

CHAPTER 114.

AERONAUTICS.

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114.01 Declaration of policy. (1) It is declared to be the intent of this chapter to encourage the development of a comprehensive system of public airports to serve the people of Wisconsin by rendering assistance in the making of airport plans, to such counties, cities, villages and towns as may request it. Such assistance shall be rendered by the state planning board.

(2) The state planning board shall make such investigations and surveys as may be necessary for making such comprehensive airport system plan and file progress reports with the governor from time to time. Copies of the completed plan shall be filed with the governor and the legislature.

(3) The state planning board shall make investigations to discover suitable airport sites, and may assist counties, cities, villages and towns in making construction plans for airports located at sites deemed suitable for such purpose, by providing advice and supervision when so requested. If the state planning board, and the governing body of any county, city, village or town which has acquired in whole or in part, or has instituted eminent domain proceedings to complete the acquisition of an airport site approved by the appropriate federal agency, shall agree that it is advisable to employ qualified engineers in private practice to make such plans, the state planning board may arrange to pay a portion of the cost of such employment, not to exceed one-half. All such arrangements shall be subject to the approval of the governor. [1943 c. 269]

114.013 Definitions. When used in this chapter:

(1) "Aeronautics" means transportation by aircraft; air instructions; the operation, repair or maintenance of aircraft, and the design, operation, repair or maintenance of airports, landing fields, landing strips or other air navigation facilities.

(2) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of, or flight in, the air.

(3) "Airport" means any area of land, water or both which is used or is made available for the landing and take-off, and which provides facilities for the shelter, supply and repair of aircraft; which, as to size and design, has at least 1,800 feet of effective landing length in all directions, with clear approaches, or landing strips not less than 500 feet wide, permitting landing in at least 6 directions at all times, with at least one landing strip aligned with the general direction of the prevailing wind, the landing strips not to cross or converge at angles of less than 40 degrees in cases where there are not more than 3 such landing strips, nor any of the landing strips to be less than 1,800 feet in effective length, with clear approaches, or 2 landing strips, one aligned with the general direction of the prevailing wind, permitting at least 4-way landing at all times, with clear approaches, the landing strips to be at least 500 feet wide and at least 2,500 feet in effective length, and not to cross or converge at any angle less than 80 degrees; and which, as to surface, marking, equipment and management meets the minimum requirements established from time to time by the federal agency having jurisdiction. Any area of land or water capable of development as an airport as provided by this subsection, which has been approved as an airport site by the civil aeronautics administration or other federal agency having jurisdiction shall be an airport for the purposes of acquiring, constructing, improving or otherwise developing such area for aeronautic purposes. Where

consistent, the provisions of this chapter relating to airports shall apply to landing fields and landing and take-off strips.

(4) "Civil aircraft" means any aircraft other than a public aircraft.

(5) "Flying club" means any person (other than an individual) who, neither for profit nor reward, owns, leases or uses one or more aircraft for the purposes of instructions, pleasure or both.

(6) "Landing field" means any area of land, water or both, which is used or is made available for the landing and take-off of aircraft; which may or may not provide facilities for the shelter, supply and repair of aircraft; and which, as to size, meets the minimum requirements established by subsection (3).

(7) "Person" means any individual or any corporation or other association of individuals, unless the context indicates otherwise.

(8) "Public aircraft" means any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of the United States, of the District of Columbia, and of any state, territory or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

(9) "Landing and take-off strip" means any area of land, water or both, with clear approaches, which is used or is made available for the landing and take-off of aircraft, having at least 500 feet of land or of water in its width and at least 2,000 feet of land or of water in its length. [1935 c. 169; 1937 c. 381; 1943 c. 269; 1943 c. 552 s. 19]

114.015 [Repealed by 1943 c. 269]

114.02 Sky sovereignty. Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States.

114.03 Landowner's rights skyward. The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in section 114.04.

114.04 Flying lawful, landing unlawful; limitations; emergency. Flight in aircraft over the lands and waters of this state is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the aeronaut shall be liable, as provided in section 114.05.

114.05 Damages by aircraft. The owner of every aircraft which is operated over the lands or waters of this state is absolutely liable for injuries or damage to persons or property on the land or water beneath, caused by the ascent, descent or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not, unless the injury is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property, both owner and lessee shall be liable, and they may be sued jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner or bailee of the injured property, shall have a lien on the aircraft causing the injury or damage to the extent of the injury or damage caused by the aircraft or objects falling from it.

114.06 Inter-aircraft liability. The liability of the owner of one aircraft, to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air shall be determined by the rules of law applicable to torts on land.

114.07 Criminal jurisdiction. All crimes, torts and other wrongs committed by or against an aeronaut or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime or other wrong by or against the owner of such aircraft, shall be determined by the laws of this state.

114.08 Contracts made in flight. All contractual and other legal relations entered into by aeronauts or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

114.09 Stunting, dropping matter. Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this state, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking

off, fly at such a low level as to endanger the persons on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not less than ten dollars nor more than one hundred dollars, and for a second or subsequent offense by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

114.10 Killing birds or animals. Any aeronaut or passenger, who, while in flight within this state, shall intentionally kill or attempt to kill any birds or animals shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars or by imprisonment for not more than ninety days, or both.

114.11 Local airports. The governing body of any county, city, village or town in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain and operate airports or landing fields or landing and take-off strips for the use of airplanes and other aircraft either within or without the limits of such counties, cities, villages and towns, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county, city, village or town, and may regulate the same, provided, such regulation shall not be in conflict with such rules and regulations as may be made by the federal government. The governing body of each and every county and municipality owning an airport or landing field or landing and take-off strip in the state of Wisconsin shall cause the surroundings of such airport, landing field or landing and take-off strip to be marked for aeronautical purposes, and maintain such marking, subject to and in accordance with law and such rules and regulations as may from time to time be made by the federal government and in so doing may co-operate with other states and subdivisions thereof and acquire rights and easements in property outside of the state. [1937 c. 381; 1943 c. 269]

114.12 Condemnation of lands for airports. Any lands acquired, owned, controlled or occupied by such counties, cities, villages and towns for the purposes enumerated in section 114.11 hereof shall and are hereby declared to be acquired, owned, controlled and occupied for a public purpose, and as a matter of public necessity, and such cities, villages, towns or counties shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity including property owned by other municipal corporations and political subdivisions. [1943 c. 101]

114.13 Purchase of land for airports. Private property needed by a county, city, village or town for an airport or landing field or landing and take-off strip shall be acquired by purchase if the city, village, town or county is able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by the law under which the city, village, town or county is authorized to acquire real property for public purposes, other than street purposes. The purchase price or award for real property acquired for an airport or landing field or landing and take-off strip may be paid for by appropriation of moneys available therefor, or wholly or partly from the proceeds of the sale of bonds of the city, village, town or county, as the governing body of such city, village, town or county shall determine, subject however to the provisions of chapter 67. [1943 c. 269]

114.135 Airport protection. It is declared to be in the public interest that the aerial approaches to any airport be maintained in a condition best suited to the safe operation of aircraft and to that end the bulk, height, location and use of any building or structure, or any other object, and the use of land may be regulated or any building, structure or other object may be removed. It is the legislative intent that this section shall not supersede the provisions of section 59.97 (1) (b), but that it shall be supplemental to such section.

(1) The aerial approaches to any airport owned and operated by corporations organized to provide aeronautic facilities to the general public may be protected in the following manner: The owner of such airport shall prepare and file with the register of deeds plans and specifications showing the land affected, the owner of each parcel or interest therein, whether public or private, the regulations to be imposed on each parcel and the structures, buildings or other objects to be removed. The owner or managing body of the airport may negotiate and acquire from the owners of the various parcels or interest therein, whether public or private, by deeds the protection privileges shown by the plans and specifications. Referring in the deed to the plans and specifications, and briefly describing the same, shall be deemed sufficient legal description to convey the protection privileges set forth in said plans and specifications in the property of the grantor or grantors. In case the owner of the airport is unable to obtain by negotiation the desired protection privileges, he may acquire the same by eminent domain in the manner set forth in chapter 32, except as to lands and buildings of railway companies which are necessary to, or are used in connection with the operation of the railway. In case the

protection privileges sought shall extend into more than one county the plans and specifications shall be filed with the register of deeds of each county. In case any parcel of land lies in more than one county, eminent domain proceedings may be instituted in the circuit court of any county in which said parcel is situated, provided a certified copy of the final judgment with a description of the property involved is recorded with the register of deeds of all counties in which such parcel of land or interest therein lies.

(2) In case of any airport landing field or landing and take-off strip owned by any city, village, town or county or any union of them, the commission or other body in charge of the operation and control of said airport, landing field or landing and take-off strip may prepare and file without charge with the register of deeds plans and specifications showing the protection privileges sought as described in subsection (1). The commission or other body in charge shall send by registered mail with return receipt to each owner at his last-known address a notice stating that said plans and specifications have been filed with the register of deeds' office, stating the county, time of filing, the file number, and a brief description of the parcel of land or interest therein affected. In case the address of the owner cannot be ascertained or the registered letter is returned unclaimed, notice shall be sent by registered mail to the person in possession of said premises, and if no person is in possession then the notice shall be posted in a conspicuous place on the land involved and published once a week for 3 successive weeks in some newspaper having general circulation published in the county, (if no such newspaper is published in the county, the notice shall be published in the newspaper of general circulation published nearest the parcel of land involved). The right of the owner or owners to claim for damages for the protection regulations imposed in the plans and specifications, or the removal of obstructions shall be forever barred, unless the owner shall file a claim for damages with the commission or other body in charge within 6 months from the receipt of the notice from the commission, or other body in charge, or the posting and last publication. The claim shall be verified and shall state the amount of damages claimed. The commission or other body in charge may pay the damages, if it has available funds, and the payment shall operate as a conveyance. If no claims for payment are filed or if payment is made, the commission or other body in charge shall file an affidavit for each parcel involved setting forth the rights acquired which shall be recorded by the register of deeds without charge and when so recorded shall have the same effect as any duly recorded instrument. In case any owner shall be a minor or non compos mentis, the notice may be sent by registered mail to his guardian, if he has one, and if he has none the county court of the county in which the land, or a larger part, is located shall upon application of the commission or other body in charge appoint a guardian to receive said notice, and to protect the rights of the said minor or non compos mentis. Any funds payable to said minor or non compos mentis, shall be cared for in the manner provided in chapter 319. If the commission or other body in charge shall deem the damages claimed to be excessive, it shall so report to the governing body or bodies which established the airport, landing field or landing and take-off strip in question and with its consent may acquire in the name of said governmental body or bodies the protection privilege desired in the manner set forth in subsection (1) or in the alternative, it may deposit with the county clerk an award and notify the owner or owners of the land involved in the method above specified. The land owner or owners may accept the award without prejudice to his right to claim and contest for a greater sum. The land owner may, within a period of 6 months after notice of the award, proceed as provided in chapter 32 to have his damages appraised.

(3) The power and authority to protect airports conferred in subsections (1) and (2) may be exercised from time to time; amended plans and specifications may be filed in the register of deeds' office, and new protection privileges acquired from time to time in the methods provided by this section.

(4) The duty to prevent encroachments by growth of trees or other vegetation, or otherwise, upon the protection privileges acquired by any airport, landing field, landing and take-off strip, shall be upon the owner or owners of the parcel of land affected by the protection privilege only in cases where the owner or owners have received compensation for the protection privilege. Any such encroachment is declared to be a private nuisance and may be abated in the manner prescribed in chapter 280. In cases where no compensation has been paid for the protection privilege, encroachments shall be removed by the owner or the authority in charge of the airport, landing field, or landing and take-off strip and shall be, in case of a publicly owned airport, landing field or landing and take-off strip, a city, village, town or county charge as the case may be. In removing such encroachments, the owner or authority in charge of the airport, landing field or landing and take-off strip in question, may go upon the land and remove the encroachment without being liable for damages in so doing.

(5) It shall be unlawful for any one to build, create, cause to be built or created, any object, plant, or cause to be planted, any tree or trees or other vegetation, which shall

encroach upon any acquired protection privilege. In addition to the penalty set forth in section 114.27, such encroachment is declared to be a private nuisance and may be removed in the manner prescribed in chapter 280. [1943 c. 269]

114.14 Equipment, control of airport; expense; regulations. (1) The governing body of a city, village, town or county which has established an airport or landing field, or landing and take-off strip, and acquired, leased or set apart real property for such purpose, prior to January 1, 1940, may construct, improve, equip, maintain and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance and operation thereof in any suitable officer, board or body of such city, village, town or county. The expenses of such construction, improvement, equipment, maintenance and operation shall be a city, village, town or county charge as the case may be. The governing body of a city, village, town or county may adopt regulations, and establish fees or charges for the use of such airport or landing field, or may authorize an officer, board or body of such village, city, town or county having jurisdiction to adopt such regulations and establish such fees or charges, subject however to the approval of such governing body before they shall take effect.

(2) The governing body of a city, village, town or county which has established an airport may vest jurisdiction for the construction, improvement, equipment, maintenance and operation thereof in an airport commission of 3 commissioners. In the case of a county, such commissioners shall be appointed by the county judge; in the case of cities, villages and towns by the mayors or city managers, village presidents and town chairmen, respectively. Their terms shall be 6 years; on the first appointment the members shall be appointed for terms of 2, 4, and 6 years, respectively. Their compensation and allowance for expenses shall be as fixed by the governing body. Such commissioners shall be persons especially interested in aeronautics. Such airport commission shall elect one member chairman and one secretary who shall keep an accurate record of all its proceedings and transactions and report such to the governing body. Such commission shall have complete and exclusive control and management over the airport for which it has been appointed. All moneys appropriated for the construction, improvement, equipment, maintenance or operation of an airport, managed as provided by this subsection, or earned by such airport or made available for its construction, improvement, equipment, maintenance or operation in any manner whatsoever, shall be deposited with the treasurer of the city, village, town or county where it shall be kept in a special fund and paid out only on order of the airport commission, drawn and signed by the secretary and countersigned by the chairman. In case of union airports owned by 2 governmental units, one commissioner shall be first appointed as provided by this subsection, the third shall be appointed alternately from each such unit starting with one from the governmental unit whose name comes first in the alphabet. In cases where there are 3 or more such governmental units, one commissioner shall be appointed from each. The length of the terms to be served by each shall be determined by lot. The moneys available for union airports shall be kept in the manner provided in this subsection in the treasury of one of the governmental units selected by the commission, and paid out in like manner.

(3) In carrying out its duties the airport commission may employ a manager who may be a member of the commission and fix his compensation (but no member of the commission shall vote on the question of his selection as manager nor on any question as to his compensation), and employ and fix the compensation of such other employes as may be deemed necessary; may make such contracts or other arrangements as may be deemed necessary for the construction, improvement, equipment, maintenance or operation of the airport; may contract with the United States or any agency thereof; may contract with private parties for a term not to exceed 10 years for the operation of the airport, including all necessary arrangements for the improvement and equipment and successful operation thereof. Provided, that in no case shall the public be deprived of equal and uniform use of the airport; and further, that no act, contract, lease or any activity of the airport commission shall be or become a binding contract on any governmental unit unless expressly authorized, and then only to the extent so expressly authorized. [1943 c. 269]

114.15 Appropriation, taxation for airports. The local authorities of a city, village, town or county to which this chapter is applicable having power to appropriate money therein may annually appropriate and cause to be raised by taxation in such city, village, town or county, a sum sufficient to carry out the provisions of this chapter.

114.151 Union airports. All powers conferred upon any county, city, village or town by sections 114.11 to 114.15, relating to the acquisition, establishment, construction, ownership, control, lease, equipment, improvement, maintenance, operation and regulation of airports or landing fields may be exercised by any two or more municipalities in the establishment, acquisition, equipment and operation of joint airports or landing fields.

114.16 Pilots; federal license or permit. It shall be unlawful for any person to pilot within this state any civil aircraft, unless such person is the holder of a currently effective pilot's license or student's permit issued by the government of the United States; but this restriction shall not apply to any person operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft. [1937 c. 381]

114.17 Mechanic's license, issue, presentation. Any person repairing, adjusting, inspecting or overhauling aircraft or aircraft engines within this state shall be in possession of a mechanic's license issued to him by the department of commerce of the United States, which must be presented for inspection upon demand of any passenger, peace officer of this state, or any official, manager or person in charge of any airport or landing field in this state.

114.18 Aircraft; airworthiness; federal license. It shall be unlawful for any person to operate, pilot or navigate, or cause or authorize to be operated, piloted or navigated within this state any civil aircraft, unless such aircraft has a currently effective license issued by the government of the United States or has been duly identified by the government of the United States but this restriction shall not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft, or to a nonpassenger-carrying flight solely for inspection or test purposes authorized by the United States to be made without such license. [1937 c. 381; 1943 c. 269]

114.19 Display of licenses. The certificate of the license or permit respectively required of a pilot or a student shall be kept in the personal possession of the licensee or permittee when he is operating an aircraft within this state. The certificate of the license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted therein in clear view of passengers. Such certificate of pilot's license, student's permit or aircraft license shall be presented for inspection upon the demand of any passenger, any peace officer of this state, any authorized official, or any official, manager or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under any of the provisions of this chapter, a defendant who relies upon a license or permit of any kind shall have the burden of proving that he is properly licensed or is the possessor of a proper license or permit. The fact of nonissuance of such license or permit may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license or permit was issued. [1943 c. 269]

114.20 to 114.26 [Repealed by 1943 c. 269]

114.26 [Repealed by 1943 c. 515 s. 13]

114.27 Penalty. Any person failing to comply with the requirements, or violating any of the provisions of this chapter shall be guilty of a misdemeanor and punishable by a fine of not more than \$500, or by imprisonment for not more than 90 days, or both. [1937 c. 381; 1943 c. 269]

114.28 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are declared to be severable. [1937 c. 381]