

the full appraised value thereof, as fixed by two state appraisers, to any individual. Not more than one such sale to any individual shall be in effect at any one time. The purchaser shall pay the full appraised price before the permit is issued and, upon receipt of such payment, the director may informally, by letter or otherwise, authorize the purchaser to cut and remove such timber within one year from the date of sale under such supervision and restriction as the director, or any state appraiser by him designated, shall deem advisable. If the purchaser for good and sufficient reason is unable to cut and remove the timber within the one year period, an extension of time may be granted by the director with the approval of the commissioner. Only one extension shall be granted and the extension shall be for one year only.

Approved April 24, 1959.

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CHAPTER 386—H. F. No. 1382

[Not Coded]

*An act authorizing a sale of certain state owned lands.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Sale of State Land, Cook County.** The commissioner of conservation is hereby authorized to offer for sale at public auction notwithstanding the fact that such land is located within the boundary of a state forest, the following described state trust fund land in Cook County:

The Northeast quarter of the Northeast Quarter (NE $\frac{1}{4}$ —NE $\frac{1}{4}$ ) Section seven (7), township sixty-two (62) North, Range four (4) West of the 4th principal meridian.

Approved April 24, 1959.

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CHAPTER 387—H. F. No. 433

[Coded in Part]

*An act relating to aeronautics to promote the safety, welfare, and protection of persons and property in the air and on the ground by regulating the height, location, and visual and aural identification characteristics of certain structures*

*and providing a penalty for the violation thereof; amending Minnesota Statutes 1957, Section 360.019, Subdivision 2; repealing Minnesota Statutes 1957, Section 360.025.*

Be it enacted by the Legislature of the State of Minnesota :

**Section 1. [360.81] Purpose.** *The safety, welfare, and protection of persons and property in the air and on the ground and of the maintenance of electronic communications within this state require that the navigable airspace overlying the state and the approaches to and the air traffic pattern area of any public airport in this state be maintained in a reasonably unobstructed condition for the safe flight of aircraft. To that end, the location, height, and identification of structures and the use of land thereto related, are regulated.*

**Sec. 2. [360.82] Definitions.** *As used in this act, unless the context otherwise requires:*

*“Permit” means a permit issued by the commissioner of aeronautics under the provisions of this act.*

*“Airport reference point” is a point selected and marked at the approximate geometric center of the airport landing area.*

*“Public airport” means any area of land which is either licensed as a public use airport by the commissioner of aeronautics or is operated by a metropolitan airports commission as a public use airport.*

**Sec. 3. [360.83] Permits, necessity.** *Subdivision 1. Until a permit therefor has been issued by the commissioner, no person shall erect, or add to the height of any structure at any place in this state which will result in a structure extending more than 500 feet above the highest point of land within a one-mile radius from the structure, except when allowed under subd. 2 or 3 of this section.*

*Subd. 2. In territory surrounding public airports for which zoning regulations have not been adopted pursuant to Minnesota Statutes 1957, Sections 360.061 to 360.074, no person may erect, or add to the height of any structure which will result in an obstruction to air navigation as defined by rules of the commissioner of aeronautics, until a permit therefor has been issued by the commissioner. In accordance with Minnesota Statutes 1957, Section 360.015, Subdivision 4, these rules of the commissioner must be kept in conformity with federal legislation and federal rules and standards. The commissioner may designate the airport reference point for all airports affected by the subdivision.*

Subd. 3. In territory for which zoning regulations have been adopted pursuant to Minnesota Statutes 1957, Sections 360.061 to 360.074, no permit from the commissioner is required. Regulations effective on the effective date of this act or which become effective subsequent to that date shall control the erection, addition to the height of, or replacement of a structure. No person may erect, add to the height of, or replace any structure except as allowed by those zoning regulations.

Subd. 4. Under subdivision 1 and 2 of this section, the commissioner may issue a permit for a structure which will be located with respect to natural formations or other objects of a permanent character so that no material increase in the aeronautical hazard results therefrom. He shall issue permits where a literal application or enforcement of the regulations would 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 rules and Minnesota Statutes 1957, Sections 360.011 to 360.074.

Subd. 5. No permit is required for structures existing or authorized by an agency of the federal government prior to the effective date of this act. No change in the rules of the commissioner and no relocation or alteration of an airport imposes a new restriction on any structure existing or authorized by an agency of the federal government at the time of the change, relocation or alteration.

Sec. 4. [360.84] **Height limitations; exceptions.** No permit shall be issued to erect, or add to the height of any structure which will extend more than 1000 feet above the highest point of land within a one-mile radius from the location of the structure, except as hereinafter provided, or shall any person erect, or add to the height of any structure for which a permit is required that exceeds the height allowed by the permit.

The commissioner may issue a permit to erect or add to a structure which will extend to a height of more than 1000 feet above the highest point of land within a one-mile radius from the location of the structure proposed to be erected or added to if such proposed structure will not be higher than 50 feet above the height of the highest structure in existence on the effective date of this act which is within a distance of one mile from the location of the structure proposed to be erected or added to.

*This act does not apply to a structure for which an erection permit is required by the federal government.*

**Sec. 5. [360.85] Interest of applicant for permit.** *It is not necessary that ownership of, option for, or other possessory right to a specific location site be held by the applicant before application for a permit is filed with the commissioner but any permit granted by the commissioner shall, among other things, state the specific location and also the maximum height allowed for the structure.*

**Sec. 6. [360.86] Visual or aural identification.** *Every permit granted shall also specify what, if any, obstruction markers, markings, lighting, or other visual or aural identification shall be installed on or in the vicinity of the structure. Such identification characteristics required shall conform to federal laws and regulations where applicable; however, a higher standard of identification may be required under this act.*

**Sec. 7. [360.87] Investigation; determination; notice; hearing.** *Upon receiving an application for a permit the commissioner shall make such investigation as may be necessary to process the application properly under this act.*

*If, upon such investigation, the commissioner determines that a permit should not be issued or that the height or location should be other than as applied for, the commissioner shall thereupon notify the applicant in writing of his determination. Such notification may be served by delivering it personally to the applicant or by sending it first class mail to the applicant at the address specified in the application. Such determination shall become final 20 days after notification thereof is served unless the applicant, within such 20-day period, requests in writing that a hearing be held before the commissioner with reference to the application. All such hearings shall be open to the public. Any person interested may appear and be heard either in person or by counsel and may present such evidence and testimony as may be pertinent.*

**Sec. 8. [360.88] Failure to file for permit; commissioner's action.** *In any instance where the commissioner learns or has reasonable grounds to believe that any person is erecting or adding to a structure that would be subject to the provisions of this act for which an application for a permit has not been filed, he may on his own motion issue an order to such person to appear before him and show cause why an application for a permit to erect or add to the structure need not be obtained. A date for a hearing thereon shall be set out in such order.*

Sec. 9. [360.89] **Enforcement.** *In addition to any other remedy, the commissioner may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the provisions of this act or of any rules, regulations, or orders of the commissioner issued pursuant thereto. The court may grant such relief, by way of injunction or otherwise, as may be necessary under this act and the rules, regulations, and orders of the commissioner issued pursuant thereto.*

Sec. 10. [360.90] **Rules and regulations; forms.** *The commissioner shall adopt and promulgate, and may from time to time amend or rescind, reasonable rules and regulations for the administration of this act. The commissioner shall prescribe and furnish forms necessary for the administration of this act.*

Sec. 11. [360.91] **Violations.** *Whoever violates or fails to comply with the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100 or imprisonment for not more than 90 days, or by both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.*

Sec. 12. Minnesota Statutes 1957, Section 360.019, Subdivision 2, is amended to read as follows:

Subd. 2. **Hearings before commissioner; review by certiorari.** *Any person aggrieved by an order of the commissioner or by the granting or denial of any license, permit, certificate, or registration may request a hearing before the commissioner. The commissioner shall hold a public hearing and may stay the order until after the hearing. Orders of the commissioner reached after a public hearing may be reviewed by certiorari in the district court of Ramsey county or the district court of the county in which the person resides, or (in the case of orders relating to obstructions to air navigation) of the county in which the structure exists or is to be erected.*

Sec. 13. **Separability.** *If any one or more of the provisions of this act is declared unconstitutional or the application thereof is held invalid, the validity of the remainder of the act and the application of such provision or provisions to other persons and circumstances shall not be affected thereby.*

Sec. 14. Minnesota Statutes 1957, Section 360.025, is hereby repealed.

Approved April 24, 1959.

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