional, state, and  
601 federal laws, regulations, and rules in this Lake Elmo Airport Zoning Ordinance are  
602 intended to refer to the most current version and citation. If such references are no  
603 longer valid due to repeal or renumbering, the new laws, regulations, or rules intended  
604 to replace those cited, regardless of the citation, shall govern.

605 **SECTION XVII. SEVERABILITY**

606 A. **Effect Of Taking.** In any case in which the provisions of this Lake Elmo Airport  
607 Zoning Ordinance, although generally reasonable, are held by a court to interfere with  
608 the use or enjoyment of a particular Structure, Lot, or Tree to such an extent, or to be  
609 so onerous in their application to such a Structure, Lot, or Tree, as to constitute a  
610 taking or deprivation of that property in violation of the constitution of this state or  
611 the constitution of the United States, such holding shall not affect the application of  
612 this Lake Elmo Airport Zoning Ordinance as to other Structures, Lots, and Trees, and,  
613 to this end, the provisions of this Lake Elmo Airport Zoning Ordinance are declared to  
614 be severable.

615 B. **Validity Of Remaining Provisions.** Should any section or provision of this Lake  
616 Elmo Airport Zoning Ordinance be declared by the courts to be unconstitutional or  
617 invalid, such decision shall not affect the validity of this Lake Elmo Airport Zoning  
618 Ordinance as a whole or any part thereof other than the parts so declared to be  
619 unconstitutional or invalid.

620 **SECTION XVIII. EFFECTIVE DATE**

621 This Lake Elmo Airport Zoning Ordinance shall take effect on the xx day of xx, 20xx. Copies thereof  
622 shall be filed with the Commissioner and the Registers of Deeds for Washington County, Minnesota.

623  
624 Passed and adopted after public hearings by the Lake Elmo Airport Joint Airport Zoning Board this xx  
625 day of xx, 20xx.

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I hereby certify that this is a complete, true, and correct copy of the *Lake Elmo Airport Zoning Ordinance* as adopted by the Lake Elmo Airport Joint Airport Zoning Board on xx xx, 20xx.

\_\_\_\_\_  
Richard Weyrauch, Chair  
Lake Elmo Airport Joint Airport Zoning Board

Date: xx xx, 20xx

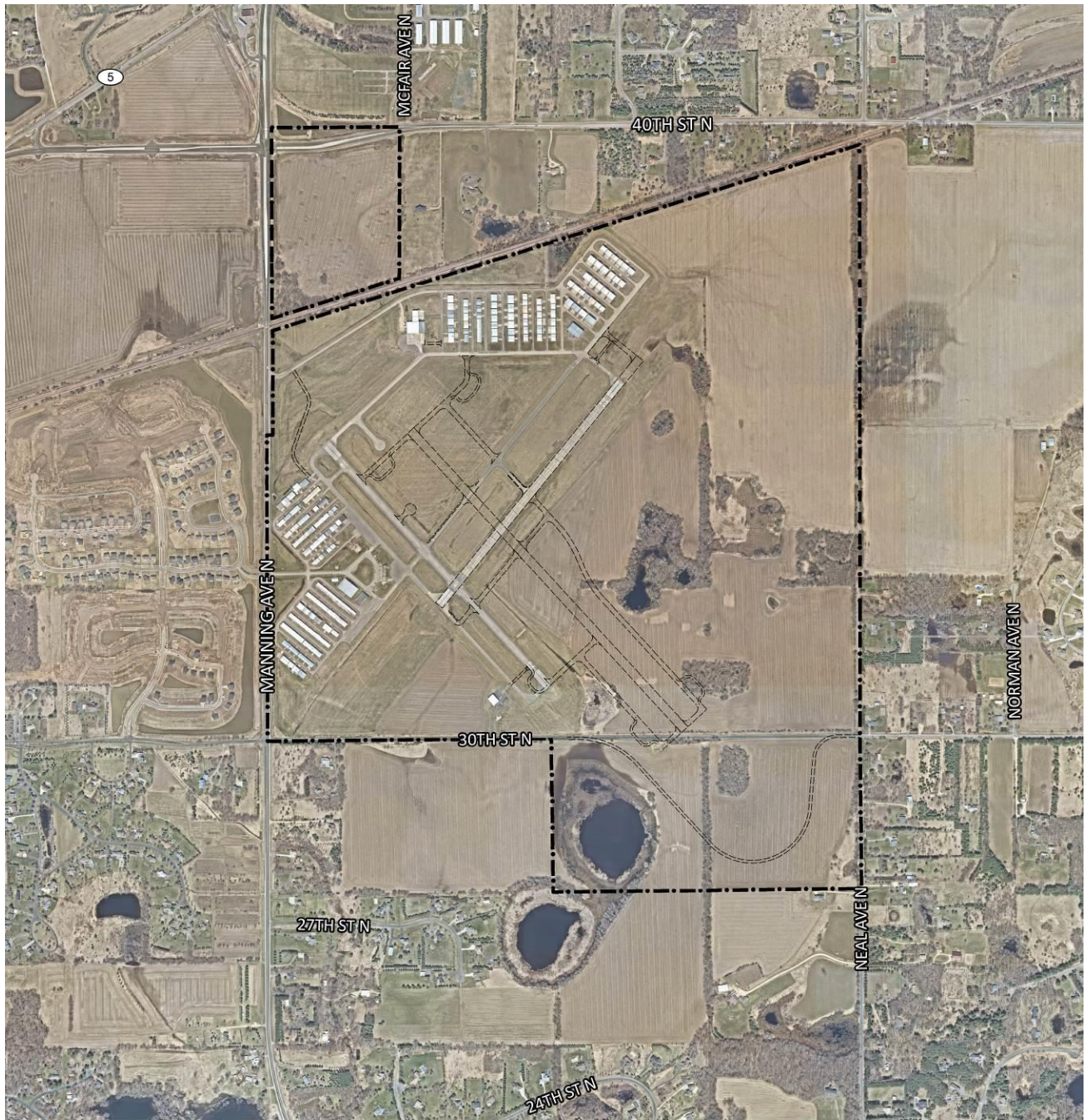
\_\_\_\_\_  
Kristin Berwald, Secretary  
Lake Elmo Airport Joint Airport Zoning Board

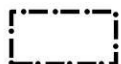

Date: xx xx, 20xx

Subscribed and sworn to before me this xx day of xx, 20xx by Richard Weyrauch and Kristin Berwald, Chair and Secretary respectively, of the Lake Elmo Airport Joint Airport Zoning Board.

\_\_\_\_\_  
Notary Public

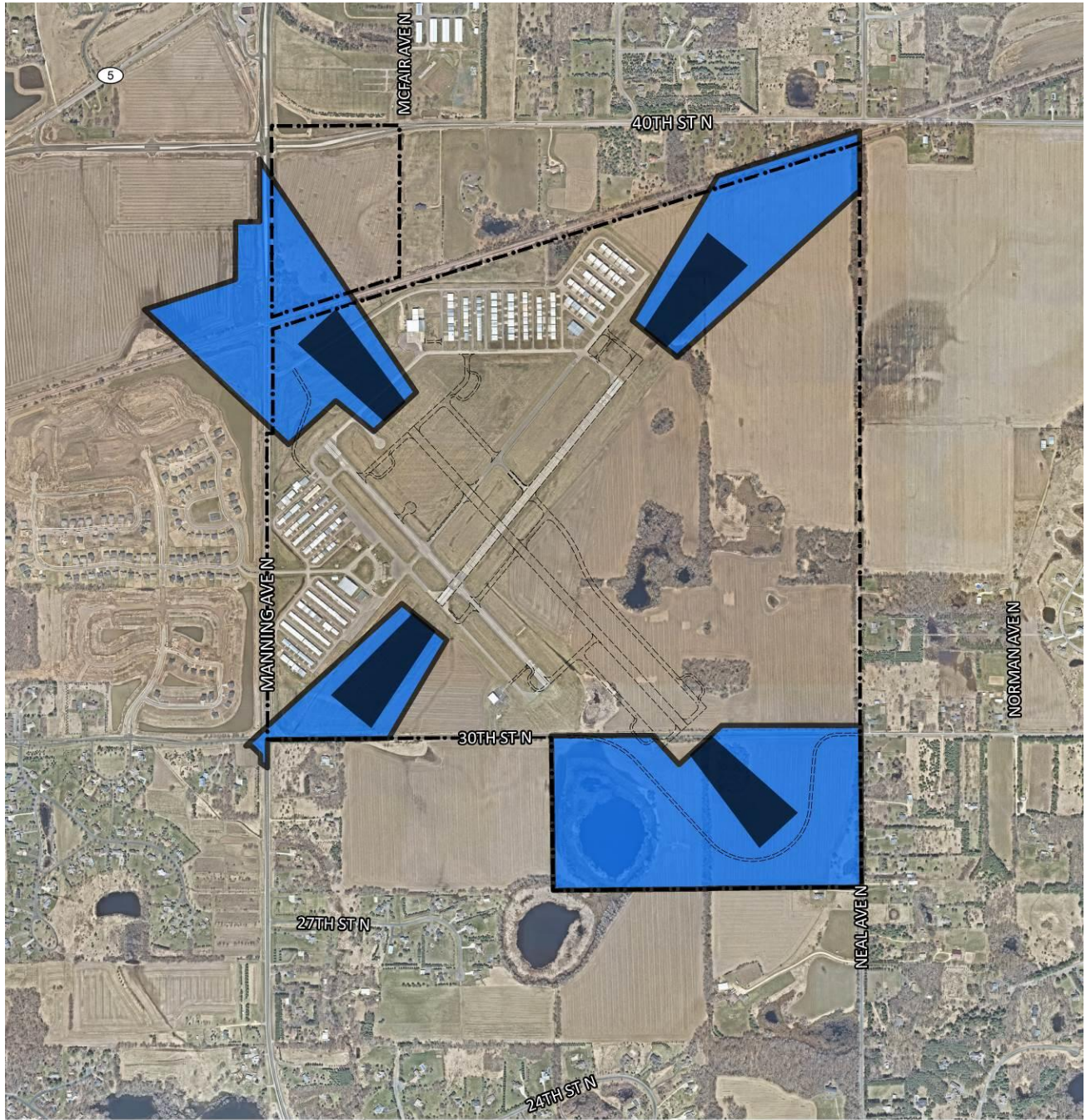
672 EXHIBIT A – AIRPORT BOUNDARY



-  21D Property Line
-  Future Improvements

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675 EXHIBIT B – JAZB SAFETY ZONE 1

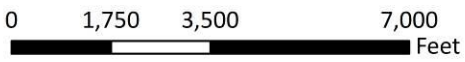
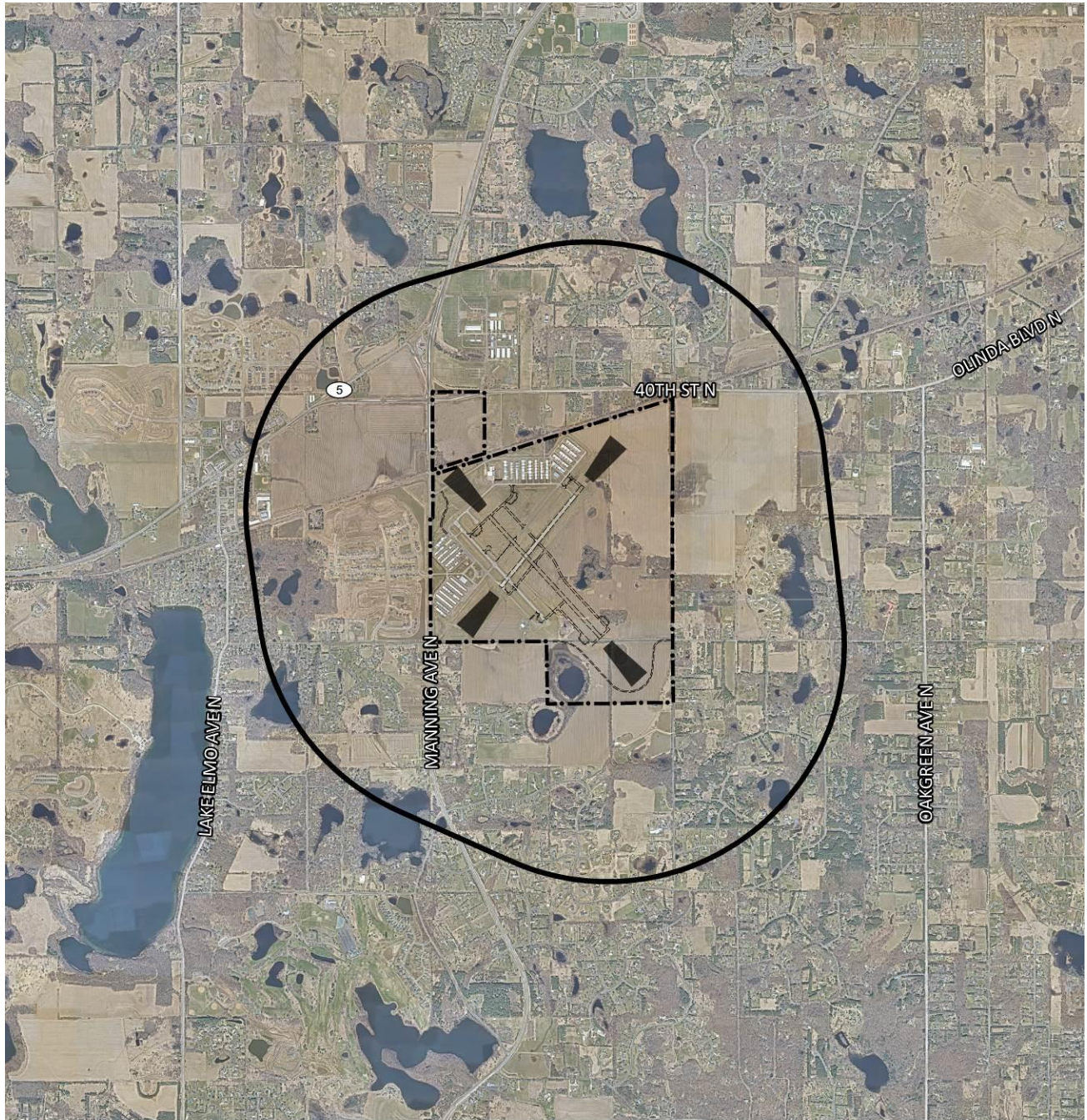


-  21D Property Line
-  Runway Protection Zones (RPZ)
-  Future Improvements
-  JAZB Zone 1

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678 EXHIBIT C – JAZB SAFETY ZONE 2



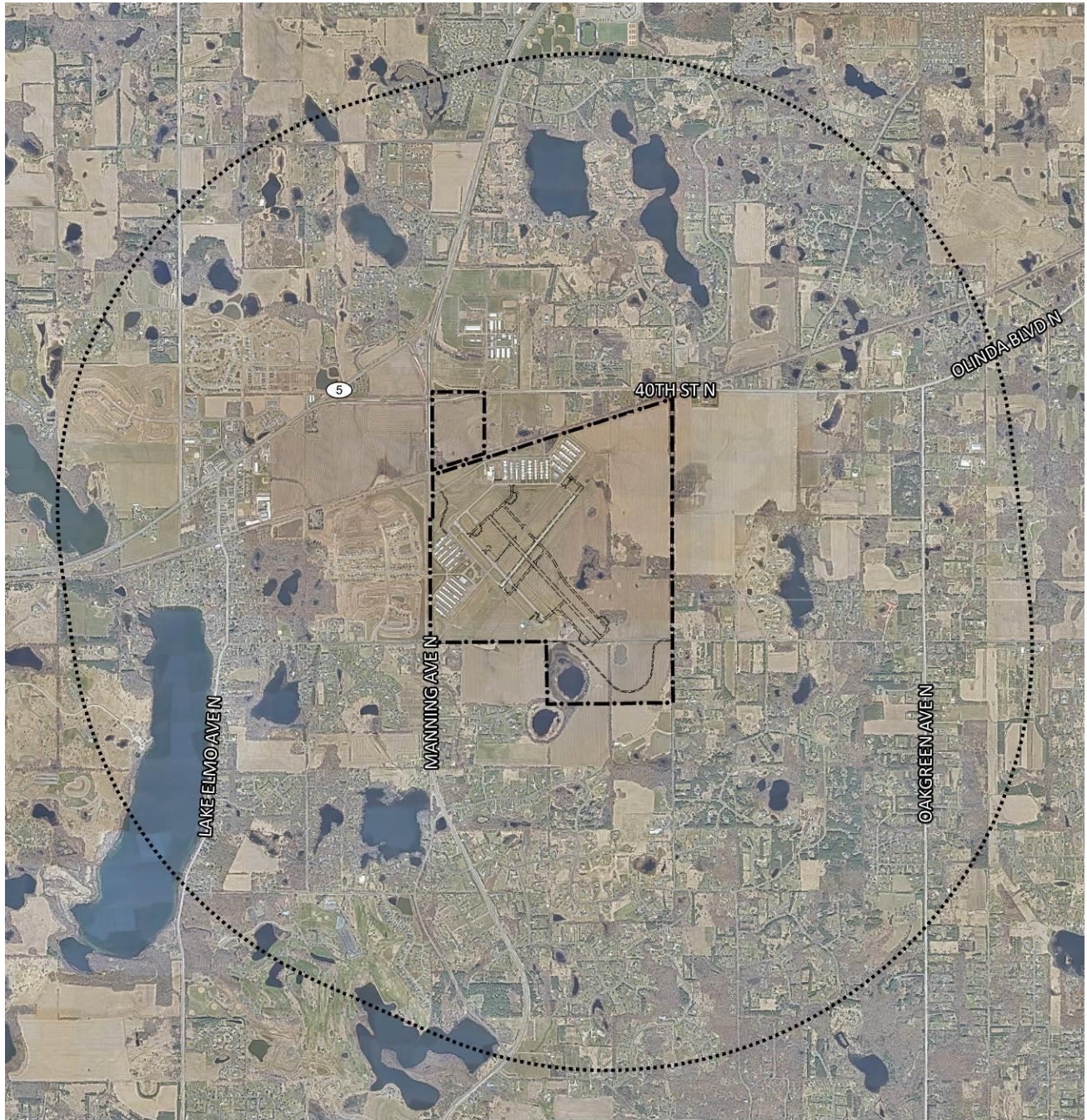
 21D Property Line       JAZB Zone 2

 Future Improvements

 Runway Protection Zones (RPZ)

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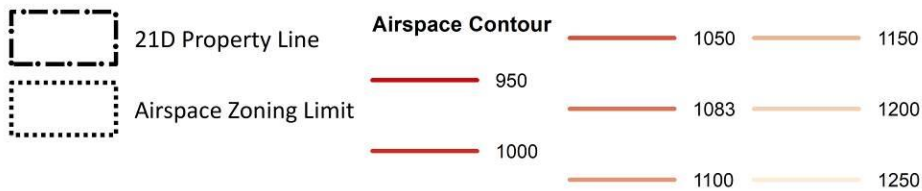
681 **EXHIBIT D – AIRPORT BOUNDARY AND AIRSPACE ZONING LIMITS**



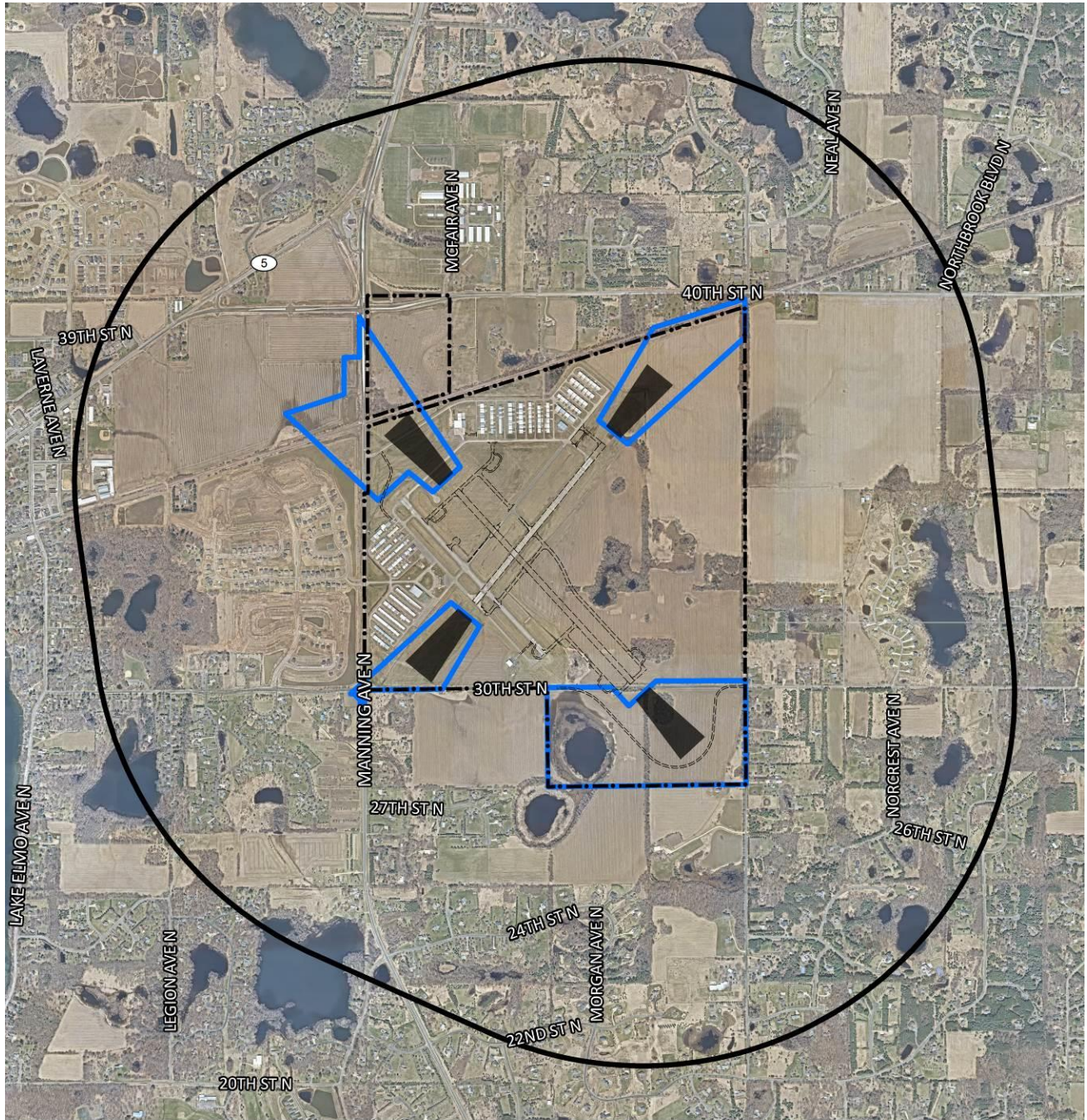
-  21D Property Line
-  Airspace Zoning Limit






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684 EXHIBIT E – AIRPORT BOUNDARY AND AIRSPACE CONTOURS



686 EXHIBIT F – AIRPORT BOUNDARY AND SAFETY ZONING LIMITS



-  21D Property Line
-  Future Improvements
-  Runway Protection Zones (RPZ)
-  JAZB Zone 1
-  JAZB Zone 2