

Twenty Dollars (\$20.00) per week for twenty weeks to any individual during any benefit year unless the total assets in the fund are more than Two Million Dollars (\$2,000,000.00) on January 1, of the calendar year during which his benefit year was established.

Section 2. The provisions of this amendment shall ^{Effective date for benefits.} become effective with those claimants whose benefit year begins on or after July 1, 1951.

Approved on March 12, 1951.

CHAPTER 12

AN ACT

S. B. 27]

Relating to Aeronautics; pertaining to zoning of airports; providing regulations; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. TERMS DEFINED. As used in this Act, unless the context otherwise requires:

(1) "Airport" means any area of land or water de-^{Definitions.}signed for the landing and taking-off of aircraft and ^{Airport.}utilized or to be utilized as a point of arrival or departure by air.

(2) "Airport Hazard" means anything which may ^{Airport hazard.}obstruct, or interfere with, the navigation or operation of aircraft on or in the vicinity of an airport, including but not limited to man-made structures of all kinds, trees and other natural growths, lights or beacons, and elec-

trical or electronic devices emitting signals capable of disrupting radio communication.

- Director. (3) "Director" means the Director of Aeronautics for the Territory of Alaska.
- Person. (4) "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- Structure. (5) "Structure" means any object constructed or installed by man, including, but without limitation to, buildings, towers, smokestacks and overhead transmission lines.
- Tree (6) "Tree" means any object of natural growth.
- Board. (7) "Board" means the Alaska Aeronautics and Communications Commission.
- Airport hazard area. (8) "Airport Hazard Area" means any area in the vicinity of an airport in which a hazard to the operation of aircraft might be situated, and which may be designated as such by the Director of Aeronautics.

Section 2. AIRPORT ZONING REGULATIONS.

- Limitations on hazards. (1) It shall be unlawful to erect, or permit to grow, any airport hazard on land adjacent to the end of a runway of any public airport without a permit issued by the Director of Aeronautics. The area upon which such hazards are prohibited will be equal to the width of the runway concerned, and will extend from the airport boundary, at the end of the runway, away from the runway, in a direction parallel to its centerline, for a distance equal to the length of the runway. Any obstruction situated in an area not previously designated as an "air
- Height and distance standard.

port hazard area" by the Director will not be considered a hazard if its height does not exceed five feet for each two hundred feet distance from the boundary of the airport, and the vertical measurement of such structure shall be considered to start on the same plane as the surface of the runway.

(2) In addition to, or in place of, the airport hazard area named in Subsection 1 herein, the Director of Aeronautics may adopt, administer and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for any airport within this Territory, which regulations shall divide the area surrounding the airport into zones, and, within such zones, specify the land uses permitted, and regulate and restrict the height to which structures and trees may be erected or allowed to grow, and require the abatement of lights, or electronic signals or emissions which might create a hazard to the operation of aircraft. In adopting or revising any such zoning regulations, the Director shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport, the possibility of lowering or removing existing obstructions, and the views of the agency of the Federal government charged with fostering of civil areonautics. as to the aerial approaches necessary to safe flying operations at the airport.

(3) Upon the adoption of any airport zoning plan, the Director shall prepare at least two copies of such plan, showing the airport proper and the Airport Hazard Area, together with the designated height limits to possible hazards thereon. One copy of the zoning plan shall be posted conspicuously at the particular airport concerned, and the other copy shall be filed in the office of the Director of Aeronautics.

Regulations
to be
reasonable.

(4) All airport zoning regulations adopted under this Act shall be reasonable, and none shall require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any non-conforming use except as provided in Section 4(1) hereof.

Section 3. PERMITS AND VARIANCES.

Permits
for non-
conforming
structures.

(1) PERMITS: REMOVAL OF NON-CONFORMING STRUCTURE OR TREE. Where advisable to facilitate the enforcement of zoning regulations adopted pursuant to this Act, permits may be granted to establish or construct new structures and other uses and to replace existing structures and other uses or make substantial changes therein or substantial repairs thereof. In any event, before any non-conforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the Director of Aeronautics authorizing such replacement, change or repair. No such permit shall be granted that would allow the structure or tree in question to be made higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted; and whenever the Director of Aeronautics determines that a non-conforming structure or tree has been abandoned or more than 80 percent torn down, destroyed, deteriorated, or decayed: (a) no permit shall be granted that would allow said structure or tree to exceed the applicable height limits or otherwise deviate from the zoning regulations; and (b) whether application is made for a permit under this paragraph or not, the Director of Aeronautics may by appropriate action compel the owner of the non-conforming structure or tree, at his own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations or, if the owner of the non-conforming struc-

80 percent
rule.

Enforcement.

ture or tree shall neglect or refuse to comply with such order within 10 days after notice thereof, the Director may proceed to have the object so lowered, removed, reconstructed or equipped, and the cost and expense thereof shall constitute a lien upon the object and the land whereon it is or was located. Unless such account is paid within 90 days from the service of notice thereof on the agent or owner of such object or land, the sum shall bear interest at the rate of 8 per cent per annum until paid, and shall be collected by foreclosure in the manner provided for the foreclosure of mortgages.

Expenses
of removal.

(2) VARIANCES. Any person desiring to erect any structures, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property, in violation of airport zoning regulations adopted under this Act, may apply to the Board as provided in Section 4 (3) for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations should result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and this Act.

Board may
authorize
variances.

(3) OBSTRUCTION MARKING AND LIGHTING.

In granting any permit or variance under this Section, the Director of Aeronautics or the Board may, if he or it deems such action advisable to effectuate the purposes of this Act and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to maintain suitable obstruction lights or markers thereon at his own expense, or to permit the Territory, at its own expense, to install, operate and maintain suitable obstruction markers and obstruction lights thereon.

Marking
and lighting.

Section 4. PROCEDURE.

Public
hearing
prior to
regulations.

(1) ADOPTION OF ZONING REGULATIONS: HEARING. No airport zoning regulations shall be adopted, amended or changed under this Act except by action of the Director of Aeronautics, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the hearing shall be published in a paper of general circulation, printed and published nearest the location of the airport concerned.

Appeal
Board.

(2) ADMINISTRATION OF AIRPORT ZONING REGULATIONS: BOARD OF APPEALS. Airport zoning regulations adopted under this Act shall provide for a Board of Appeals which shall be composed of the members of the Territorial Aeronautics and Communications Commission, said Board to have and exercise the following powers:

Hearings
on
regulations.

(a) To hear and decide appeals from any order, requirement, decision or determination made by the Director of Aeronautics in the enforcement of this Act or of any regulation adopted pursuant thereto;

Exceptions.

(b) To hear and decide special exceptions to the terms of the regulations upon which such Board may be required to pass under such regulations;

Meetings.

(c) Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other

Minutes
of
Board.

official actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

(3) APPEALS TO THE BOARD.

(a) Appeals to the Board may be presented by any person aggrieved by any decision of the Director. An appeal must be presented within a reasonable time, as provided by the rules of the Board, by filing with the Director a notice of appeal specifying the grounds thereof. The Director shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

Who may appeal.

(b) Any appeal shall stay all proceedings in furtherance of the action appealed from, unless the Director certifies to the Board, after the notice of appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a court of record on application and notice to the Director and on due cause shown.

Appeal stays action.

(c) The Board shall fix a reasonable time for the hearing of the appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Time of hearing.

(d) The Board may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Director.

Authority of Board.

(e) The concurring vote of a majority of the members of the Board shall be sufficient to reverse any order,

Majority vote prevails.

requirement, decision or determination of the Director or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation, or to effect any variation in such legislation.

Section 5. JUDICIAL REVIEW.

Review by
Court.

(1) PETITION. Any person aggrieved by any decision of the Board of Appeals may present to the district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Board.

Restraining
order.

(2) ORDER. Upon presentation of such petition, the court shall make an order fixing a time for hearing thereon. The granting of the order shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

Disposition
of original
papers.

(3) BOARD'S RETURN AND ANSWER. The Board of Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the order. The answer of the Board shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

Acceptance
by Court
of Board
findings.

(4) JURISDICTION: CONCLUSIVENESS OF BOARD'S FINDINGS AND DECISION. The court shall have exclusive jurisdiction to affirm, modify or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the Board of Appeals. The findings of fact by the Board if

supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to decision of the Board shall be considered by the court unless such objection shall have been urged before the Board, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

(5) COSTS. Costs shall not be allowed against the Board of Appeals unless it appears to the court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from. ^{Costs.}

Section 6. ENFORCEMENT AND REMEDIES: CRIMINAL LIABILITY FOR VIOLATION: ACTION BY DIRECTOR OF AERONAUTICS. Each violation of this Act or of any regulation, order or ruling promulgated or made pursuant to this Act, shall constitute a misdemeanor and shall be punishable by a fine of not more than \$500.00 or imprisonment for not more than ninety days or by both such fine and imprisonment. In addition, the Director may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this Act, or of airport zoning regulations adopted under this Act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this Act and of the regulations adopted and orders and rulings made pursuant thereto. ^{Enforcement and penalty.}

Section 7. SHORT TITLE. This Act shall be known and may be cited as the "Airport Zoning Act." ^{Short Title.}

Section 8. EMERGENCY CLAUSE. An emergency is hereby declared to exist and this Act shall take effect immediately upon its passage and approval. ^{Emergency clause.}

Approved March 12, 1951.