
CHAPTER 654-H.F.No.2052

[Coded in Part]

An act relating to aeronautics; modifying airport zoning regulations to protect existing residential neighborhoods; amending Minnesota Statutes 1976, Sections 360.062; 360.066, Subdivision 1, and by adding subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 360.062, is amended to read:

360.062 HAZARDS CONTRARY TO PUBLIC INTERESTS; PROTECTION OF EXISTING NEIGHBORHOODS. It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and ~~also if of the obstruction type, in effect reduces may reduce~~ the size of the area available for the landing, taking-off, and maneuvering of aircraft, ~~thus tending to destroy or impair thereby impairing~~ the utility of the airport and the public investment therein. It is also found that the social and financial costs of disrupting existing land uses around airports in built up urban areas, particularly established residential neighborhoods, often outweigh the benefits of a reduction in airport hazards that might result from the elimination or removal of those uses. Accordingly, it is hereby declared: (1) That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (2) that it is therefor necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and ~~(3) that this should be accomplished to the extent legally possible, by exercise of the police power, without compensation; and (3) that the~~ elimination or removal of existing land uses, particularly established residential neighborhoods in built up urban areas, or their designation as nonconforming uses is not in the public interest and should be avoided whenever possible consistent with reasonable standards of safety. It is further declared that ~~both~~ the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

Sec. 2. Minnesota Statutes 1976, Section 360.066, Subdivision 1, is amended to read:

360.066 ZONING REQUIREMENTS. Subdivision 1. **REASONABLENESS.** All minimum standards of the commissioner defining airport hazard areas and the categories of uses permitted therein and all airport zoning regulations adopted under Laws 1945, Chapter 303, shall be reasonable, and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of Laws 1945, Chapter 303. In determining what minimum standards and regulations it may adopt be adopted, the commissioner and each any municipality, or county, or joint local airport zoning board, authority shall consider, among other things, the character of the flying operations.

Changes or additions indicated by underline deletions by ~~strikeout~~

expected to be conducted at the airport, the location of the airport, the nature of the terrain within the airport hazard area, the existing land uses and character of the neighborhood around the airport, and the uses to which the property to be zoned is put and adaptable.

Sec. 3. Minnesota Statutes 1976, Section 360.066, is amended by adding a subdivision to read:

Subd. 1a. PROTECTION OF EXISTING NEIGHBORHOODS. (a) In order to ensure the minimum disruption of existing land uses, particularly established residential neighborhoods in built up urban areas, the airport zoning standards of the commissioner and the local airport zoning ordinances or regulations adopted under sections 360.061 to 360.074 shall distinguish between the creation or establishment of a use and the elimination of an existing use, and shall avoid the elimination, removal, or reclassification of existing uses to the extent consistent with reasonable standards of safety. The standards of the commissioner shall include criteria for determining when an existing land use may constitute an airport hazard so severe that considerations of public safety outweigh the public interest in preventing disruption to that land use.

(b) No airport zoning standards or local airport zoning ordinances or regulations shall be adopted pursuant to sections 360.061 to 360.074 that classify as a nonconforming use or require such classification with respect to any low density residential structure or isolated low density residential building lots existing on January 1, 1978 in an established residential neighborhood.

(c) A local airport zoning authority may classify a land use described in clause (b) as an airport hazard if that authority finds that this classification is justified by considerations of public safety and is consistent with the airport zoning standards of the commissioner. Any land use described in clause (b) which is classified as an airport hazard shall be acquired, altered or removed at public expense.

(d) The provisions of this subdivision shall not be construed to affect the classification of any land use under any zoning ordinances or regulations not adopted pursuant to sections 360.061 to 360.074.

Sec. 4. Minnesota Statutes 1976, Section 360.066, is amended by adding a subdivision to read:

Subd. 1b. Within nine months after the effective date of this act the commissioner shall amend the standards defining airport hazard areas and categories of uses permitted therein to conform with the requirements of this act. Until the commissioner adopts amended standards as required by this subdivision the unamended standards, insofar as they require classification of any residential property as a nonconforming use contrary to the provisions of subdivision 1a, clause (b), shall be without force or effect.

Sec. 5. **EFFECTIVE DATE.** This act is effective the day following final enactment.

Approved March 28, 1978.

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