

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 901

FINAL READING

Introduced by Bostelman, 23; Albrecht, 17; Brewer, 43; Briese, 41;
Clements, 2; Erdman, 47; Friesen, 34; Geist, 25; Groene,
42; Halloran, 33; Hilgers, 21; Hughes, 44; Kolterman, 24;
Linehan, 39; Lowe, 37; Murante, 49; Thibodeau, 6.

Read first time January 08, 2018

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to aeronautics; to amend section 3-402,
2 Revised Statutes Cumulative Supplement, 2016, and section 3-404,
3 Revised Statutes Supplement, 2017; to define a term; to change
4 permit application and issuance requirements relating to regulation
5 of certain structures by the Division of Aeronautics of the
6 Department of Transportation; to provide a duty for the Nebraska
7 National Guard as prescribed; to harmonize provisions; and to repeal
8 the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 3-402, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 3-402 As used in sections 3-401 to 3-409, unless the context
4 otherwise requires:

5 ~~(1) Structure means any manmade object which is built, constructed,~~
6 ~~projected, or erected upon, from, and above the surface of the earth,~~
7 ~~including, but not limited to, towers, antennas, buildings, wires,~~
8 ~~cables, and chimneys;~~

9 (1) ~~(2)~~ Meteorological evaluation tower means an anchored structure,
10 including all guy wires and accessory facilities, on which one or more
11 meteorological instruments are mounted for the purpose of meteorological
12 data collection;

13 (2) ~~(3)~~ Obstruction means any structure which obstructs the air
14 space required for the flight of aircraft and in the landing and taking
15 off of aircraft at any airport or restricted landing area; ~~and~~

16 (3) ~~(4)~~ Person means any public utility, public district, or other
17 governmental division or subdivision or any person, corporation,
18 partnership, or limited liability company; ~~-~~

19 (4) Structure means any manmade object which is built, constructed,
20 projected, or erected upon, from, and above the surface of the earth,
21 including, but not limited to, towers, antennas, buildings, wires,
22 cables, and chimneys; and

23 (5) Terrain flight training area means an area established by the
24 Nebraska National Guard within which military and related flight training
25 is conducted using rotary-wing aircraft and which existed as of the
26 effective date of this act.

27 Sec. 2. Section 3-404, Revised Statutes Supplement, 2017, is amended
28 to read:

29 3-404 (1) The application for the permit, required by section
30 3-403, shall be made in writing on forms prescribed by the Division of
31 Aeronautics of the Department of Transportation and shall contain or be

1 accompanied by details as to the location, construction, height, and
2 dimensions of the proposed structure, the nature of its intended use, and
3 such other information as the Director of Aeronautics may require. If the
4 proposed structure is proposed to be built inside the boundaries of or
5 within one thousand meters of the boundaries of any terrain flight
6 training area, the application for a permit shall be accompanied by a
7 written mitigation agreement between the applicant and the Nebraska
8 National Guard.

9 (2) Upon the filing of an such application, the director shall make
10 an investigation and an aeronautical study of such proposed construction
11 and its effect, if any, upon air navigation, and the health, welfare, and
12 safety of the public. In making such investigation and aeronautical study
13 and making his or her determination under this section, the director
14 shall consider (a) the character of flying operations expected to be
15 conducted in the area concerned, (b) the nature of the terrain, (c) the
16 character of the neighborhood, (d) the uses to which the property
17 concerned is devoted or adaptable, (e) the proximity to existing
18 airports, airways, control areas, and control zones, (f) the height of
19 existing adjacent structures, and (g) all the facts and circumstances
20 existing at the time of application.

21 (3) If the director, upon such investigation, determines shall
22 determine that such proposed structure will not constitute a hazard to
23 air navigation and will not interfere unduly with the public right of
24 freedom of transit in commerce through the air space affected thereby,
25 the director shall issue to the applicant a permit, required by section
26 3-403, authorizing the erection and construction of such structure,
27 subject to such conditions as to marking and lighting as the division may
28 prescribe by its rules and regulations, authorized by section 3-407. The
29 director shall impose only such restrictions or requirements as may be
30 reasonably necessary to effectuate sections 3-401 to 3-409. If the
31 director does not so determine, the director shall deny the application.

1 ~~In making such investigation, aeronautical study, and determination, the~~
2 ~~director shall consider (1) the character of flying operations expected~~
3 ~~to be conducted in the area concerned, (2) the nature of the terrain, (3)~~
4 ~~the character of the neighborhood, (4) the uses to which the property~~
5 ~~concerned is devoted or adaptable, (5) the proximity to existing~~
6 ~~airports, airways, control areas, and control zones, (6) the height of~~
7 ~~existing adjacent structures, and (7) all the facts and circumstances~~
8 ~~existing. The director shall impose only such restrictions or~~
9 ~~requirements as may be reasonably necessary to effectuate the purposes of~~
10 ~~sections 3-401 to 3-409.~~

11 (4) On or before August 1, 2018, the Nebraska National Guard shall
12 provide the Division of Aeronautics of the Department of Transportation a
13 description of the boundaries of the terrain flight training areas by
14 metes and bounds or an official map that shows the boundaries of the
15 terrain flight training areas. The description or map shall be used by
16 the division in its management of the airspace of the State of Nebraska
17 pursuant to sections 3-401 to 3-409.

18 Sec. 3. Original section 3-402, Revised Statutes Cumulative
19 Supplement, 2016, and section 3-404, Revised Statutes Supplement, 2017,
20 are repealed.