

**Department of Community Planning and Economic Development – Planning Division
Zoning Code Text Amendment**

Date: October 6, 2008

Initiator of Amendment: Council Member Benson

Date of Introduction at City Council: 9/12/08

Ward: 8, 11, 12, & 13 **Neighborhood Organization:** 19 Neighborhoods

Planning Staff and Phone: Merland Otto 612-673-2576

Intent Of The Ordinance: The intent of the amendment is to incorporate the MSP Joint Airport Zoning Board's amended airport zoning ordinance for height limitation and land use zoning into the City's zoning code as required and to comply with a provision of the October 19, 2007 Consent Decree to consider performance standards for noise attenuation in airport noise impacted and mitigated areas.

Appropriate Section(s) of the Zoning Code: Chapter 521.10, Chapter 535.60, Chapter 551

Background: The City of Minneapolis was one of the participants on the Wold Chamberlain Field (MSP) Joint Airport Zoning Board which began working on amending the 1984 Wold Chamberlain Field (MSP) Airport Zoning Ordinance on Sept 13, 2001. The draft ordinance together with supporting documents was submitted August 25, 2003 to the MnDOT Commissioner of Transportation for review and approval. A series of 23 meetings, all of which were open to the public, were held as the Joint Zoning Board deliberated and developed the Ordinance. Additionally, two public hearings were held on September 26, 2002 and February 18, 2004 prior to adoption of the Ordinance in April, 2004. A Metropolitan Council requirement is that impacted communities must incorporate airport safety and height limitation zoning within their zoning code.

Presentations on the proposed ordinance were made to CPC COW on October 3, 2002 and on October 30, 2003. A follow up presentation was made to the Zoning and Planning Committee on August 1, 2006 which first broached the idea of also incorporating provisions for sound attenuation in impacted areas. No specific actions were requested at that time.

No City action has been taken on the proposed ordinance, until now, because there was a delay in getting final electronic plates from MAC and because the ordinance became a bargaining issue in the settlement negotiations with MAC for noise mitigation.

The amendment is very much in the public interest at a range of levels. One of the purposes of the amendment is to protect navigable airspace and thereby protect the traveling public as well as the public

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investment in the airport. At another level a direct purpose of the amendment is to protect people on the ground as well as to mitigate noise impacts associated with the airport.

The predominant zoning classification of the proposed overlay district is R-1 with pockets of R-2 and C-1 and C-2, typical of an Established Residential Neighborhood in a Built Up Urban Area. Adoption of the Airport Overlay District will not change the underlying zoning classifications.

Purpose For The Amendment:

What is the reason for the amendment?

What problem is the amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The reason why this amendment is necessary is to comply with regional policies requiring that airport zoning and land use compatibility is incorporated into the City's zoning code and comprehensive plan. The adopted MSP Joint Airport Zoning Ordinance and accompanying plates are on file with the Hennepin County Recorder's Office as well as the Dakota and Ramsey County Recorders' offices.

There are two separate components to this amendment. The first addresses land use and height limitation zoning required by statute and the Metropolitan Council. The second component addresses noise attenuation provisions of the Consent Decree which the City is obligated to consider but is not required to adopt.

The purpose of this amendment is to:

- Create Airport Zoning Overlay District
- Height Limitation Zoning
- Land Use Safety Zoning
- Noise Impact Area

Height Limitation

The intent of limiting height of structures and trees is to protect federally defined navigable airspace (imaginary surfaces) near the airport. All imaginary surfaces are as defined by Federal Aviation Regulation Part 77.25. The height limitation for structures is actually less restrictive, for the most part, than the City's current ordinance which generally limits heights to 35'. The more restrictive zoning will prevail.

Land Use Safety Zoning

Land use safety zoning is required by state statute and is intended to limit density to protect property and persons in the vicinity of the airport. Generally, safety zoning is more restrictive closer to the end of each runway and becomes less restrictive farther out and off to the sides of the approach path. At MSP land use safety zoning deviates significantly from the state model ordinance and from the 1984 ordinance.

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Safety zone A- coincides with federal runway protection zones (1000'X2500'X1750') rather than the standard two-thirds of runway length or 4667' in 1984 ordinance.

Safety zone B-extended from 2333' to 4500'; site population, parcel size restrictions removed, specific prohibitions against amphitheatres, hospitals, nursing homes, schools, stadiums and wildlife attraction areas

Exempt from restrictions- Under both the current (1984 ordinance) and the revised ordinance all affected areas in Safety Zones A and B in Minneapolis are designated Established Residential Neighborhoods in a Built up Urban Area and are exempt from the safety zone A and B restrictions. All uses are conforming uses and could continue or, if partially or fully destroyed, could be rebuilt under the Airport Zoning Ordinance.

Noise Performance Requirements

The purpose of requiring noise attenuation is:

Within 1996 65 DNL Contour and 2007 63 and 64 DNL noise contours

- a. Preserve the integrity of those homes which already have received or are scheduled to receive MAC's sound insulation package by requiring similar construction using materials with a Sound Transmission Class rating of 40 or higher for additions and expansions and providing central air conditioning in habitable rooms.
- b. Prevent new incompatible residential development without additional noise attenuation

Within 2007 60, 61 and 62 DNL noise contours

- a. Require new home construction to provide central air conditioning

Within 2007 60-64 DNL noise contours

Require multi-family homes to provide central air conditioning

Noise attenuation requirements **do not** apply to remodeling projects.

Staff does not anticipate that land use safety zoning will create any problems since Zone A (undevelopable) land lies almost wholly within airport property except for a small triangular piece in Bossen Park. All parcels in Zone B are exempt by state statute from the Zone B requirements since they are in an Established Residential Neighborhood in a Built Up Urban Area. Zone C requirements are limited to prohibiting uses which might affect visibility, light interference with aircraft and electromagnetic interference with aircraft or airport facilities. Height limitation zoning is generally less restrictive for structures than are the underlying height restrictions. Height limitations are most restrictive in the neighborhoods south of Crosstown Highway. While structures would be grandfathered in, some trees may have to be evaluated to determine if they are hazards, and if so determined, may need to be removed. City staff is working with the Metropolitan Airports Commission to resolve an issue regarding existing trees. The noise attenuation provision will increase initial construction costs to homeowners (estimated to be less than 15% over standard construction) but will maintain the integrity of the sound attenuated structure, provide a higher quality environment and maintain quality housing stock for future generations.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in the surrounding area?

Are there consequences in denying this amendment?

The amendment is timely for three reasons. The City is submitting our 2008 Comprehensive Plan Update to the Metropolitan Council for their review. A requirement of the Comprehensive Plan is that impacted communities must address airport zoning. Further, the MAC entered into an indemnification agreement with communities on the Joint Zoning Board which is effective only if the communities incorporate the ordinance into their plans and codes. Lastly in regards to noise attenuation, provision VI.6.1(a) of the Consent Decree stipulates, "Each staff of the Cities of Minneapolis, Richfield and Eagan shall develop draft ordinances, and present them by September 1, 2008, to their city councils for their consideration..."

As of this time, only Bloomington has adopted the Joint Airport Zoning Ordinance. Since they were not a party to the Consent Decree, they are not under obligation to develop a noise performance ordinance. The Cities of Eagan and Richfield are working to develop ordinances to meet the intent of the Consent Decree. Richfield's has been presented at Planning Commission and City Council and staff was directed to continue to develop their ordinance. Eagan staff met with their Council in a workshop session and they continue to develop their ordinance.

Consequences for not adopting the land use safety and height limitation zoning may mean that the Metropolitan Council would not approve the City's Comprehensive Plan or they may indicate at a future date that we are not in compliance with their regional policies. Additionally, if the City does not adopt at least the land use and height limitation provisions, the MAC has no obligation to indemnify the City in the administration of the Ordinance.

While there are no direct consequences for not adopting the noise attenuation provisions of the Consent Decree, there is a direct consequence to residents who have received noise mitigation but through expansion or additions may compromise the integrity of the sound insulation package.

Is this a problem?

In 2006, CPED conducted a preliminary analysis to determine the extent of teardowns/rebuilds within the noise impacted areas and determined possibly 10 occurrences. If that analysis were to extend through 2008, we would expect a higher number. These existing homes, if this ordinance is adopted, would not be required to do additional attenuation, but any future construction within the noise zones would be so required.

Recently, a gentleman who had purchased a 500 square foot home in the noise impacted area in 2000 queried whether he would be eligible for noise mitigation under the new noise mitigation program. In 2001 he applied for and received a permit to expand his home by 1500 square feet. He now wants to know whether MAC will provide noise attenuation for his newly expanded

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home. The previous home was insulated by MAC in 1996. He, thus, is not eligible under the new program. This is exactly the type of occurrence this ordinance is intended to address.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The amendment will implement the following policies of the Minneapolis Comprehensive Plan:

Policy 2.11.4-“Ensure development is consistent with the provisions of Minneapolis-St.Paul International Airport (Wold Chamberlain Field) Zoning Ordinance and 14 CFR Part 77, Objects Affecting Navigable Airspace as applicable.”

Policy 6.3-“Encourage sustainable design practices in the planning, construction and operations of new developments, large additions and building renovations”.

Policy 6.11-“Take measures to reduce noise pollution at point and non-point sources”.

The City of Minneapolis makes the following additional findings:

- (1) The City of Minneapolis along with other governmental entities participated in litigation to obtain noise attenuation from the Metropolitan Airports Commission relating to noise generated by the operation of Minneapolis/St. Paul International Airport.
- (2) That litigation resulted in a consent decree issued by a Minnesota District Court, dated October 19, 2007.
- (3) Section 6.1 of that consent decree requires the Cities of Minneapolis, Richfield and Eagan to consider ordinances requiring noise attenuation for construction in those areas where existing homes are being provided noise attenuation pursuant to the consent decree.
- (4) This ordinance is intended in part to fulfill the requirements of Section 6.1 of the consent decree.
- (5) Minnesota Statutes, Section 473.192 provides that Minnesota Statutes Section 16B.62 requiring uniform building code provisions does not apply to ordinances adopted pursuant to 473.192 for the purpose of attenuating aircraft noise in habitable buildings in and around the aircraft noise zone.
- (6) Development and redevelopment in certain areas of the City is impacted by aircraft noise.
- (7) Some structures do not adequately attenuate aircraft noise. This results in negative impacts on the health, safety and welfare of some residents or inhabitants of the structures.

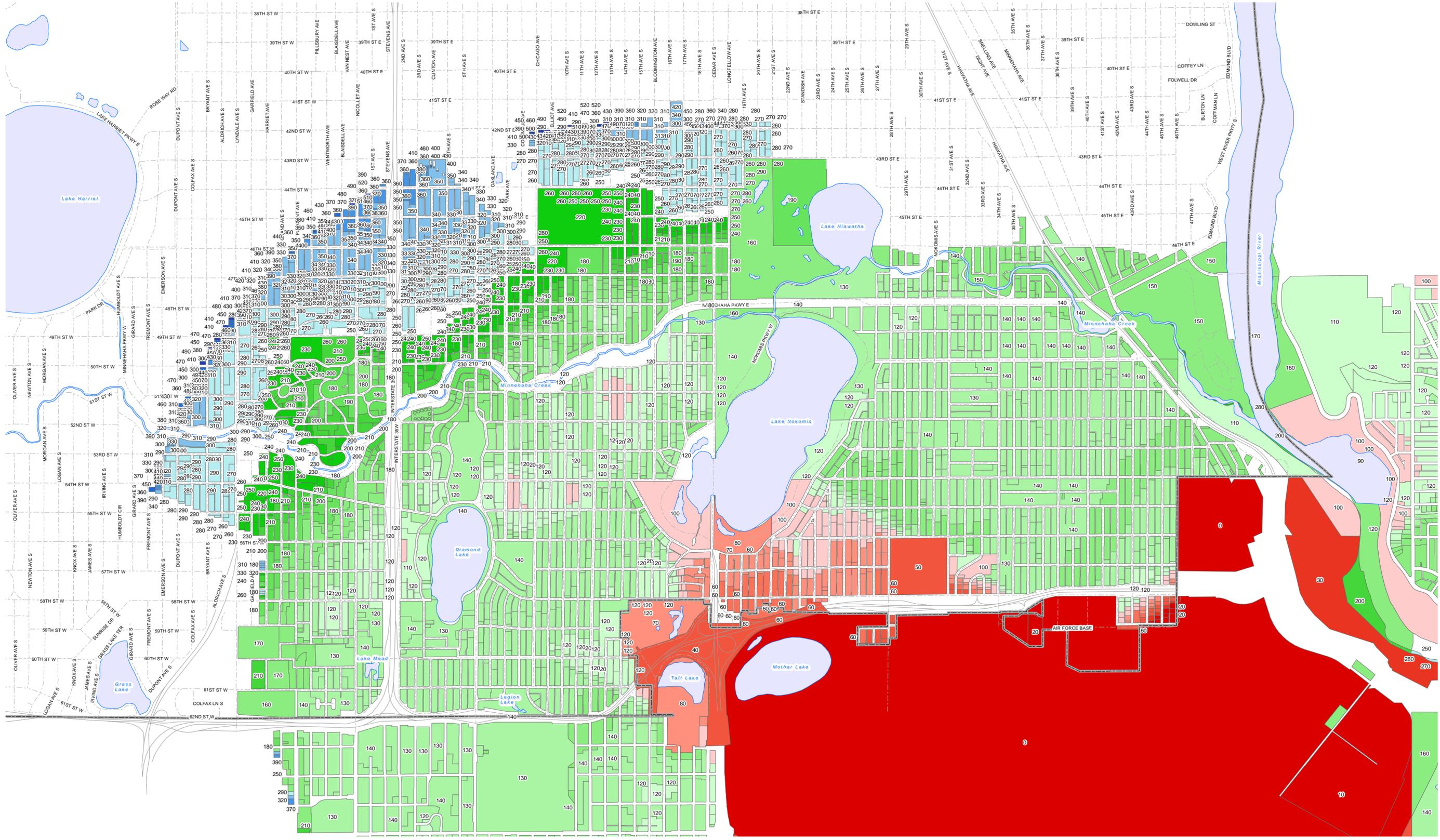
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- (8) Through proper construction methods and materials, the means exist to attenuate aircraft noise to interior levels which help alleviate such negative impacts.
- (9) The requirements of this section will aid in promoting and preserving the health, safety and welfare of the citizens of the City.

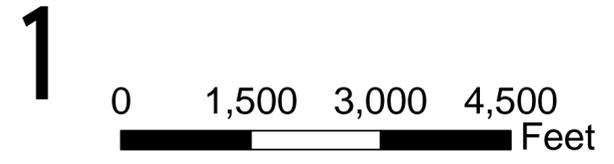
Recommendation Of The Department of Community Planning and Economic Development Planning Division:

The Department of Community Planning and Economic Development - Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the text amendment, amending Sections 521.10, 535.60, and 551.

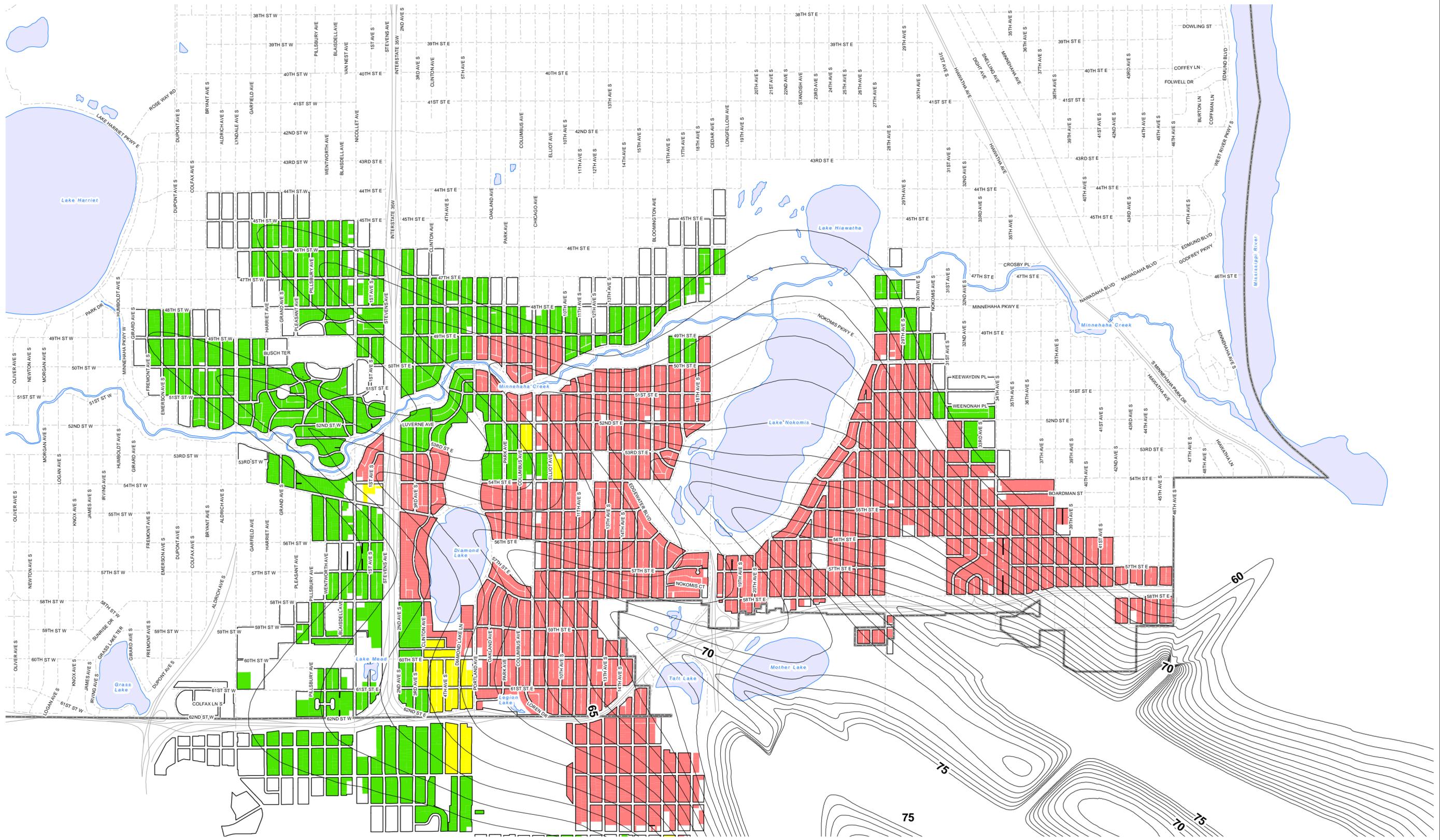
MSP Airport Maximum Construction Heights Without Permit



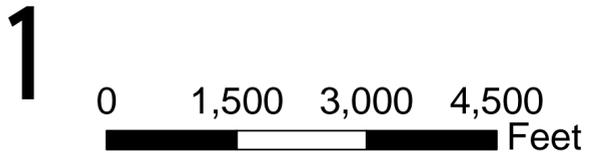
000 - 020	021 - 030	031 - 050	051 - 060	061 - 080	081 - 100
110 - 120	121 - 140	141 - 170	171 - 190	191 - 210	211 - 240
260 - 300	301 - 350	351 - 400	401 - 460	461 - 530	531 - 660



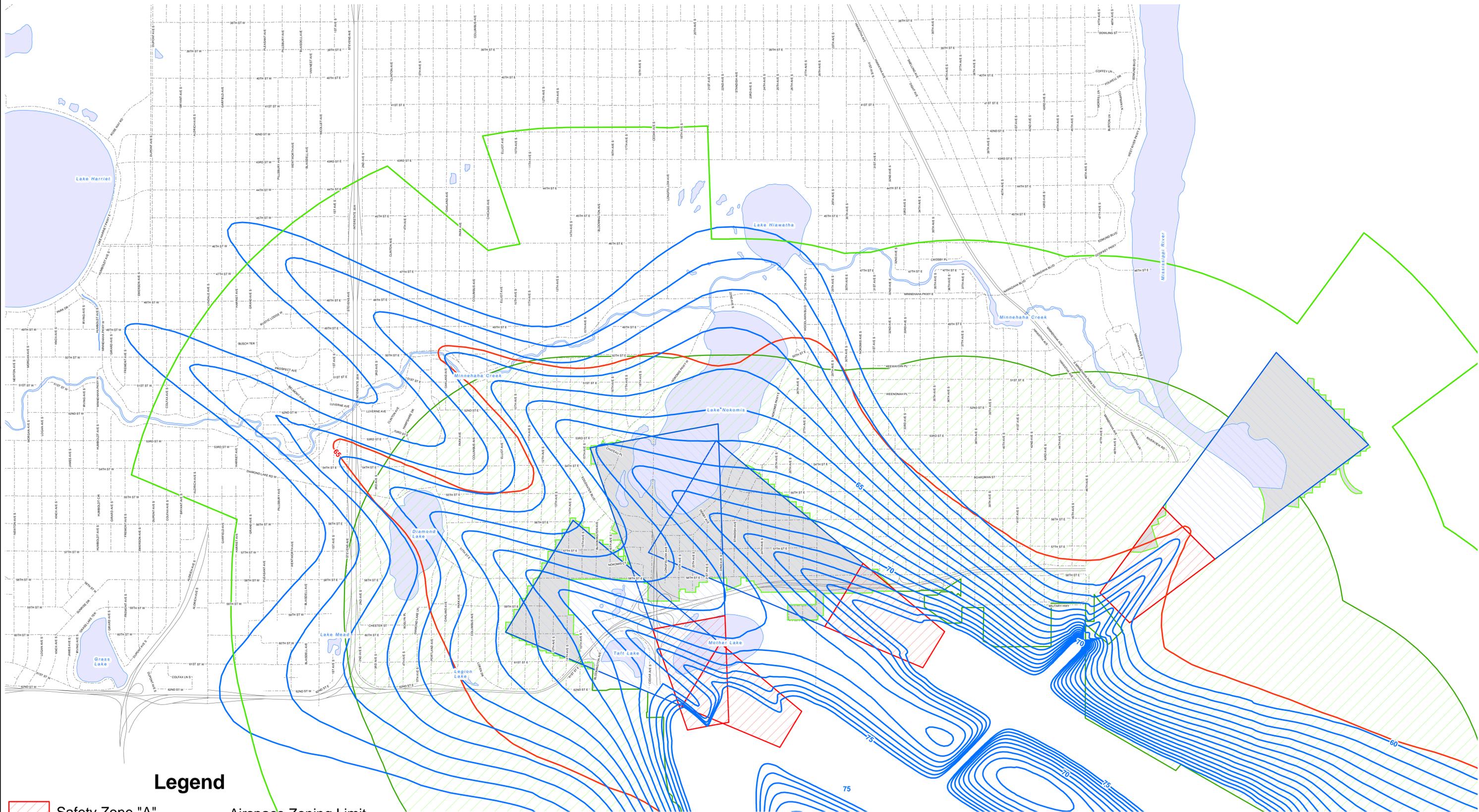
MSP Airport Noise Attenuation Zones



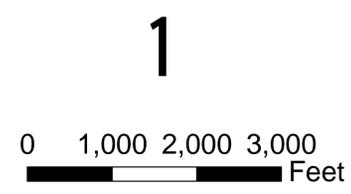
- Block Outline
- 2007 63-64 db
- 2007 60-62 db
- Completed



MSP Airport Overlay District



- Legend**
-  Safety Zone "A"
 -  Safety Zone "B"
 -  Safety Zone "C"
 -  Established Residential Areas In a Built-Up Urban Area
 -  Airspace Zoning Limit
 -  2007 1db Contours
 -  1996 65db Contour



**AN ORDINANCE
OF THE
CITY OF MINNEAPOLIS**

By Council Members Benson, Colvin Roy, Glidden, and Hodges

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 521.10 (6) of the Minneapolis Code of Ordinances be amended to read as follows:

521.10. Establishment of zoning districts. In order to carry out the purposes and provisions of this zoning ordinance, the city shall be divided into the following zoning districts:

- (6) *Overlay Districts.*
NP North Phillips Overlay District
AP Airport Overlay District

Amending Title 20, Chapter 535 of the Minneapolis Code of Ordinances relating to zoning: Regulations of General Applicability

The City Council of the City of Minneapolis do ordain as follows:

Section 2. That Section 535.60, Height near airport be and is hereby repealed.

~~535.60. Height near airport. The following special height limitations shall apply to areas within two (2) miles of the boundary lines of Minneapolis—St. Paul International Airport, except where the primary zoning district is more restrictive:~~

- ~~(1) — Within seven thousand five hundred (7,500) feet of the nearest airport runway boundary, no structure, object of natural growth or portion thereof shall exceed a height of twenty five (25) feet or one (1) foot for each fifty (50) feet that such structure or object is located away from such runway boundary, whichever height is greater.~~
- ~~(2) — Between seven thousand five hundred (7,500) feet and two (2) miles from the nearest airport runway boundary, no structure, object of natural growth or portion thereof shall exceed a height of one hundred fifty (150) feet.~~

Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances relating to Zoning Code: Overlay Districts.

The City Council of the City of Minneapolis do ordain as follows:

Section 3. That Section 551.20 of the Minneapolis Code of Ordinances be amended to read as follows:

- NP North Phillips Overlay District
AP Airport Overlay District

Section 4. That Chapter 551 of the Minneapolis Code of Ordinances be amended by adding a new Article XV to read as follows:

ARTICLE XV AP AIRPORT OVERLAY DISTRICT.

551.1070 Purpose. The AP Overlay District is established to implement the 2004 Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) Zoning Ordinance (hereinafter 2004 MSP Zoning Ordinance) and to provide for the acoustical integrity of Metropolitan Airports Commission (MAC) insulated homes in the MSP noise impact area. The 2004 MSP Zoning Ordinance, pursuant to the provisions and authority of Minnesota Statutes Section 360.063, whenever more restrictive than the underlying code takes precedent within areas of the City of Minneapolis regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Minneapolis-St. Paul International Airport. The 2004 MSP Zoning Ordinance creates zones and establishes boundaries that extend into the City of Minneapolis. It is the purpose of the AP Overlay District to protect the public health, safety, and general welfare and to promote the most appropriate use of land by preventing the creation or establishment of Airport Hazards subject to the 2004 MSP Zoning Ordinance and Minnesota Statutes.

551.1080 Established boundaries. The AP Overlay District shall apply to all land within the City of Minneapolis designated as Safety Zone A, Safety Zone B, and Safety Zone C in the 2004 MSP Zoning Ordinance, and those areas within airspace zones subject to height limitation restrictions identified on the 2004 MSP Airspace Zone Maps. In addition, a sub-district of noise impacted homes is established of that area of homes which has received a 5dB noise reduction treatment through sound insulation more generally described as blocks included within or intersected by the 1996 65 DNL contour and the 2007 63 and 64 DNL contours where a 5 dB treatment has been or is scheduled to be implemented; and for that area encompassed by the 2007 60, 61 and 62 DNL contours.

551.1090 Definitions. The following terms shall have the following definitions for the purpose of this section:

Additions. Any extension or expansion of an existing building footprint, including any increase of year around habitable indoor space, occupancy or use.

Appurtenance. The visible, functional, or ornamental objects accessory to and part of a building not normally occupied by people including garages and accessory buildings; and other unconditioned spaces including screen porches, gazebos, decks.

Central air conditioning. An air conditioning system which uses ducts to distribute cooled and/or dehumidified air to more than one room, or uses pipes to distribute chilled water to heat exchangers in more than one room, and which is not plugged into a standard electrical outlet. With a typical split system, the compressor and condenser are located in an outdoor unit; the evaporator is mounted in the air handling unit (which is often a forced air furnace). With a package system, all components are located in a single outdoor unit that may be located on the ground or roof.

Consent Decree. The Consent Decree signed on October 19, 2007 by Judge Stephen C. Aldrich of the Minnesota District Court, 4th Judicial District in that action entitled City of Minneapolis et al v. Metropolitan Airports Commission et al.

dB_A. A unit of sound pressure level weighted by use of the A metering characteristics and weighting as specified in the American national standards institute specification for sound level meters (ANSI S1.4-1983), which is hereby incorporated by reference. "dB_A" is also referred to as an A-weighted decibel.

Established Residential Neighborhood in a Built Up Urban Area. A low density residential structure or isolated low density residential lot which existed on or before January 1, 1978, and all other land uses which existed on or before June 30, 1979. These areas are as set forth in Exhibit B of the MSP Airport Zoning Ordinance by legal description and are shown on Exhibit C of said Ordinance.

Infill development. A vacant parcel or parcels of land proposed for development of uses similar to or less noise sensitive than the surrounding developed parcels including, but not limited to a new house on a vacant lot in a residential neighborhood.

L_{dn} or DNL. The day-night average level, or the twenty four (24) hour equivalent continuous sound level (time averaged A-weighted sound level) from midnight to midnight, obtained after the addition of ten (10) dB_A to sound levels measured from ten o'clock (10:00) P.M. to seven o'clock (7:00) A.M.

Major development. A parcel of land greater than two-and-a-half (2.5) acres with existing structures which are proposed to be extensively rehabilitated or demolished for different uses. For example, demolition of an entire block of old residential, office and hotel buildings for new housing, office, commercial uses or conversion of warehouse to office and commercial uses.

Mechanical ventilation. Controlled, purposeful introduction of outdoor air to the conditioned space. The primary purpose of a whole-house mechanical ventilation system in a home is to provide, throughout the habitable and conditioned space, a controlled amount of unpolluted outside air for indoor pollutant dilution and removal, for the sensory satisfaction of occupants and to control interior moisture and indoor air quality.

New development. A vacant parcel or parcels of land in excess of one (1) acre or requested to be rezoned for development. For example, a residential subdivision, industrial park or shopping center.

Reconstruction of existing structures. Replacing an existing building to accommodate the same use that existed before destruction or reconstruction, including indoor occupancy and use.

Runway protection zone. An area off the runway end (formerly clear zone) used to enhance the protection of people and property on the ground.

Sound attenuation. The reduction in sound level which occurs between the source and receiver by means of construction methods and materials.

Sound transmission class (STC). A single number rating for describing the degree of sound transmission loss specified for a wall, window, partition or other building element based on laboratory testing. The higher the STC, the more attenuation the building element will afford. Sound transmission loss performance shall be tested per American Society of Testing Materials (ASTM) E90 and STC rating method per ASTM E413. The same data shall be used to determine the A-weighted Noise Level Reduction (ANLR). The testing laboratory shall be certified by the National Institute of Science and Technology's, "National Voluntary Laboratory Accreditation Program" (NVLAP).

1996 Block Completion Map with 5 dB DNL Contours. The map depicting blocks with homes that are within or touched by the DNL 65-75 contours which were eligible for the 5 dB insulation package under the Metropolitan Airports Commission Part 150 Noise Mitigation Program and is incorporated herein by reference.

2007 Settlement Map with 1 dB DNLC contours. The 2007 map of mitigated contours depicting city blocks with homes that are within or touched by the DNL 60-64 contours and as shown as Appendix A of the Consent Decree. This map is incorporated herein by reference.

551.2000 Incorporation by Reference – The provisions contained in 551.2000 to 551.2040 are drawn from the Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) Zoning Ordinance as amended April 29, 2004 together with Exhibits A-F which are incorporated herein by reference and are available at the City Clerk's office in Minneapolis City Hall and at the Hennepin County Recorder's Office.

551.2010 General Restrictions. No use shall be made of any land in any of the Safety Zones A, B or C that creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between airport and aircraft, makes it difficult for pilots to distinguish between airport lights or other lights, results in glare in 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.

All permitted, conditional, and interim principal and accessory uses allowed in the primary zoning district are allowed in the AP Overlay District with the exception of the following prohibited uses:

- (a) Within the portion of the AP Overlay District designated as Safety Zone A as contained in Section V Land Use Safety Zoning of the 2004 MSP Zoning Ordinance and shown on MSP Zoning Map Safety Zones-Plates SZ-8, SZ-9, SZ-10, and SZ-11 there shall be no structures or trees, except structures related to airport operations or air navigation as allowed in a Runway Protection Zone by Federal laws and regulations or by FAA advisory circulars. For all runways, Safety Zone A is a trapezoidal shape beginning two hundred (200) feet off the end of the runway pavement and which is one thousand (1,000) feet wide centered on the runway centerline extended two thousand five hundred (2,500) feet outward and shall be at that point one thousand seven hundred fifty (1,750) feet wide centered on the runway centerline extended. Safety Zone A conforms to the federally described Runway Protection Zone for precision instrument runways.
- (b) Within the portion of the AP Overlay District designated as Safety Zone B as contained in Section V Land Use Safety Zoning of the 2004 MSP Zoning Ordinance and shown on MSP Zoning Map Safety Zones-Plates SZ-8, SZ-9, and SZ-10, the following uses are prohibited unless a variance permitting the use is granted by the MSP Board of Adjustment established by the 2004 MSP Zoning Ordinance:
 - (1) Amphitheaters
 - (2) Campgrounds
 - (3) Churches
 - (4) Fuel storage tank farms
 - (5) Above-ground fuel tanks
 - (6) Gasoline stations
 - (7) Hospitals
 - (8) Nursing homes

- (9) Residential uses (including low, medium and high density residential uses) except in an Established Residential Neighborhood In A Built-up Urban Area
- (10) Schools
- (11) Stadiums
- (12) Theaters
- (13) Trailer courts
- (14) Ponds or other uses that might attract waterfowl or other birds such as putrescible waste disposal operations, wastewater treatment facilities and associated settling ponds, and dredge spoil containment areas; provided, however, the prohibition on ponds or other uses that might attract waterfowl or other birds shall not apply to acres below an elevation of eight hundred (800) feet above mean sea level along the Bluff of the Minnesota River.

Safety Zone B is coincident with the outer boundary of Safety Zone A and extends uniformly outward for a distance of four thousand five hundred (4,500) feet to an ultimate width of three thousand one hundred (3,100) feet centered on the runway centerline extended.

- (C) Within the portion of the AP Overlay District designated as Safety Zone C as contained in Section V Land Use Safety Zoning of the 2004 MSP Zoning Ordinance and shown on MSP Zoning Map Safety Zones-Plates SZ-2, SZ-3, SZ-4, SZ-7, SZ-8, SZ-9, and SZ-10, the general use restrictions applicable to all Safety Zones apply.

551.2020 Exemptions Those portions of the AP Overlay District identified as Established Residential Neighborhood In a Built Up Urban Area and shown on MSP Zoning Maps Plates E-2, E-3,E-4,E-5, E-6, E-7, E-8, E-9, and E-10 are subject to the following exemptions:

(1) A low density residential structure or isolated low density residential lot which existed in an Established Residential Neighborhood In a Built Up Urban Area on or before January 1, 1978, and all other land uses which existed in an Established Residential Neighborhood In a Built Up Urban Area on or before June 30, 1979, shall be subject to the height restrictions and general use restrictions, but shall not be subject to the use restrictions of Safety Zones A or B. In addition such structure, lot or use shall be deemed a conforming use that shall not be prohibited under the 2004 MSP Zoning Ordinance.

(2) In Safety Zone B in an Established Residential Neighborhood in a Built Up Urban Area or in an area immediately adjacent to such a Neighborhood, existing low, medium, and high density residential uses may be improved and expanded and new low medium and high density residential uses may be developed subject to height restrictions, general use restrictions and noise attenuation requirements.

551.2030 Height - All structures in the AP Overlay District shall be subject to the height restrictions imposed by the 2004 MSP Zoning Ordinance or the Minneapolis Code of Ordinances, whichever is more restrictive and subject to the following:

(1) *Airport Overlay District.* Except as necessary and incidental to MSP Airport operations, no new structure shall be constructed or established; no existing structure shall be altered, changed, rebuilt, repaired, or replaced; and no tree shall be allowed to grow or be altered, repaired or replaced, or replanted in anyway so as

to project above any Airspace Surface as shown on MSP Zoning Map Airspace Zones-Plates A-1, A-2, A-3, A-4, A-7, A-8, A-9, and A-10

- (2) *Airport Permit.* Within the Airport Overlay District an airport zoning permit must be applied for and granted from the City of Minneapolis if the height of a proposed structure or tree exceeds the maximum construction height as shown on MSP Maximum Construction Heights Without a Permit-Plates MCH-1, MCH-2, MCH-3, MCH-4, MCH-7, MCH-8, MCH-9, and MCH-10.
- (3) *Other Notification and Permits.* The applicant is also subject to notification requirements and approvals of Minnesota Office of Aeronautics regarding notification criteria for airspace obstruction and Federal Aviation Administration's permitting and review for Notices of Proposed Construction (FAA Form-7460-8) as set forth in Code of Federal Regulations Title 14 Part 77. Note that both MnDOT Aeronautics and FAA criteria extend beyond the boundaries of the Airport Overlay District.

551.2040 2004 MSP Zoning Ordinance Use Variances - Within the AP Overlay

District, variances to allow uses listed as prohibited in the AP Overlay District that are granted by the MSP Board of Adjustment pursuant to the 2004 MSP Zoning Ordinance may only be established in the City of Minneapolis to the extent that they comply with all other provisions of the Minneapolis Code of Ordinances.

551.2050 Noise Attenuation- It is in the best interests of the City and of current and future residents that the integrity of all residential structures which have received a 5dB or other sound insulation package from the Metropolitan Airports Commission be maintained subject to the following:

(1) *Noise attenuation required - expansion.* Whenever construction of a habitable addition to a dwelling unit is undertaken which expands the habitable area of a dwelling unit which had previously received a 5db sound insulation package from the Metropolitan Airports Commission pursuant to the Consent Decree or pursuant to previous noise mitigation programs of the Metropolitan Airports Commission, the construction must include installation of central air conditioning or mechanical ventilation for the expanded area. Such construction shall utilize materials with a sound transmission class (STC) rating of at least forty (40) in order to achieve similar noise attenuation in the expansion of the structure as existed in the principal structure prior to expansion.

(2) *Noise attenuation required - infill or tear down/rebuild residential construction.* Infill construction or rebuilding of residential structures after tearing down the original structure which takes place within blocks or between structures that have received noise attenuation pursuant to the Consent Decree or pursuant to previous noise mitigation programs of the Metropolitan Airports Commission shall utilize building materials with a sound transmission class (STC) rating of at least forty (40) and shall include installation of central air conditioning or mechanical ventilation throughout the habitable areas of the structure.

(3) *Requirement within the 2007 60 – 62 Contours.* Construction of new single family homes located in blocks or between structures that have received noise attenuation pursuant to the Consent Decree that are in the 60 to 62 DNL contours as defined in the Consent Decree shall include installation of central air conditioning or mechanical ventilation throughout the habitable portion of the structure.

(4) *Requirement for multiple-family homes within the 2007 – 60-64 Contour.* Construction of new multiple family homes in blocks that have received noise attenuation pursuant to

the Consent Decree or which are between structures which have received noise attenuation pursuant to the Consent Decree or pursuant to previous noise mitigation programs of the Metropolitan Airports Commission shall install central air conditioning or mechanical ventilation throughout the habitable portions of the structure.

Within each aircraft noise overlay zone, all uses shall be permitted in accordance with the regulations for the underlying zoning districts, provided the appropriate building permit is first obtained and all requirements for conditional and permitted uses under this section are met.

551.2060 Application Of Provisions: The provisions of 551.2050 shall apply to all new development, major redevelopment, in fill development, construction and reconstruction of a building, and any habitable additions or expansions of an existing building requiring a building permit after the effective date hereof. This section shall not apply to remodeling or rehabilitation of an existing residential building; construction of decks, swimming pools, breezeways, three season porches or the construction of an appurtenance to an existing residential building.

551.2070 Effective Date This amendment to the Minneapolis Code of Ordinances shall become effective the 1st day of January, 2009.