

Office of the Revisor of Statutes

Administrative Rules



TITLE: Adopted Permanent Rules Relating to Airport Zoning Standards

AGENCY: Department of Transportation

REVISOR ID: R-4655

MINNESOTA RULES: Chapter 8800

The attached rules are approved for
filing with the Secretary of State

A handwritten signature in black ink, appearing to read "K. Behr", is written over a horizontal line.

Kevin R. Behr
Senior Assistant Revisor

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1.1 **Department of Transportation**

1.2 **Adopted Permanent Rules Relating to Airport Zoning Standards**

1.3 **8800.0100 DEFINITIONS.**

1.4 *[For text of subparts 1 to 7, see Minnesota Rules]*

1.5 Subp. 7a. **Building.** "Building" means any structure utilized or intended for supporting
1.6 or sheltering any occupancy.

1.7 *[For text of subparts 8 to 10, see Minnesota Rules]*

1.8 Subp. 11. **FAA.** "FAA" means the Federal Aviation Administration of the United
1.9 States.

1.10 *[For text of subparts 12 to 14, see Minnesota Rules]*

1.11 Subp. 15. **Height.** "Height": for the purpose of determining the height limits set forth
1.12 in this chapter, the datum must be mean sea level elevation as determined by U.S. Geological
1.13 Survey.

1.14 *[For text of subparts 16 and 16a, see Minnesota Rules]*

1.15 Subp. 17. **IFR.** "IFR" means instrument flight rules.

1.16 Subp. 18. **Letter of authority.** "Letter of authority" is included in the term "license"
1.17 as used in this chapter.

1.18 *[For text of subparts 19 to 20a, see Minnesota Rules]*

1.19 Subp. 21. **Passenger.** "Passenger" means an occupant of an aircraft who is not assigned
1.20 to perform a duty necessary for operating the aircraft.

1.21 Subp. 22. **Person.** "Person" includes an individual, firm, partnership, corporation,
1.22 company, association, joint stock association, or body politic and includes a trustee, receiver,
1.23 assignee, administrator, executor, guardian, or other representative.

2.1 Subp. 22a. **Personal-use airport.** "Personal-use airport" means a restricted airport
2.2 that meets the criteria of part 8800.2200. A personal-use airport is intended for the personal
2.3 use of the owner of the airport.

2.4 Subp. 23. **Planned.** "Planned," means only those proposed future airport developments
2.5 that are so indicated on a planning document approved by the commissioner.

2.6 *[For text of subpart 24, see Minnesota Rules]*

2.7 Subp. 24a. **Private airport.** "Private airport" means a restricted airport, whether
2.8 privately or publicly owned. The persons who may use the airport are determined by the
2.9 owner of the airport. A private airport may not be held out for public use nor may it be
2.10 displayed on aeronautical charts except as a restricted facility.

2.11 Subp. 24b. **Public airport.** "Public airport" means any airport, whether privately or
2.12 publicly owned, the public use of which for aeronautical purposes is invited, permitted, or
2.13 tolerated by the owner or person having the right of access and control.

2.14 *[For text of subpart 25, see Minnesota Rules]*

2.15 Subp. 26. **Runway.** "Runway" means any existing or planned paved surface or turf
2.16 covered area of the airport that is specifically designated and used or planned to be used for
2.17 the landing and taking off of aircraft.

2.18 Subp. 26a. **Seaplane base.** "Seaplane base" means an area of water used or intended
2.19 to be used for the landing and takeoff of aircraft, together with appurtenant shoreline
2.20 buildings and facilities. A seaplane base is an airport as defined in subpart 3.

2.21 *[For text of subpart 27, see Minnesota Rules]*

2.22 Subp. 28. **Structure.** "Structure" means an object constructed or installed by people,
2.23 including but not limited to buildings, towers, smokestacks, earth formations, and overhead
2.24 transmission lines.

3.1 *[For text of subparts 29 to 33, see Minnesota Rules]*

3.2 Subp. 34. **VFR.** "VFR" means visual flight rules.

3.3 *[For text of subparts 35 and 36, see Minnesota Rules]*

3.4 **8800.2400 AIRPORT ZONING STANDARDS.**

3.5 Subpart 1. **Standards.** The zoning of public airports as to airspace, land use safety,
3.6 and noise sensitivity must meet the minimum standards in this part.

3.7 Subp. 2. **Airport zoning powers.** Any person or governmental body having airport
3.8 zoning powers under Minnesota Statutes, sections 360.061 to 360.074 may adopt airport
3.9 zoning ordinances, orders, or regulations more restrictive than the minimum zoning standards
3.10 in this part or in any other applicable law.

3.11 Subp. 3. **Airspace zones.** The following airspace zones are established with relation
3.12 to an airport and each runway:

3.13 A. Primary zone: all land that lies directly under an imaginary primary surface,
3.14 as defined in part 8800.1200, subpart 5, item A.

3.15 B. Horizontal zone: all land that lies directly under an imaginary horizontal surface,
3.16 as defined in part 8800.1200, subpart 5, item B.

3.17 C. Conical zone: all land that lies directly under an imaginary conical surface, as
3.18 defined in part 8800.1200, subpart 5, item C.

3.19 D. Approach zone: all land that lies directly under an imaginary approach surface,
3.20 as defined in part 8800.1200, subpart 5, item D.

3.21 E. Precision instrument approach zone: all land that lies directly under an imaginary
3.22 precision instrument approach surface, as defined in part 8800.1200, subpart 5, item E.

4.1 F. Transitional zone: all land that lies directly under an imaginary transitional
4.2 surface, as defined in part 8800.1200, subpart 5, item F.

4.3 Subp. 4. **Height restrictions.** Except as necessary and incidental to airport operation,
4.4 structures and trees must not be constructed, altered, or allowed to grow in any airport zone
4.5 so as to project above any of the imaginary airspace surfaces under subpart 3.

4.6 Subp. 5. **Land use safety zones.** The following land use safety zones are established
4.7 with relation to an airport and each existing or planned runway:

4.8 A. Safety zone A:

4.9 (1) In the approach zone of a runway, safety zone A extends outward from
4.10 the end of the primary zone a distance equal to two-thirds of the runway length.

4.11 (2) In the instance of a planned extension or shortening of an existing runway,
4.12 the length of safety zone A must be determined by the length of the planned or existing
4.13 runway, whichever is longer.

4.14 (3) The length of safety zone A must not be required to exceed 4,000 feet.

4.15 B. Safety zone B:

4.16 (1) In the approach zone of a runway, safety zone B extends outward from
4.17 the end of safety zone A a distance equal to one-third of the runway length.

4.18 (2) In the instance of a planned extension or shortening of an existing runway,
4.19 the length of safety zone B must be determined by the length of the planned or existing
4.20 runway, whichever is longer.

4.21 (3) The length of safety zone B must not be required to exceed 2,000 feet.

4.22 C. Safety zone C: all land that is enclosed within the perimeter of the horizontal
4.23 zone defined in subpart 3, item B and that is not included in safety zone A or safety zone
4.24 B.

Subp. 6. **Use restrictions.** To restrict uses that may be hazardous to the operational safety of aircraft operating to and from an airport and to limit population and building density in the runway approach areas to create sufficient open space so as to protect life and property in case of an accident, the following use restrictions apply to the land use safety zones.

A. Safety zone A must not contain buildings or exposed transmission lines and must be restricted to uses that will not create, attract, or bring together an assembly of persons. Permitted uses may include but are not limited to such uses as agriculture (seasonal crops), horticulture, raising of livestock, light outdoor recreation (nonspectator), cemeteries, fencing, roadways, railways, trails, and auto parking.

B. Safety zone B must be restricted in use as follows. Each use must be on a site whose area is not less than three acres. Each use must not create, attract, or bring together a site population that would exceed 15 times that of the site acreage. Each site must have no more than one building plot upon which any number of structures may be erected.

A building plot must be a single, uniform, and noncontrived area, whose shape is uncomplicated and whose area must not exceed the following minimum ratios with respect to the total site area:

Site Area at Least (Acres)	But Less Than (Acres)	Ratio of Site area to Building Plot Area	Building Plot Area square feet	Maximum Site Population (15 Persons/A)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,600	90
	10	8:1		
10		6:1	72,500	150

6.1		20	6:1		
6.2	20	and up	4:1	218,000	300

6.3 The following uses are specifically prohibited in safety zone B: institutions of religious
6.4 assembly, hospitals and clinics, nursing homes, schools, theaters, stadiums, hotels and
6.5 motels, trailer courts, campgrounds, and other places of similar use.

6.6 C. Safety zone C is subject only to the general restrictions contained in item D.

6.7 D. The use of any land in any of the safety zones is prohibited if the use:

6.8 (1) creates or causes interference with the operation of radio or electronic
6.9 facilities on the airport or with radio or electronic communications between the airport and
6.10 aircraft;

6.11 (2) makes it difficult for pilots to distinguish between airport lights and other
6.12 lights;

6.13 (3) results in glare in the eyes of pilots using the airport;

6.14 (4) impairs visibility in the vicinity of the airport; or

6.15 (5) otherwise endangers the landing, taking off, or maneuvering of aircraft.

6.16 E. Existing land uses are subject to the use restrictions contained in this item.

6.17 (1) For purposes of this item, "existing land use" means the land use present
6.18 when the area is first encumbered by an airport zoning ordinance.

6.19 (2) Each governmental authority having airport zoning powers must determine
6.20 which areas located in safety zones A and B of each airport within its jurisdiction are
6.21 designated as existing land uses. Existing land uses located in whole or part in safety zones
6.22 A or B must be specifically located on the airport zoning map and must be legally described
6.23 in the airport zoning ordinance.

7.1 (3) Areas designated as existing land uses are not subject to the land use
7.2 restrictions of safety zones A or B in an airport zoning ordinance except as required in
7.3 subitem (4).

7.4 (4) The following existing land uses in safety zones A or B are considered
7.5 by the commissioner to constitute airport safety hazards so severe, either to persons on the
7.6 ground or to the air traveling public, or both, that they must be prohibited under local airport
7.7 zoning ordinances:

7.8 (a) any structure that has more than half of its footprint located within
7.9 safety zone A and within 1,000 feet of the end of the primary zone;

7.10 (b) any structure that has more than half of its footprint located within
7.11 safety zone A or B and that penetrates an imaginary approach surface as defined by part
7.12 8800.1200, subpart 5, item D; and

7.13 (c) any other land use that presents, in the opinion of the commissioner,
7.14 a material danger to the landing, taking off, or maneuvering of aircraft or to the safety of
7.15 persons on the ground. In making such a determination, the commissioner must consider
7.16 the following factors:

7.17 i. the possibility that the land use may contribute to or cause a
7.18 collision of two or more aircraft or an aircraft and some other object;

7.19 ii. the possibility that the land use may, in case of an aircraft
7.20 accident, cause an explosion, fire, or the release of harmful or noxious fumes, gases, or
7.21 substances;

7.22 iii. the tendency of the land use to increase the number of persons
7.23 that would be injured in case of an aircraft accident;

7.24 iv. the effect of the land use on availability of clear areas for
7.25 emergency landings; and

8.1 v. flight patterns around the airport, the extent of use of the runway
8.2 in question, the type of aircraft using the airport, whether the runways are lighted, whether
8.3 the airport is controlled, and other similar factors.

8.4 (5) In the case of any land use prohibited by subitem (4) and that is located
8.5 in an area designated as an existing land use in an airport zoning ordinance, as defined by
8.6 the local government unit and reviewed and approved by the commissioner, the prohibited
8.7 land use must be acquired, altered, or removed at public expense by the governmental body
8.8 that owns the airport. This may be accomplished by an exchange of land, purchase of
8.9 development rights, acquisition of easements, or other method to be negotiated with the
8.10 landowner or by outright purchase or exercise of eminent domain, if necessary.

8.11 (6) The prohibited uses enumerated in subitem (4) are only those that present
8.12 the most severe safety hazards to the air traveling public or persons on the ground. Local
8.13 governmental units may also prohibit other land uses in safety zones A and B as being
8.14 unsafe to the public. The use restrictions contained in items A to D provide guidance as to
8.15 what uses the commissioner deems not to be in the public interest in these safety zones.

8.16 (7) In the event that the provisions of this item, as reflected in a proposed
8.17 local zoning ordinance, would require the acquisition, alteration, or removal of any land
8.18 use, the local zoning authority must notify the airport owner who must then notify the
8.19 commissioner in writing. Within 90 days of receipt of the notification, the commissioner
8.20 must evaluate whether the social and economic costs of acquisition, alteration, or removal
8.21 of a land use outweigh the impacts that altering the airport would have on the utility of the
8.22 airport, the state aviation system, and the state airports fund and provide a recommendation
8.23 in writing to the airport owner.

8.24 Subp. 7. [See repealer.]

9.1 **8800.2500 FINANCIAL AID FOR MUNICIPAL AIRPORT PROJECTS.**

9.2 Subpart 1. **Airport projects.** The commissioner must make a substantive decision as
9.3 to the merit or necessity of each project and project application. A substantial aeronautical
9.4 requirement must be shown by the municipality whereby the contemplated or existing airport
9.5 is a necessary part of a system of public airports adequate to meet the present and anticipated
9.6 needs of civil aviation in Minnesota.

9.7 Subp. 2. **Project requirements.** The airport must be able to handle air traffic safely
9.8 and adequately. The public interest and aeronautical progress of the state must be reflected
9.9 in each project and project application. The municipality must show that:

9.10 A. sufficient funds are available for that portion of the project costs to be borne
9.11 by the municipality;

9.12 B. the project will be completed without undue delay; and

9.13 C. the municipality submitting the project application has legal authority to engage
9.14 in the development as proposed.

9.15 Subp. 3. **Clear zone.** To be eligible for funding for the construction, improvement,
9.16 or maintenance of airports or for air navigation facilities for an airport, each airport licensed
9.17 as a public airport by the commissioner must comply with the clear zone provisions
9.18 established in this part or provide written notice to the commissioner that demonstrates the
9.19 airport's good faith efforts to make progress toward compliance.

9.20 Subp. 4. **Clear zone dimensions.** Clear zone dimensions must be based on an airport's
9.21 planned build-out conditions. The dimensions of each clear zone are established for and
9.22 based on the type of existing or planned approach for each runway end.

9.23 A. The inner edge of the clear zone is the same width as, and coincides with, the
9.24 end of the primary surface, as defined in part 8800.1200, subpart 5, item A.

B. The clear zone extends outward under the approach surface, as defined in part 8800.1200, subpart 5, item D. The clear zone expands uniformly from the end of the primary surface, following the approach surface to a terminal distance of:

(1) 1,000 feet for a utility runway;

(2) 1,700 feet for a runway end of an other than utility runway with a visual or nonprecision instrument approach except those with visibility minimums as low as three-fourths of a statute mile; or

(3) 2,500 feet for a runway end of an other than utility runway with a nonprecision instrument approach lower than three-fourths of a statute mile or a precision instrument approach.

Subp. 5. Clear zone ownership. To provide for the safety of aircraft operations and populations in runway approach zones, airports must meet the requirements in item A or B:

A. an airport sponsor must own one hundred percent of all clear zones in fee simple based on planned build-out conditions in accordance with the dimensions provided in subpart 4; or

B. the airport sponsor must prepare a clear zone acquisition plan as provided in subpart 6.

Subp. 6. Clear zone acquisition plan. The airport sponsor must prepare a clear zone acquisition plan that documents the plan for acquiring all clear zones in fee simple and obtain approval from the commissioner as required under Minnesota Statutes, section 360.305, subdivision 5.

Subp. 7. Exceptions. In cases where it is not feasible to own the entire clear zone in fee simple due to airport-specific constraints, such as cost burdens that present a hardship for the airport sponsor; the need to obtain a parcel that is not readily severable from other

11.1 land; or natural features of the terrain, such as a river that make acquisition impracticable,
11.2 the airport sponsor may request an exception. To request an exception, a clear zone
11.3 acquisition plan must be prepared and include:

11.4 A. a list of property interests currently owned and property interests identified for
11.5 future acquisition;

11.6 B. any natural and manmade features within clear zones based on the dimensions
11.7 provided in subpart 4, items A and B, including those that may result in congregations of
11.8 people or exceed height standards defined by part 8800.1200;

11.9 C. factors limiting clear zone acquisition;

11.10 D. existing or proposed future land use control strategies to support
11.11 airport-compatible land uses within clear zones; and

11.12 E. an explanation of any potential negative safety impacts that not owning the
11.13 entire clear zone in fee simple may have on aircraft operations and populations in runway
11.14 approach zones.

11.15 **Subp. 8. Evaluation of clear zone acquisition plan.** The commissioner must evaluate
11.16 the clear zone acquisition plan and the information required by subpart 7. If the commissioner
11.17 approves the clear zone acquisition plan, the airport sponsor must be notified in writing. If
11.18 the commissioner does not approve the clear zone acquisition plan, the commissioner must
11.19 notify the airport sponsor in writing and provide the reasons for disapproval. The
11.20 commissioner must disapprove a plan upon finding that a requested exception does not
11.21 adequately provide for the safety of aircraft operations and populations in the runway
11.22 approach zones. The airport sponsor may revise and resubmit the clear zone acquisition
11.23 plan within 90 days of the disapproval for further evaluation until the plan is approved.

11.24 **Subp. 9. Applicability.** Airports with airport layout plans approved under Minnesota
11.25 Statutes, section 360.305, subdivision 5, on or after the effective date of this part must meet

- 12.1 the criteria in subpart 5, item A or B. Airports without approved airport layout plans or
- 12.2 airports with airport layout plans approved before the effective date of this part must meet
- 12.3 the criteria in subpart 5, item A or B, when they next complete a full update of their airport
- 12.4 layout plan.
- 12.5 **REPEALER.** Minnesota Rules, part 8800.2400, subpart 7, is repealed.

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