

METROPOLITAN AIRPORTS COMMISSION
ORDINANCE NO. 97

An Ordinance of the Metropolitan Airports Commission relating to the management and operation of its airports, adopted to promote the public health, peace, welfare and safe operations; restricting the operations of aircraft at and from Flying Cloud Airport; and prescribing the penalties for violation thereof.

WHEREAS, on January 16, 1978, MAC adopted Ordinance No. 51, which prohibits the operation of jet aircraft at Flying Cloud Airport except jet aircraft with a maximum takeoff weight of 20,000 pounds or less; and

WHEREAS, by correspondence dated September 27, 2000, October 13, 2000, and January 30, 2001, the Federal Aviation Administration stated that it believed that Ordinance No. 51 was inconsistent with Federal law and MAC's contractual obligations to the Federal government and that MAC accordingly should develop a plan to amend or repeal Ordinance No. 51; and

WHEREAS, MAC and the City of Eden Prairie have negotiated a Memorandum of Understanding and Final Agreement concerning Flying Cloud Airport and Ordinance No. 51, which Final Agreement is contingent upon MAC amending Ordinance No. 51 in a manner substantially the same as provided herein; and

WHEREAS, MAC intends to amend Ordinance No. 51 in such manner as will preserve certain of the protections afforded Ordinance No. 51 as a restriction adopted prior to the enactment of the Airport Noise and Capacity Act of 1990; and

WHEREAS, this Ordinance No. 97 is also referred to as Ordinance No. 51 as amended.

Now, therefore, the Metropolitan Airports Commission does ordain to amend Ordinance No. 51 to read as follows:

SECTION 1 - DEFINITIONS

- 1.1 **Airport.** Flying Cloud Airport, a public airport owned by and under the supervision, operation, direction and control of the Commission, and located in the County of Hennepin and State of Minnesota.
- 1.2 **Certified Maximum Gross Takeoff Weight.** The maximum takeoff weight of an aircraft as designed and certified by the manufacturer and does not refer to the actual weight of an aircraft or any variant to the certified weight issued by the manufacturer or the Federal Aviation Administration.
- 1.3 **Commission.** The Metropolitan Airports Commission, a public corporation of the State of Minnesota.

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- 1.4 Maintenance Run-Up. The sustained operation of an aircraft engine for the purposes of maintenance, repair or testing. A Maintenance Run-Up does not include the operation of an aircraft engine in direct conjunction with a takeoff or landing, including the run-up of an aircraft engine performed immediately prior to takeoff.
- 1.5 Person. Any natural person, corporation, partnership, association or other legal entity having legal authority over the operation of jet aircraft to, at or from the Airport or who is in actual control as pilot of such aircraft.

SECTION 2 - AIRCRAFT OPERATIONS

- 2.1 Curfew on Maintenance Run-Ups. Maintenance Run-Ups at Flying Cloud Airport between 10:00 p.m. (2200) local time and 7:00 a.m. (0700) local time are prohibited.
- 2.2 Aircraft Weight Restriction. The taking off or landing of any aircraft at Flying Cloud Airport with a Certified Maximum Gross Takeoff Weight of 60,000 pounds or greater is prohibited.
- 2.3 Exceptions. The terms of this Ordinance shall not apply in the case of an emergency and shall not apply to aircraft owned and operated by the U.S. Government. The prohibition identified in Section 2.1 does not apply to unscheduled Maintenance Run-Ups performed between 10:00 p.m. and 7:00 a.m. where strict compliance with the prohibition would not allow sufficient time to permit the aircraft to depart on schedule the following morning. Any aircraft owner or operator claiming to qualify for an exception, excluding the owner or operator of a U.S. Government aircraft, must notify the Commission within 24 hours by submitting the form designated by the Commission's Director of Reliever Airports or the Director's designated representative for this purpose.

SECTION 3 - PENALTY. Willful violation of the terms hereof by any Person operating or in legal control of aircraft shall constitute a misdemeanor and upon conviction shall be punished by sentence in accordance with Minnesota Statutes, Section 609.03 or as the same may from time to time be amended.

SECTION 4 - COMMISSION RIGHT TO ACTION. Prosecution and conviction under this Ordinance shall be without prejudice to and the Commission shall have such civil rights at law or equity as Airport owner and operator and as persist under agreements now or hereafter in effect between it and Persons having legal authority over and control of the operation of an aircraft to, at or from the Airport, including lease agreements.

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SECTION 5 - SAVING CLAUSE. If any part, provision or provisions of this Ordinance shall be held to be unconstitutional or otherwise illegal, such unconstitutionality or illegality shall not effect the validity of remaining parts of the Ordinance, and the Commission hereby declares that it would have passed the remaining parts of this Ordinance in any event, had it known that such part, provision or provisions might be unenforceable because unconstitutional or illegal.

SECTION 6 - REPEALER. As of the effective date of this Ordinance, the Commission's Ordinance No. 51 is repealed except as provided herein.

SECTION 7 - EFFECTIVE DATE. This Ordinance shall be of full force and effect immediately upon adoption of this Ordinance and upon filing of same with proof of publication with the Secretary of State of the State of Minnesota.