

AMENDMENTS TO LB 140

Introduced by Government, Military and Veterans Affairs

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 3-301, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 3-301 For purposes of the Airport Zoning Act, unless the
6 context otherwise requires:

7 (1) (a) Airport means any an area of land or water
8 designed and set aside that is used or intended to be used for the
9 landing and taking off takeoff of aircraft and utilized or to be
10 utilized in the interest of the public for such purposes; includes
11 any related buildings and facilities.

12 (b) Airport includes only public use airports with state
13 or federally approved airport layout plans and military airports
14 with military service-approved military layout plans;

15 (2) Airport hazard means any structure or tree or use
16 of land which obstructs the airspace required for the flight
17 of aircraft in landing or taking off at an airport or is
18 otherwise hazardous to such landing or taking off of aircraft;
19 that penetrates any approach, operation, transition, or turning
20 zone;

21 (3) Airport hazard area means any area of land or
22 water upon which an airport hazard might be established if not
23 prevented as provided in the act, but such area shall not extend

1 in any direction a distance in excess of ~~three miles from the~~
2 ~~adjacent boundary of an airport;~~ the limits provided for approach,
3 operation, transition, and turning zones;

4 (4) Airport layout plan means a scaled drawing of
5 existing and proposed land, buildings, and facilities necessary
6 for the operation and development of an airport prepared in
7 accordance with state rules and regulations and federal regulations
8 and guidelines;

9 (5) Approach zone means a zone that extends from the end
10 of each operation zone and is centered along the extended runway
11 centerlines. Approach zone dimensions are as follows:

12 (a) For an existing or proposed instrument runway:

13 (i) An approach zone extends ten miles from the operation
14 zone, measured along the extended runway centerline. The approach
15 zone is one thousand feet wide at the end of the zone nearest
16 the runway and expands uniformly to sixteen thousand eight hundred
17 forty feet wide at the farthest end of the zone; and

18 (ii) The height limit of an approach zone begins at the
19 elevation of the runway end for which it is the approach and rises
20 one foot vertically for every fifty feet horizontally, except that
21 the height limit shall not exceed one hundred fifty feet above
22 the nearest existing or proposed runway end elevation within three
23 miles of the end of the operation zone at that runway end. At three
24 miles from such operation zone, the height limit resumes sloping
25 one foot vertically for every fifty feet horizontally and continues
26 to the ten-mile limit; and

27 (b) For an existing or proposed visual runway:

1 (i) An approach zone extends from the operation zone to
2 the limits of the turning zone, measured along the extended runway
3 centerline. The approach zone is five hundred feet wide at the
4 end of the zone nearest the runway and expands uniformly so that
5 at a point on the extended runway centerline three miles from the
6 operation zone, the approach zone is three thousand seven hundred
7 feet wide; and

8 (ii) The height limit of an approach zone begins at the
9 elevation of the runway end for which it is the approach and rises
10 one foot vertically for every forty feet horizontally, except that
11 the height limit shall not exceed one hundred fifty feet above
12 the nearest existing or proposed runway end elevation within three
13 miles of the end of the operation zone at that runway end;

14 (6) Electric facility means an overhead electrical line,
15 including poles or other supporting structures, owned or operated
16 by an electrical supplier as defined in section 70-1001.01, for the
17 transmission or distribution of electrical power to the electric
18 supplier's customers;

19 (7) Existing runway means an instrument runway or a
20 visual runway that is paved or made of turf that has been
21 constructed or is under construction;

22 (8) Instrument runway means an existing runway with
23 precision or nonprecision instrument approaches as developed and
24 published by the Federal Aviation Administration or an existing or
25 proposed runway with future precision or nonprecision instrument
26 approaches reflected on the airport layout plan. After the
27 effective date of this act, an airport shall not designate an

1 existing or proposed runway as an instrument runway if the runway
2 was not previously designated as such without the approval of
3 the airport's governing body after a public hearing on such
4 designation;

5 (9) Operation zone means a zone that is longitudinally
6 centered on each existing or proposed runway. Operation zone
7 dimensions are as follows:

8 (a) For existing and proposed paved runways, the
9 operation zone extends two hundred feet beyond the ends of each
10 runway. For existing and proposed turf runways, the operation zone
11 begins and ends at the same points as the runway begins and ends;

12 (b) For existing and proposed instrument runways, the
13 operation zone is one thousand feet wide, with five hundred feet
14 on either side of the runway centerline. For all other existing
15 and proposed runways, the operation zone is five hundred feet
16 wide, with two hundred fifty feet on either side of the runway
17 centerline; and

18 (c) The height limit of the operation zone is the same
19 as the height of the runway centerline elevation on an existing or
20 proposed runway or the surface of the ground, whichever is higher;

21 ~~(4) Political subdivision means any municipality, city,~~
22 ~~village, or county;~~

23 ~~(5) (10) Person means any individual, firm, partnership,~~
24 ~~limited liability company, corporation, company, association,~~
25 ~~joint-stock association, or body politic and includes any trustee,~~
26 ~~receiver, assignee, or other similar representative thereof;~~

27 (11) Political subdivision means any municipality, city,

1 village, or county;

2 (12) Proposed runway means an instrument runway or a
3 visual runway that has not been constructed and is not under
4 construction but that is depicted on the airport layout plan that
5 has been conditionally or unconditionally approved by, or has been
6 submitted for approval to, the Federal Aviation Administration;

7 (13) Runway means a defined area at an airport that is
8 prepared for the landing and takeoff of aircraft along its length;

9 ~~(6)~~ (14) Structure means any object constructed or
10 installed by man, including, but without limitation, buildings,
11 towers, smokestacks, and overhead transmission or distribution
12 lines; and

13 (15) Transition zone means a zone that extends outward at
14 a right angle to the runway centerline and upward at a rate of one
15 foot vertically for every seven feet horizontally. The height limit
16 of a transition zone begins at the height limit of the adjacent
17 approach zone or operation zone and ends at a height of one hundred
18 fifty feet above the highest elevation on the existing or proposed
19 runway;

20 ~~(7)~~ (16) Tree means any object of natural growth;:-

21 (17) Turning zone's outer limit means the area located
22 at a distance of three miles as a radius from the corners of
23 the operation zone of each runway and connecting adjacent arcs
24 with tangent lines, excluding any area within the approach zone,
25 operation zone, or transition zone. The height limit of the turning
26 zone is one hundred fifty feet above the highest elevation on the
27 existing or proposed runway; and

1 (18) Visual runway means a runway intended solely for
2 the operation of aircraft using visual approach procedures, with
3 no straight-in instrument approach procedure and no instrument
4 designation indicated on an airport layout plan approved by
5 the Federal Aviation Administration, a military service-approved
6 military layout plan, or any planning documents submitted to the
7 Federal Aviation Administration by a competent authority.

8 Sec. 2. Section 3-302, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 3-302 (1) It is hereby found that an airport hazard
11 endangers the lives and property of the users of an airport and
12 occupants of land in its vicinity and also, if of the obstruction
13 type, in effect reduces the size of the area available for the
14 landing, ~~taking off~~ takeoff, and maneuvering of aircraft, thus
15 tending to destroy or impair the utility of the airport and the
16 public investment therein.

17 (2) Accordingly, it is hereby declared+ ~~(1) That that~~
18 (a) the creation or establishment of an airport hazard is a public
19 nuisance and an injury to the community served by the airport in
20 question, (b) + ~~(2) that~~ it is ~~therefor~~ necessary in the interest
21 of the public health, public safety, and general welfare that the
22 creation or establishment of airport hazards be prevented, and (c)
23 the prevention of airport hazards + and ~~(3) that~~ this should be
24 accomplished, to the extent legally possible, by the exercise of
25 the police power, without compensation.

26 (3) It is further declared that both the prevention
27 of the creation or establishment of airport hazards and the

1 elimination, removal, alteration, mitigation, or marking and
2 lighting of existing airport hazards are public purposes for which
3 political subdivisions may raise and expend public funds and
4 acquire land or property interests therein.

5 Sec. 3. Section 3-303, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 3-303 In order to prevent the creation or establishment
8 of airport hazards, every political subdivision that ~~has adopted a~~
9 ~~comprehensive plan and zoning regulations~~ and has an airport hazard
10 area within the area of its zoning jurisdiction, shall adopt,
11 administer, and enforce, under the police power and in the manner
12 and upon the conditions ~~hereinafter prescribed~~ in the Airport
13 Zoning Act, airport zoning regulations for such airport hazard
14 area. The ~~which~~ regulations shall meet the minimum regulations
15 as prescribed by the Department of Aeronautics ~~for the airport~~
16 ~~classifications for each airport~~ and may divide such area into
17 zones and, within such zones, specify the land uses permitted
18 and regulate and restrict the height to which ~~the structures and~~
19 ~~trees~~ may be erected ~~or~~ and trees allowed to grow, except that
20 a political subdivision or a joint airport zoning board provided
21 for in section 3-304 may include modifications or exceptions to
22 the airport zoning regulations adopted under the Airport Zoning
23 Act that the political subdivision or joint airport zoning board
24 deems appropriate. Such modifications and exceptions shall not
25 be considered a conflict for the purposes of section 3-306. The
26 authority of a political subdivision to adopt airport zoning
27 regulations shall not be conditional upon prior adoption of a

1 comprehensive development plan or a comprehensive zoning ordinance.

2 Sec. 4. Section 3-304, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 3-304 ~~Where~~ If an airport is owned or controlled by
5 a political subdivision and any airport hazard area appertaining
6 to such airport is located outside ~~the area regulated by zoning~~
7 ~~regulations adopted pursuant to section 3-303,~~ of the political
8 subdivision's zoning jurisdiction, the political subdivision owning
9 or controlling the airport and the political subdivision or
10 political subdivisions within ~~which~~ whose zoning jurisdiction the
11 airport hazard area ~~is~~ or areas are located may, by ordinance or
12 resolution duly adopted, create a joint airport zoning board, which
13 board shall have the same power to adopt, ~~administer,~~ and enforce
14 by resolution approved by a majority of the board, airport zoning
15 regulations applicable to ~~the~~ an airport hazard area ~~in question~~
16 as that vested by section 3-303 in ~~the~~ any political subdivision
17 within whose area of zoning jurisdiction such area is located.
18 Each such joint board shall have two representatives appointed
19 by each political subdivision participating in its creation as
20 members thereof and also a chairperson elected by a majority of
21 the members so appointed. The term of each member shall be four
22 years, ~~except as otherwise provided in this section.~~ Board members
23 who have served more than two years as of March 1, 1984, shall
24 continue to serve for two more years. Board members who have
25 served less than two years as of March 1, 1984, shall continue to
26 serve for four more years. Any airport zoning regulation, or any
27 amendment thereto, adopted by a joint airport zoning board shall

1 be filed with the official or administrative agency responsible
2 for the enforcement of zoning regulations in each of the political
3 subdivisions participating in the creation of the joint airport
4 zoning board and shall be enforced as provided in section 3-319.

5 Sec. 5. If a joint airport zoning board is
6 created pursuant to section 3-304, such board shall have
7 two representatives appointed by each political subdivision
8 participating in its creation as members thereof and also a
9 chairperson elected by a majority of the members so appointed. The
10 term of each member shall be four years.

11 Sec. 6. Section 3-306, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 3-306 In the event of any conflict between any airport
14 zoning regulations adopted under ~~sections 3-301 to 3-333~~ the
15 Airport Zoning Act and any other regulations applicable to the
16 same area, whether the conflict be with respect to the height
17 of structures or trees, the use of land, or any other matter,
18 and whether such other regulations were adopted by the political
19 subdivision which adopted the airport zoning regulations or by
20 some other political subdivision, the more stringent limitation or
21 requirement shall govern and prevail.

22 Sec. 7. Section 3-307, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 3-307 No airport zoning regulations shall be adopted,
25 amended, or changed under ~~sections 3-301 to 3-333~~ the Airport
26 Zoning Act except by the action of the legislative body of the
27 political subdivision in question, or the joint airport zoning

1 board provided for in section 3-304, after a public hearing in
2 relation thereto, at which parties in interest and citizens shall
3 have an opportunity to be heard. At least ~~fifteen~~ ten days'
4 notice of the hearing shall be published in an official paper,
5 or a paper of general circulation, in the political subdivision
6 or subdivisions in which ~~is located~~ the airport hazard area ~~to be~~
7 ~~zoned-~~ is located.

8 Sec. 8. Section 3-308, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 3-308 Prior to the initial zoning of any airport hazard
11 area under ~~sections 3-301 to 3-333,~~ the Airport Zoning Act, the
12 political subdivision or joint airport zoning board which is to
13 adopt the regulations shall appoint a commission, to be known as
14 the airport zoning commission, to recommend the boundaries of the
15 various zones to be established and the regulations to be adopted
16 therefor. Such commission shall make a preliminary report and hold
17 public hearings thereon before submitting its final report. The
18 legislative body of the political subdivision or the joint airport
19 zoning board shall not hold its public hearings or take other
20 action until it has received the final report of such commission.
21 ~~Where~~ If a city or county planning commission or ~~comprehensive~~
22 ~~zoning~~ a joint or interjurisdictional planning commission already
23 exists, it may be appointed as the airport zoning commission.

24 Sec. 9. Section 3-309, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 3-309 All airport zoning regulations adopted under
27 ~~sections 3-301 to 3-333~~ the Airport Zoning Act shall be reasonable

1 and not impose any requirement or restriction which is not
2 reasonably necessary to effectuate the purposes of ~~sections~~
3 ~~3-301 to 3-333.~~ the act. In determining what regulations it may
4 adopt, each political subdivision and joint airport zoning board
5 shall consider, among other things, the character of the flying
6 operations expected to be conducted at the airport, the nature of
7 the terrain within the airport hazard area, the character of the
8 neighborhood, and the uses to which the property to be zoned is
9 put and adaptable. If an airport layout plan has been submitted
10 for approval to the Federal Aviation Administration with a proposed
11 instrument runway depicted thereon and such airport layout plan
12 is conditionally or unconditionally approved without such proposed
13 instrument runway, the political subdivision shall adopt or revise,
14 as necessary, airport zoning regulations to protect any approach
15 zone for a visual runway only.

16 Sec. 10. Section 3-310, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 3-310 (1) No airport zoning regulations adopted under
19 sections 3-301 to 3-333 the Airport Zoning Act shall require the
20 removal, lowering, or other change or alteration of any existing
21 structure or tree not conforming to the regulations when adopted
22 or amended or otherwise interfere with the continuance of any
23 nonconforming use, except as provided in section 3-313. 3-311.

24 (2) Any structure that has not yet been constructed but
25 that has received, prior to August 1, 2013, zoning approval from
26 the political subdivision exercising zoning jurisdiction over such
27 structure may be constructed and shall thereafter be considered an

1 existing structure for purposes of this section.

2 Sec. 11. Section 3-311, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 3-311 (1) Airport zoning regulations, adopted under
5 sections 3-301 to 3-333, the Airport Zoning Act may require
6 that a permit be obtained before any new structure or use may be
7 constructed or established and before any existing use or structure
8 may be substantially changed, altered, or repaired. ~~In any event,~~
9 ~~however,~~

10 (2) Except as provided in subsection (3) of this
11 section for certain electric facilities, all such airport zoning
12 regulations adopted under the act shall provide that before any
13 nonconforming structure or tree may be replaced, substantially
14 altered or repaired, rebuilt, allowed to grow higher, or
15 replanted, a permit authorizing any replacement, alteration,
16 repair, reconstruction, growth, or replanting must be secured
17 from the administrative agency authorized to administer and
18 enforce the regulations, ~~authorizing such replacement, change~~
19 ~~or repair. No A permit shall be granted that would allow the~~
20 ~~establishment or creation of an airport hazard or permit a~~ under
21 this subsection if the applicant shows that the replacement,
22 alteration, repair, reconstruction, growth, or replanting of the
23 nonconforming structure, tree, or nonconforming use to be made,
24 become higher or become would not result in an increase in height
25 or a greater hazard to air navigation than it was the condition
26 that existed when the applicable regulation was adopted. For
27 nonconforming structures other than electric facilities, no permit

1 under this subsection shall be required for repairs necessitated by
2 fire, explosion, act of God, or the common enemy or for repairs
3 which do not involve expenditures exceeding more than sixty percent
4 of the fair market value of the nonconforming structure, so long as
5 the height of the nonconforming structure is not increased over its
6 preexisting height. ~~or than it is when the application for a permit~~
7 ~~is made. Except as provided herein, all applications for permits~~
8 ~~shall be granted.~~

9 (3) An electric supplier owning or operating an electric
10 facility made nonconforming by the adoption of airport zoning
11 regulations under the Airport Zoning Act may, without a permit
12 or other approval by the political subdivision adopting such
13 regulations, repair, reconstruct, or replace such electric facility
14 if the height of such electric facility is not increased over
15 its preexisting height. Any construction, repair, reconstruction,
16 or replacement of an electric facility, the height of which will
17 exceed the preexisting height of such electric facility, shall
18 require a permit from the political subdivision adopting such
19 regulations. The permit shall be granted only upon a showing that
20 the excess height of the electric facility will not establish
21 or create an airport hazard or become a greater hazard to air
22 navigation than the electric facility that previously existed.

23 Sec. 12. Section 3-312, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 3-312 Any person desiring to erect any structure,
26 increase the height of any structure, permit the growth of any
27 tree, or otherwise use his or her property in ~~violation of a~~

1 manner inconsistent with the airport zoning regulations adopted
2 under sections 3-301 to 3-333 the Airport Zoning Act may apply
3 to the board of adjustment for a variance from the zoning
4 regulations in question. Such variances shall be allowed where a
5 literal application or enforcement of the regulations would result
6 in practical difficulty or unnecessary hardship and the relief
7 granted would not be contrary to the public interest but would
8 do substantial justice and be in accordance with the spirit of
9 the regulations and sections 3-301 to 3-333; Provided, that any
10 only if the board of adjustment makes the same findings for the
11 granting of variances generally as set forth in subsection (2) of
12 section 19-910, except that if the applicant demonstrates that the
13 proposed structure or alteration of a structure does not require
14 any modification or revision to any approach or approach procedure
15 as approved or written by the Federal Aviation Administration on
16 either an existing or proposed runway and the applicant provides
17 signed documentation from the Federal Aviation Administration that
18 the proposed structure or alteration of the structure will not
19 require any modification or revision of any airport minimums, such
20 documentation may constitute evidence of undue hardship and the
21 board of adjustment may grant the requested variance without such
22 findings. Any variance may be allowed subject to any reasonable
23 conditions that the board of adjustment may deem necessary to
24 effectuate the purposes of sections 3-301 to 3-333. the act.

25 Sec. 13. Section 3-313, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 3-313 In granting any permit under or variance under

1 ~~sections 3-311 to 3-313,~~ from any airport zoning regulation adopted
2 under the Airport Zoning Act, the administrative agency or board of
3 adjustment may, if it deems ~~such action~~ it advisable to effectuate
4 the purposes of ~~sections 3-301 to 3-333~~ the act and reasonable
5 in the circumstances, so condition such permit or variance as to
6 require the owner of the structure or tree in question to permit
7 the political subdivision, at its own expense, to install, operate,
8 and maintain thereon such markers and lights as may be necessary to
9 indicate to flyers the presence of an airport hazard.

10 Sec. 14. Section 3-319, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 3-319 All airport zoning regulations adopted under
13 ~~sections 3-301 to 3-333~~ the Airport Zoning Act shall provide
14 for the administration and enforcement of such regulations by
15 an administrative agency which may be an agency created by such
16 regulations or any official, board, or other existing agency of
17 the political subdivision adopting the regulations. In the case of
18 airport zoning regulations adopted by a joint airport zoning board,
19 each ~~or~~ ~~of~~ ~~one~~ of the political subdivisions which participated
20 in the creation of the joint airport zoning board ~~adopting the~~
21 ~~regulations, if satisfactory to that political subdivision, but in~~
22 ~~no case shall such administrative agency be or include any member~~
23 ~~of the board of adjustment.~~ shall create or designate an official
24 or an administrative agency to administer and enforce the airport
25 zoning regulations within its respective zoning jurisdiction. The
26 duties of any official or administrative agency designated pursuant
27 to ~~sections 3-301 to 3-333~~ the act shall include that of hearing

1 ~~and deciding all~~ reviewing and acting upon all applications for
2 permits under section 3-311, the airport zoning regulations, but
3 such agency shall not have or exercise any of the powers herein
4 delegated to the board of adjustment. In no event shall such
5 official or administrative agency be or include any member of the
6 board of adjustment.

7 Sec. 15. Section 3-314, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~3-314~~ (1) Any person aggrieved, or taxpayer affected, by
10 any decision of an administrative agency made in its administration
11 of airport zoning regulations adopted under sections 3-301 to
12 3-333, the Airport Zoning Act, or any governing body of a political
13 subdivision, or any joint airport zoning board, which is of the
14 opinion that a decision of such an administrative agency is an
15 improper application of airport zoning regulations of concern
16 to such governing body, or board, may appeal to the board of
17 adjustment authorized to hear and decide appeals from the decisions
18 of such administrative agency.

19 (2) Any appeal taken under this section shall be taken
20 within a reasonable amount of time, as provided by the rules of the
21 board, by filing with the agency from which the appeal is taken and
22 with the board, a notice of appeal specifying the grounds thereof.
23 The agency from which the appeal is taken shall forthwith transmit
24 to the board all the papers constituting the record upon which the
25 action appealed from was taken.

26 (3) An appeal shall stay any proceeding in furtherance of
27 the action appealed from, unless the agency from which the appeal

1 is taken certifies to the board, after the notice of appeal has
2 been filed with it, that by reason of the facts stated in the
3 certificate a stay would, in its opinion, cause imminent peril to
4 life or property. In such cases the proceedings shall not be stayed
5 except by an order of the board after notice to the agency from
6 which the appeal is taken and upon due cause shown.

7 (4) The board shall fix a reasonable time for the hearing
8 of appeals, give public notice thereof, give due notice to the
9 parties in interest, and decide the appeal within sixty days after
10 the date of filing such appeal. Any party may appear in person or
11 by an agent or attorney at the hearing.

12 Sec. 16. Section 3-320, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 3-320 (1) All airport zoning regulations adopted under
15 sections 3-301 to 3-333 the Airport Zoning Act shall provide for a
16 board of adjustment to have and exercise the following powers:

17 (a) ~~(1)~~ To hear and decide appeals from any order,
18 requirement, decision, or determination made by the administrative
19 agency in the enforcement of the airport zoning regulations; ~~as~~
20 provided in sections 3-314 to 3-318; ~~(2) to~~

21 (b) To hear and decide any special exceptions to the
22 terms of the airport zoning regulations upon which such board may
23 be required to pass under such regulations; and

24 (c) To ~~(3) to~~ hear and decide ~~specific~~ petitions for
25 variances under section 3-312, from the strict application of
26 airport zoning regulations.

27 (2) A board of adjustment shall consist of five regular

1 members, each to be appointed for a term of three years by the
2 political subdivision or joint airport zoning board adopting the
3 regulations. Any member thereof may be removed by the appointing
4 authority for cause, upon written charges and after a public
5 hearing. The concurring vote of four members of the board shall
6 be necessary to reverse any order, requirement, decision, or
7 determination of the administrative agency or to decide in favor
8 of the applicant on any matter upon which the board is required
9 to pass under the airport zoning regulations or to effect any
10 variation in such regulations.

11 (3) The board of adjustment may, consistent with the
12 Airport Zoning Act, reverse or affirm wholly or partly or modify
13 the order, requirement, decision, or determination appealed from
14 and may make such order, requirement, decision, or determination as
15 it deems right and proper under the circumstances.

16 (4) A board of adjustment, board of zoning appeals, or
17 similar zoning appeals board that exists on the effective date of
18 this act may be designated as and shall exercise the power of the
19 board of adjustment for airport zoning regulations as required by
20 this section.

21 Sec. 17. Section 3-324, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 3-324 Any (1) person aggrieved or taxpayer affected by
24 any decision of a board of adjustment, (2) governing body of a
25 political subdivision or (3) joint airport zoning board, which
26 is of the opinion that a decision of a board of adjustment is
27 arbitrary or capricious, illegal, or unsupported by evidence, may

1 present a verified petition to the district court setting forth
2 that the decision is illegal in whole or in part and specifying
3 the grounds of the illegality. Such a petition shall be presented
4 to the court within thirty days after the decision is filed in the
5 office of the board. obtain judicial review of such decision by
6 filing a petition in error in the district court of the county in
7 which the structure or tree that is the subject of the decision
8 is located. The filing of and proceeding on the petition in error
9 shall be in accordance with sections 25-1901 to 25-1937.

10 Sec. 18. Section 3-329, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 3-329 In any case in which airport zoning regulations
13 adopted under ~~sections 3-301 to 3-333~~, the Airport Zoning Act,
14 although generally reasonable, are held by a court to interfere
15 with the use or enjoyment of a particular structure or parcel of
16 land to such an extent or to be so onerous in their application
17 to such a structure or parcel of land, as to constitute a taking
18 or deprivation of that property in violation of the Constitution
19 of ~~this state~~ Nebraska or the Constitution of the United States,
20 such holding shall not affect the application of such regulations
21 to other structures and parcels of land.

22 Sec. 19. Section 3-330, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 3-330 Each violation of ~~sections 3-301 to 3-333~~ the
25 Airport Zoning Act or of any regulations, orders, or rulings
26 promulgated or made pursuant to ~~sections 3-301 to 3-333~~, the
27 act shall constitute a Class ~~III~~ IV misdemeanor. Each day a

1 violation continues to exist shall constitute a separate offense.
2 In addition, the political subdivision or agency adopting zoning
3 regulations under ~~sections 3-301 to 3-333~~ the act may institute,
4 in any court of competent jurisdiction, an action to prevent,
5 restrain, correct, or abate any violation of (1) ~~sections 3-301~~
6 ~~to 3-333,~~ the act, (2) airport zoning regulations adopted under
7 ~~sections 3-301 to 3-333~~ the act, or (3) any order or ruling made in
8 connection with ~~their~~ the administration or enforcement of the act
9 or such regulations. The court in such proceedings shall adjudge
10 to the plaintiff such relief by way of injunction, which may be
11 mandatory or otherwise, as may be proper under all the facts and
12 circumstances of the case in order to fully effectuate the purposes
13 of ~~sections 3-301 to 3-333~~ the act and of the regulations adopted
14 and orders and rulings made pursuant thereto.

15 Sec. 20. Section 3-331, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 3-331 In any case in which (1) it is desired to remove,
18 lower, or otherwise terminate a nonconforming structure or use, (2)
19 the approach protection necessary cannot, because of constitutional
20 limitations, be provided by airport zoning regulations under
21 ~~sections 3-301 to 3-333,~~ the Airport Zoning Act, or (3) it appears
22 advisable that the necessary approach protection be provided by
23 acquisition of property rights rather than by airport zoning
24 regulations, the political subdivision within which the property or
25 nonconforming use is located or the political subdivision owning
26 or operating the airport or served by it may acquire by purchase,
27 grant, or condemnation, such air right, aviation easement, or other

1 estate or interest in the property or nonconforming structure or
2 use in question as may be necessary to effectuate the purposes of
3 ~~sections 3-301 to 3-333.~~ the act. The procedure to condemn property
4 shall be exercised in the manner set forth in sections 76-704 to
5 76-724.

6 Sec. 21. Section 3-333, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 3-333 Sections 3-301 to 3-333 and section 5 of this act
9 shall be known and may be cited as the Airport Zoning Act.

10 Sec. 22. Original sections 3-301, 3-302, 3-303, 3-304,
11 3-306, 3-307, 3-308, 3-309, 3-310, 3-311, 3-312, 3-313, 3-314,
12 3-319, 3-320, 3-324, 3-329, 3-330, 3-331, and 3-333, Reissue
13 Revised Statutes of Nebraska, are repealed.

14 Sec. 23. The following sections are outright repealed:
15 Sections 3-315, 3-316, 3-317, 3-318, 3-321, 3-322, 3-325, 3-326,
16 and 3-327, Reissue Revised Statutes of Nebraska.