Chapter 63.

Aeronautics.

Article 1.

Municipal Airports.

§ 63-1. Definitions; singular and plural.

(a) Definitions. – For the purpose of this Chapter the following words, terms, and phrases shall have the meanings herein given, unless otherwise specifically defined, or unless another intention clearly appears, or the context otherwise requires:

(1) "Aeronautics" means transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities, and air instruction.

(2) "Aeronautics instructor" means any individual engaged in giving instruction or offering to give instruction in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising such occupation, without calling his facilities an "air school" or anything equivalent thereto, and without employing or using other instructors. It does not include any instructor in any public school or university of this State, or any institution of higher learning duly accredited and approved for carrying on collegiate work, while engaged in his duties as such instructor.

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

(4) "Air instruction" means the imparting of aeronautical information by any aeronautics instructor or in or by any air school or flying club.

(5) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while underway and (excepting individuals employed outside the United States, any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, and any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air traffic control tower operator.

(6) "Air navigation" means the operation or navigation of aircraft in the air space over this State, or upon any airport or restricted landing area within this State.

(7) "Air navigation facility" means any facility other than one owned or controlled by the federal government, used in, available for use in, or designed for use in aid of air navigation, including airports, restricted landing areas, and any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of

aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area, and any combination of any or all of such facilities.

(8) "Airport" means any area of land or water, except a restricted landing area, which is designed for the landing and take off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way, whether heretofore or hereafter established.

(9) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off.

(10) "Airport protection privileges" means easements through, or other interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas of airports and restricted landing areas and the safe and efficient operation thereof.

(11) "Air school" means any person engaged in giving or offering to give instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward, and advertising, representing, or holding himself out as giving or offering to give such instruction. It does not include any public school or university of this State, or any institution of higher learning duly accredited and approved for carrying on collegiate work.

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

(13) "Flying club" means any person other than an individual which, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction or pleasure, or both.

(14) "Municipality" means any county, city, or town of this State, and any other political subdivision, public corporation, authority, or district in this State, which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports and other air navigation facilities.

(15) "Navigable air space" means air space above the minimum altitudes of flight prescribed by the laws of this State, or by regulations of the Commission consistent therewith.

(16) "Operation of aircraft" or "operation aircraft" means the use of aircraft for the purpose of air navigation and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this State.

(17) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(18) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of

any state, territory, or possession of the United States, or the District of Columbia, but not including any government owned aircraft engaged in carrying persons or property for commercial purposes.

(19) "Restricted area" means any area of land, water, or both, which is used or is made available for the landing and take off of aircraft, the use of which shall, except in case of emergency, be only as provided from time to time by the Commission.

(20) "State" or "this State" means the State of North Carolina.

(21) "State airway" means a route in the navigable air space over and above the lands or water of this State designated by the Commission as a route suitable for air navigation.

(b) Singular and Plural. – The singular shall include the plural, and the plural the singular. (1945, c. 490, s. 1; 1949, c. 865, s. 3; 1971, c. 936, s. 2.)

§ 63-2. Cities and towns authorized to establish airports.

The governing body of any city or town in this State is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft, either within or without the limits of such cities 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 city or town. (1929, c. 87, s. 2.)

§ 63-3. Counties authorized to establish airports.

The governing body of any county in this State is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within or without the limits of such counties, 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. (1929, c. 87, s. 3.)

§ 63-4. Joint airports established by cities, towns and counties.

The governing bodies of any city, town and county in this State are hereby authorized to jointly acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within or without the limits of such cities, towns and counties, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be jointly owned or controlled by such city, town and county. (1929, c. 87, s. 4.)

§ 63-5. Airport declared public purpose; eminent domain.

Any lands acquired, owned, controlled, or occupied by such cities, towns, and/or counties, for the purposes enumerated in G.S. 63-2, 63-3 and 63-4, shall and are hereby declared to be acquired, owned, controlled and occupied for a public purpose, and such cities, towns and/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 purpose. (1929, c. 87, s. 5.)

§ 63-6. Acquisition of sites; appropriation of moneys.

Private property needed by a city, town and/or county for an airport or landing field may be acquired by gift or devise or shall be acquired by purchase if the city, town and/or county is or are

able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by Chapter 40A. The purchase price, or award for property acquired for an airport or landing field 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, town and/or county, as the governing body and/or bodies of such city, town and/or county shall determine. (1929, c. 87, s. 6; 1981, c. 919, s. 7.)

§ 63-7. Airports already established declared public charge; regulations and fees for use of.

The governing body or bodies of a city, town and/or county which has or have established an airport or landing field, and acquired, leased, or set apart real property for such purpose, may construct, improve, equip, maintain, and operate the same. The expenses of such construction, improvement, maintenance, and operation shall be a city, town and/or county charge as the case may be. The governing body or bodies of a city, town and/or county may adopt regulations and establish fees or charges for the use of such airport or landing field. (1929, c. 87, s. 7.)

§ 63-8. Appropriations.

The governing body or bodies of a city, town and/or county to which this Article is applicable, having power to appropriate, individually or jointly, money therein, are hereby authorized to annually appropriate and cause to be raised by taxation in such city, town and/or county or to use from the net proceeds derived from the operation, by such city, town or county, of any public utility a sum sufficient to carry out the provisions of this Article in such proportion and upon such pro-rata basis as may be determined upon by a joint board to be appointed by and from the governing body or bodies of the city, town and/or the county or individually as the case may be. Provided, nothing herein shall be construed to permit the governing bodies of any county, city or town to issue bonds under the provisions of this Article without a vote of the people. (1929, c. 87, s. 8.)

§ 63-8.1. Repealed by Session Laws 1973, c. 803, s. 3.

§ 63-9. Partial invalidity.

If any part or parts of this Article shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Article. The General Assembly expressly declares that it would have passed the remaining parts of this Article, if it had known that such part or parts thereof would be declared unconstitutional. (1929, c. 87, s. 9.)

Article 2.

State Regulation.

§ 63-10. Repealed by Session Laws 1971, c. 936, s. 1.

§ 63-11. Sovereignty in space.

Sovereignty in 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. (1929, c. 190, s. 2.)

§ 63-12. Ownership of space.

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 G.S. 63-13. (1929, c. 190, s. 3.)

§ 63-13. Lawfulness of flight.

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 injurious to the health and happiness, or imminently dangerous 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 G.S. 63-14. (1929, c. 190, s. 4; 1947, c. 1001, s. 1.)

§ 63-14. Repealed by Session Laws 1947, c. 1069, s. 3.

§ 63-15. Collision of aircraft.

The liability of the owners of one aircraft to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damages caused by collision on land or in the air shall be determined by the rules of law applicable to torts on land. (1929, c. 190, s. 6.)

§ 63-16. Jurisdiction over crimes and torts.

All crimes, torts, and other wrongs committed by or against an airman 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. (1929, c. 190, s. 7; 1971, c. 936, s. 3.)

§ 63-17. Jurisdiction over contracts.

All contractual and other legal relations entered into by airmen or passengers while in flight over this State shall have the same effect as if entered into on the land or water beneath. (1929, c. 190, s. 8; 1971, c. 936, s. 3.)

§ 63-18. Dangerous flying a misdemeanor.

Any airman 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 disturb the public peace or the rights of private persons in the enjoyment of their homes, or injure the health, or endanger the persons or property on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a Class 1 misdemeanor. (1929, c. 190, s. 9; 1947, c. 1001, s. 2; 1971, c. 936, s. 3; 1993, c. 539, s. 493; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 63-19. Repealed by Session Laws 1943, c. 543.

§ 63-20. Qualifications of operator; federal license.

The public safety requiring, and the advantages of uniform regulation making it desirable, in the interest of aeronautical progress, that a person engaging within this State in operating aircraft, in any form of aerial navigation for which a license to operate aircraft issued by the United States government would then be required if such aerial navigation were interstate, should have the qualifications necessary for obtaining and holding such a license, it shall be unlawful for any

person to engage in operating aircraft within the State, in any such form of aerial navigation, unless he have such federal license. (1929, c. 190, s. 11.)

§ 63-21. Possession and exhibition of license certificate.

The certificate of the license, herein required, shall be kept in the personal possession of the licensee when he is operating aircraft within this State and must be presented for inspection upon the demand of any passenger, any peace officer of this State, or any official, manager or person in charge of any airport or landing field in this State upon which he shall land. (1929, c. 190, s. 12.)

§ 63-22. Aircraft; construction, design and airworthiness; federal registration.

The public safety requiring, and the advantages of uniform regulation making it desirable, in the interest of aeronautical progress, that aircraft to be operated within this State should conform, with respect to design, construction and airworthiness, to standards then prescribed by the United States government with respect to aerial navigation of aircraft subject to its jurisdiction, it shall be unlawful for any person to operate an aircraft within this State unless it is registered pursuant to the lawful rules and regulations of the United States government then in force, if the circumstances of such aerial navigation are of a character that such registration would be required in the case of interstate aerial navigation. (1929, c. 190, s. 13.)

§ 63-23. Penalties.

A person who violates any provision of G.S. 63-20, 63-21 or 63-22 of this Article shall be guilty of a Class 2 misdemeanor; provided, however, that acts or omissions made unlawful by G.S. 63-20, 63-21 or 63-22 of this Article shall not be deemed to include any act or omission which violates the laws or lawful regulations of the United States. (1929, c. 190, s. 14; 1993, c. 539, s. 494; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 63-24. Jurisdiction of State over crimes and torts retained.

Provided that this Article shall not be construed as a waiver of jurisdiction of the courts of the State of North Carolina over any crime or tort committed within the State of North Carolina, and provided, further, that the General Assembly of North Carolina may at any time amend, regulate or control any of the powers which may be assumed by the United States Department of Commerce under this Article. (1929, c. 190, s. 15.)

Article 3.

Stealing, Tampering with, or Operating Aircraft While Intoxicated.

§ 63-25. Taking of aircraft made crime of larceny.

Any person who, under circumstances not constituting larceny shall, without the consent of the owner, take, use or operate or cause to be taken, used or operated, an airplane or other aircraft or its equipment, for his own profit, purpose or pleasure, steals the same, is guilty of a Class H felony. (1929, c. 90, s. 1; 1993, c. 539, s. 1278; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 63-26. Tampering with aircraft made crime.

Any person who shall, without the consent of the owner, go upon or enter, tamper with or in any way damage or injure any airplane or other aircraft, or any personal property under the control of or being used by any public or private airport or aircraft landing facility shall be guilty of a Class 1 misdemeanor, and the showing of willful or malicious intent shall not be necessary to sustain a

conviction hereunder. (1929, c. 90, s. 2; 1987, c. 818, s. 3; 1993, c. 539, s. 495; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 63-26.1. Trespass upon airport property made a crime.

(a) It shall be unlawful for any person to trespass upon airport property. For purposes of this section "airport property" means property that is under the control of or is being used by any public or private airport or aircraft landing facility.

(b) A person commits the offense of trespass upon airport property if, without authorization, he enters or remains on airport property that is so enclosed or posted or secured as to demonstrate clearly an intent to keep out intruders. Violation of this section is a Class 2 misdemeanor. (1987, c. 818, s. 4; 1993, c. 539, s. 496; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 63-27. Operation of aircraft while impaired.

(a) Offense. – A person commits the offense of operation of an aircraft while impaired if he operates an aircraft, whether on the ground or in the air or on water, within this State:

(1) While under the influence of an impairing substance; or

(2) After having consumed sufficient alcohol that he has, at any relevant time after the operating of an aircraft, an alcohol concentration of 0.04 or more.

The relevant definitions contained in G.S. 20-4.01 shall apply to this section.

(b) Defense precluded. – The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(c) Pleading. – In any prosecution for operating an aircraft while impaired, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant operated the aircraft within this State while subject to an impairing substance.

(d) Chemical Analysis. – Any person who operates an airplane or other aircraft, whether on the ground or in the air or on the water within the territorial limits of this State gives consent to chemical analysis if he is charged with the offense of operating an aircraft while impaired. The charging officer must designate the type of chemical analysis to be administered, and it may be administered when he has reasonable grounds to believe that the person charged has committed the specified crime. The chemical analysis shall be performed pursuant to the procedures established under Chapter 20 of the General Statutes applying to motor vehicle violations with the exception that if the person charged refuses to be tested, the charging officer shall, in writing, notify the local office of the Federal Aviation Administration of the individual's refusal. The results of any chemical tests administered pursuant to this section will be admissible into evidence at trial on the offense charged and a written report of the test results shall be made available to the local office of the Federal Aviation Administration.

(e) Punishment. – A person violating this section shall be guilty of a Class 1 misdemeanor. Provided, however, for a second and all subsequent convictions of this section, a person shall be guilty of a Class I felony. (1929, c. 90, s. 3; 1953, c. 675, s. 8; 1987, c. 818, s. 1; 1993, c. 539, ss. 497, 1279; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 63-28. Infliction of serious bodily injury by operation of an aircraft while impaired.

(a) Offense. – A person commits the offense of infliction of serious bodily injury by operation of an aircraft while impaired if, while in violation of G.S. 63-27, he does serious bodily injury to another.

(b) Defense precluded. – The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(c) Pleading. – In any prosecution for infliction of serious bodily injury by operation of an aircraft while impaired, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant did serious bodily injury to another while operating an aircraft within this State while subject to an impairing substance.

(d) Punishment. – Violation of this section is a Class F felony. (1929, c. 90, s. 4; 1953, c. 675, s. 9; 1987, c. 818, s. 2; 1993, c. 539, s. 1280; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 4.

Model Airport Zoning Act.

§ 63-29: Repealed by Session Laws 1971, c. 936, s. 1.

§ 63-30. Airport hazards not in public interest.

It is hereby found and declared that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein, and is therefore not in the interest of the public health, public safety, or general welfare. (1941, c. 250, s. 2.)

§ 63-31. Adoption of airport zoning regulations.

(a) Every political subdivision may adopt, administer, and enforce, under the police power or as a land development regulation under Chapter 160D of the General Statutes, airport zoning regulations, which regulations shall divide the area surrounding any airport within the jurisdiction of said political subdivision 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. In adopting or revising any such zoning regulations, the political subdivision 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 the fostering of civil aeronautics, as to the aerial approaches necessary to safe flying operations at the airport.

(b) In the event that a political subdivision has adopted, or hereafter adopts, a general zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations adopted for the same area or portion thereof under this Article may be incorporated in and made a part of such general zoning regulations, and be administered and enforced in connection therewith, but such general zoning regulations shall not limit the effectiveness or scope of the regulations adopted under this Article.

(c) Any two or more political subdivisions may agree, by ordinance duly adopted, to create a joint board and delegate to said board the powers herein conferred to promulgate, administer and enforce airport zoning regulations to protect the aerial approaches of any airport located within the corporate limits of any one or more of said political subdivisions. Such joint board shall have as members two representatives appointed by the chief executive officer of each political subdivision participating in the creation of said board and a chairman elected by a majority of the members so appointed.

(d) The jurisdiction of each political subdivision is hereby extended to the promulgating, adopting, administering and enforcement of airport zoning regulations to protect the approaches of any airport or landing field which is owned by said political subdivision, although the area affected by the zoning regulations may be located outside the corporate limits of said political subdivision. In case of conflict with any airport zoning or other regulations promulgated by any political subdivision, the regulations adopted pursuant to this section shall prevail.

(e) All airport zoning regulations adopted under this Article 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 nonconforming use, except as provided in G.S. 63-32, subsection (a).

(f) A political subdivision may not adopt an airport zoning regulation in violation of G.S. 63A-18. (1941, c. 250, s. 3; 1945, cc. 300, 635; 1991, c. 749, s. 3; 2019-111, s. 2.5(c); 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 63-32. Permits, new structures, etc., and variances.

(a) Permits. – Where advisable to facilitate the enforcement of zoning regulations adopted pursuant to this Article, a system may be established by any political subdivision for the granting of permits 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 nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, 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 administrative agency determines that a nonconforming structure or tree has been abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed: (i) no permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations; and (ii) whether application is made for a permit under this paragraph or not, the said agency may by appropriate action compel the owner of the nonconforming 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 nonconforming structure or tree shall neglect or refuse to comply with such order for 10 days after notice thereof, the said agency may proceed to have the object so lowered, removed, reconstructed, or equipped. Except as indicated, all applications for permits for replacement, change or repair of nonconforming uses shall be granted.

(b) 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 Article, may apply to the board of appeals, as provided in G.S. 63-33, subsection (c), for a variance from the zoning regulations in question. Such variances shall be considered pursuant to G.S. 160D-705 and be in accordance with the spirit of the regulations and this Article.

(c) Obstruction Marking and Lighting. – In granting any permit or variance under this section, the administrative agency or board of appeals may, if it deems such action advisable to effectuate the purposes of this Article and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain suitable obstruction markers and

obstruction lights thereon. (1941, c. 250, s. 4; 2019-111, s. 2.5(d); 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 63-33. Procedure.

(a) Adoption of Zoning Regulations. – No airport zoning regulations shall be adopted, amended, or changed under this Article except by action of the legislative body of the political subdivision in question, or the joint board provided for in G.S. 63-31, subsection (c), following the procedures set for adoption of development regulations in Article 6 of Chapter 160D of the General Statutes.

(b) Administration of Zoning Regulations – Administrative Agency. – The legislative body of any political subdivision adopting airport zoning regulations under this Article may delegate the duty of administering and enforcing such regulations to any administrative agency under its jurisdiction, or may create a new administrative agency to perform such duty, but such administrative agency shall not be or include any member of the board of appeals. The duties of such administrative agency shall include that of hearing and deciding all permits under G.S. 63-32, subsection (a), but such agency shall not have or exercise any of the powers delegated to the board of appeals.

(c) Administration of Airport Zoning Regulations – Board of Appeals. – Airport zoning regulations adopted under this Article shall provide for a board of appeals to have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of this Article.

(2) To hear and decide special use permits upon which such board may be required to pass under such ordinance.

(3) To hear and decide specific variances.

A zoning board of adjustment may be appointed as the board of appeals. Otherwise, the board of appeals shall consist of five members, each to be appointed for a term of three years and to be removable for cause by the appointing authority upon written charges and after public hearing. G.S. 160D-405 and G.S. 160D-406 shall be applicable to appeals, special use permits, and variance petitions made pursuant to this section. (1941, c. 250, s. 5; 1981, c. 891, s. 11; 2019-111, s. 2.5(e); 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 63-34. Judicial review.

G.S. 160D-1401 shall be applicable to judicial review of administrative and quasi-judicial decisions made pursuant to this Article. (1941, c. 250, s. 6; 2009-421, s. 3; 2019-111, s. 2.5(f); 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 63-35. Enforcement and remedies.

G.S. 160D-1404 shall be applicable to ordinances adopted pursuant to this Article. (1941, c. 250, s. 7; 1993, c. 539, s. 498; 1994, Ex. Sess., c. 24, s. 14(c); 2019-111, s. 2.5(g); 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 63-36. Acquisition of air rights.

In any case in which:

(1) It is desired to remove, lower, or otherwise terminate a nonconforming use; or

(2) The approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Article; or

(3) It appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations,

the political subdivision within which the property or nonconforming use is located or the political subdivision owning the airport or served by it may acquire, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such an air right, easement, or other estate or interest in the property or nonconforming use in question as may be necessary to effectuate the purposes of this Article.

If any political subdivision, or if any board or administrative agency appointed or selected by a political subdivision, shall adopt, administer or enforce any airport zoning regulations which results in the taking of, or in any other injury or damage to any existing structure, such political subdivision shall be liable therefor in damages to the owner or owners of any such property and the liability of the political subdivision shall include any expense which the owners of such property are required to incur in complying with any such zoning regulations. (1941, c. 250, s. 8.)

§ 63-37. Short title.

This Article shall be known and may be cited as the "Model Airport Zoning Act." (1941, c. 250, s. 10.)

§ 63-37.1. Airport obstructions illegal.

Any person, other than the owner or operator of an airport, who intentionally obstructs the lawful takeoff and landing operations and patterns of aircraft at an existing public or private airport shall be guilty of a Class 1 misdemeanor. (1995, c. 507, s. 19.5(m).)

Article 5.

Aeronautics Commission; Federal Regulations.

§§ 63-38 through 63-44: Repealed by Session Laws 1949, c. 865, s. 1.

§ 63-45. Enforcement of Article.

It shall be the duty of every State, county and municipal officer charged with the enforcement of State and municipal laws to enforce and assist in the enforcement of this Article. (1945, c. 198, s. 8.)

§ 63-46. Repealed by Session Laws 1949, c. 865, s. 2.

§ 63-47. Enforcement of regulations of Federal Aviation Administration.

In the general public interest and safety, the safety of persons receiving instructions concerning or operating, using or traveling in aircraft, and of persons and property on the ground, and in the interest of aeronautical progress, the public officers of the State, counties and cities shall enforce the rules and regulations of the Federal Aviation Administration. (1945, c. 198, s. 10; 2017-57, s. 34.21A.)

Article 6.

Public Airports and Related Facilities.

§ 63-48. Transferred to § 63-1 by Session Laws 1971, c. 936, s. 2.

§ 63-49. Municipalities may acquire airports.

(a) Every municipality is hereby authorized, through its governing body, to acquire property, real or personal, for the purpose of establishing, constructing, and enlarging airports and other air navigation facilities and to acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate such airports and other air navigation facilities and structures and other property incidental to their operation, either within and without the territorial limits of such municipality and within or without this State; to make, prior to any such acquisition, investigations, surveys, and plans; to construct, install, and maintain airport facilities for the servicing of aircraft and for the comfort and accommodation of air travelers; and to purchase and sell equipment and supplies as an incident to the operation of its airport properties. It may not, however, acquire or take over any airport or other air navigation facility owned or controlled by any other municipality of the State without the consent of such municipality. It may use for airport purposes any available property that is now or may at any time hereafter be owned or controlled by it. Such air navigation facilities as are established on airports shall be supplementary to and coordinated in design and operation with those established and operated by the federal government.

(b) All property needed by a municipality for an airport or restricted landing area, or for the enlargement of either, or for other airport purposes, may be acquired by purchase, gift, devise, lease or other means if such municipality is able to agree with the owners of said property on the terms of such acquisition, and otherwise by condemnation in the manner provided by the Chapter entitled Eminent Domain, full power to exercise the right of eminent domain for such purposes being hereby granted every municipality both within and without its territorial limits. If but one municipality is involved and the charter of such municipality prescribes a method of acquiring property by condemnation, proceedings shall be had pursuant to the provisions of such charter and may be followed as to property within or without its territorial limits. The fact that the property needed has been acquired by any agency or corporation authorized to institute condemnation proceedings under power of eminent domain shall not prevent its acquisition by the municipality by the exercise of the right of eminent domain herein conferred when such right is exercised on the approach zone or on the airport site. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. Provided that municipalities building airports after the ratification of this Article shall not acquire by condemnation any property of any corporation engaged in the operation of a railroad or railroad bridge in this State if such property is used in the business of such corporation.

(c) Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports or restricted landing areas acquired or operated under the provisions of this Article, every municipality is authorized to acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards, or airport hazards outside the boundaries of the airports or restricted landing areas and such other airport protection privileges as are necessary to insure safe approaches to the landing areas of said airports or restricted landing areas and the safe and efficient operation thereof. It is also hereby authorized to acquire, in the same manner, land for the removal of airport hazards and the right of easement for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the nighttime marking of airport hazards, including the right of ingress or egress to or from such airport hazards for the purpose of maintaining and repairing such lights and marks. This authority shall not be so

construed as to limit any right, power or authority to zone property adjacent to airports and restricted landing areas under the provisions of any law of this State.

(d) It shall be unlawful for anyone to build, rebuild, create, or cause to be built, rebuilt, or created any object, or plant, cause to be planted, or permit to grow higher any tree or trees or other vegetation which shall encroach upon any airport protection privileges acquired pursuant to the provisions of this section. Any such encroachment is declared to be a public nuisance and may be abated in the manner prescribed by law for the abatement of public nuisances, or the municipality in charge of the airport or restricted landing area for which airport protection privileges have been acquired as in this section provided, may go upon the land of others and remove any such encroachment without being liable for damages in so doing. (1945, c. 490, s. 2; c. 810; 1981, c. 919, s. 8.)

§ 63-50. Airports a public purpose.

The acquisition of any lands for the purpose of establishing airports or other air navigation facilities; the acquisition of airport protection privileges; the acquisition, establishment, construction, enlargement, improvement, maintenance, equipment and operation of airports and other air navigation facilities, and the exercise of any other powers herein granted to municipalities, are hereby declared to be public, governmental and municipal functions exercised for a public purpose and matters of public necessity, and such lands and other property, easements and privileges acquired and used by such municipalities in the manner and for the purposes enumerated in this Article, shall and are hereby declared to be acquired and used for public, governmental and municipal purposes and as a matter of public necessity. (1945, c. 490, s. 3.)

§ 63-51. Prior acquisition of airport property validated.

Any acquisition of property within or without the limits of any municipality for airports and other air navigation facilities or of airport protection privileges heretofore made by any such municipality in any manner, together with the conveyance and acceptance thereof, is hereby legalized and made valid and effective. (1945, c. 490, s. 4.)

§§ 63-51.1 through 63-52. Repealed by Session Laws 1973, c. 695, s. 10.

§ 63-53. Specific powers of municipalities operating airports.

In addition to the general powers in this Article conferred, and without limitation thereof, a municipality which has established or may hereafter establish airports, restricted landing areas or other air navigation facilities, or which has acquired or set apart or may hereafter acquire or set apart real property for such purpose or purposes is hereby authorized:

(1) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation and regulation thereof in an officer, a board or body of such municipality by ordinance or resolution which shall prescribe the powers and duties of such officer, board or body. The expense of such construction, enlargement, improvement, maintenance, equipment, operation and regulation shall be a responsibility of the municipality.

(2) To adopt and amend all needful rules, regulations and ordinances for the management, government and use of any properties under its control whether within or without the territorial limits of the municipality; to appoint airport guards or police with full police powers; to fix by ordinance, penalties for the

violation of said ordinances and enforce said penalties in the same manner in which penalties prescribed by other ordinances of the municipality are enforced. It may also adopt ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within such municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Such ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar ordinances. They must conform to and be consistent with the laws of this State and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and rules and standards issued from time to time pursuant thereto.

(3) To lease such airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, to any municipal or State government or to the national government, or to any department of either thereof, for operation; to lease to private parties, to any municipal or State government or to the national government, or any department of either thereof, for operation or use consistent with the purpose of this Article, space, area, improvements, or equipment on such airports; to sell any part of such airports, other air navigation facilities or real property to any municipal government, or to the United States or to any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services and facilities; provided that in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

(4) To sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aeronautic purposes in accordance with the laws of this State or the provisions of the charter of the municipality governing the sale or leasing of similar municipally owned property.

(5) To determine the charge or rental for the use of any properties under its control and the charges for any services or accommodations and the terms and conditions under which such properties may be used, provided that in all cases the public is not deprived of its rightful, equal, and uniform use of such property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens as provided by law for liens and enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

(6) To engage, on an airport, in commercial and industrial land development projects which relate to, develop, or further airborne commerce and cargo and passenger traffic, and, in connection with any project, to improve real estate on an airport and lease that improved real estate to public or private commercial and industrial enterprises, or contract with others to do so.

(7) To exercise all powers necessarily incidental to the exercise of the general and special powers herein created. (1945, c. 490, s. 6; 1991, c. 501, s. 1.)

§ 63-54. Federal aid.

(a) A municipality is authorized to accept, receive, and receipt for federal moneys and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities and sites therefor, and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditures of federal moneys upon such airports and other air navigation facilities.

(b) The governing body of any municipality is authorized, if necessary, to comply with any federal law or regulation of any agency thereof to designate the North Carolina Aeronautics Commission as its agents to accept, receive, and receipt for federal moneys in its behalf for airport purposes. Such moneys as are paid over by the United States government shall be paid over to said municipality under such terms and conditions as may be imposed by the United States government in making such grant.

(c) All contracts for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports or other air navigation facilities made by the municipality shall be made pursuant to the laws of this State governing the making of like contracts, provided, however, that where such acquisition, construction, improvement, enlargement, maintenance, equipment or operation is financed wholly or partly with federal moneys the municipality may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States and any rules or regulations made thereunder notwithstanding any other State law to the contrary. (1945, c. 490, s. 7.)

§ 63-55. Airports on public waters and reclaimed land.

(a) The powers herein granted to a municipality to establish and maintain airports shall include the power to establish and maintain such airports in, over, and upon any public waters of this State within the limits or jurisdiction of or bordering on the municipality, any submerged land under such public water, and any artificial or reclaimed land which before the artificial making or reclamation thereof constituted a portion of the submerged land under such public waters, and as well the power to construct and maintain terminal buildings, landing floats, causeways, roadways and bridges for approaches to or connecting with the airport, and landing floats and breakwaters for the protection of any such airport.

(b) All the other powers herein granted municipalities with reference to airports on land or granted to them with reference to such airports in, over, and upon public waters, submerged land under public waters, and artificial or reclaimed land. (1945, c. 490, s. 8.)

§ 63-56. Joint operation of airports.

(a) All powers, rights and authority granted to any municipality in this Article may be exercised and enjoyed by two or more municipalities either within or without the territorial limits of either or any of said municipalities and within or without this State, or by any municipality acting jointly with any other municipality therein either within or without this State, provided the laws of such other state permit such joint action.

(b) Any two or more municipalities may enter into agreements with each other, duly authorized by ordinance or resolution, as may be appropriate, for joint action pursuant to the provisions of this section. Concurrent action by the governing bodies of the municipalities involved shall constitute joint action.

(c) Each such agreement shall specify its terms; the proportionate interest which each municipality shall have in the property, facilities and privileges involved, and the proportion of preliminary costs, costs of acquisition, establishment, construction, enlargement, improvement and equipment, and of expenses of maintenance, operation and regulation to be borne by each, and make such other provisions as may be necessary to carry out the provisions of this section. It shall provide for amendments thereof and for conditions and methods of termination; for the disposition of all or any part of the property, facilities and privileges jointly owned if said property, facilities and privileges, or any part thereof, shall cease to be used for the purposes herein provided or if the agreement shall be terminated, and for the distribution of the proceeds received upon any such disposition, and of any funds or other property jointly owned and undisposed of, and the assumption or payment of any indebtedness arising from the joint venture which remains unpaid, upon any such disposition or upon a termination of the agreement.

(d) Municipalities acting jointly as herein authorized may create a board from the inhabitants of such municipalities for the purpose of acquiring property for establishing, constructing, enlarging, improving, maintaining, equipping, operating and regulating the airports and other air navigation facilities and airport protection privileges to be jointly acquired, controlled, and operated. Such board shall consist of members to be appointed by the governing body of each municipality involved, the number to be appointed by each to be provided for by the agreement for the joint venture. Each member shall serve for such time and upon such terms and as to compensation, if any, as may be provided for in the agreement.

(e) Each such board shall organize, select officers for terms to be fixed by the agreement, and adopt and from time to time amend rules of procedure.

(f) Such board may exercise, on behalf of the municipalities acting jointly by which it is appointed, all the powers of each of such municipalities granted by this Article, except as herein provided, subject, however, to such limitations as may be contained in the agreement between such municipalities. Real property, airports, restricted landing areas, air protection privileges, or personal property costing in excess of a sum to be fixed by the joint agreement, may be acquired, and condemnation proceedings may be instituted, only by authority of the governing bodies of each of the municipalities involved. The total amount of expenditures to be made by the board for any purpose in any calendar year shall be determined by the municipalities involved by the approval by each. No real property and no airport, other air navigation facility, or air protection privilege, owned jointly, shall be disposed of by the board, by sale, or otherwise, except by authority of the appointed governing bodies, but the board may lease space, area or improvements and grant concessions on airports for aeronautical purposes or purposes incidental thereto.

(g) Each municipality is authorized and empowered to enact such ordinances as are provided for by this Article, and to fix by such ordinances penalties for the violation thereof, which ordinances shall have the same force and effect within the municipality which enacted them, and on any property controlled by it, either separately or jointly with another municipality, or adjacent thereto, whether within or without the territorial limits of it, or either or any of them, as ordinances of the municipality involved, and may be enforced in such municipality in like manner as are its other ordinances.

(h) Condemnation proceedings may be instituted in the names of two or more municipalities jointly, and the property acquired by such joint condemnation proceedings shall be held by the municipalities as tenants in common, each municipality being entitled to a pro rata interest in said property as the value of its contribution to the acquisition of said property bears to the total cost of acquiring said property, and in the event one municipality desires to acquire

property for expansion of or addition to the facilities, and the other or others do not elect to join in the acquisition of such property, such municipality may institute condemnation proceedings in its name individually, and all property now owned or hereafter acquired by a municipal corporation for additions to or expansions of aeronautical facilities operated jointly shall be and remain the sole property of the municipal corporation acquiring same.

(i) For the purpose of providing funds for necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which each of the municipalities involved shall deposit its proportionate share as provided by the joint agreement, and into which shall be paid the revenues obtained from the ownership, control and operation of the airports and other air navigation facilities jointly controlled.

(j) All disbursements from such fund shall be made by order of the board, subject, however, to such limitations as shall be contained in the agreement between such municipalities.

(k) Specific performance of the provisions of any joint agreement entered into as provided for in this section may be enforced as against any party thereto by the other party or parties thereto.

(l) In the event any property is now held or may hereafter be acquired by two or more municipalities for aeronautical purposes, and such municipalities do not agree upon the terms of an agreement, as heretofore provided, and shall not agree to create a board as heretofore provided, then and in that event a board of not less than five nor more than seven members shall be created from the inhabitants of such municipalities, each municipality being entitled to appoint as nearly as possible the proportionate number of representatives on said board as the value of its contribution shall bear to the entire amount of money or property so held by such municipalities for aeronautical purposes. In determining the value of the contribution of any municipality, the value of any funds or property used for the development of said property or the building of facilities on said property shall be taken into consideration.

(m) The said board shall have all powers given by this Article to boards created by agreements between municipalities, provided, however, that any funds appropriated by a municipality and turned over to the board for aeronautical purposes shall only be used for these purposes designated by the municipality furnishing such funds.

(n) The actions of such board shall be determined by a majority vote of the members thereof, and a majority of the members shall constitute a quorum for any meeting of the board, and such boards so created shall have full control of all revenues received by reason of the airport or other aeronautical facilities, and shall have power to expend all sums so received for such aeronautical purposes as the board deems proper, and pay over any surplus to municipalities in proportion to their respective interests.

(o) In the event the aeronautical facilities or any part thereof shall cease to be used for aeronautical purposes, such of the facilities as are jointly owned by two or more municipalities shall be sold, and each municipality shall receive its pro rata proportion of the sums realized from the sale of facilities jointly owned.

(p) In the event aeronautical facilities are now owned or hereafter acquired by two or more municipalities, and are operated under a board as hereinabove provided, and one or more of such municipalities deem it advisable to expand or enlarge the facilities or invest more money in such facilities, all of the municipalities then having representation on the board shall be entitled, if they so desire, to contribute their pro rata part of such additional investment and maintain their pro rata representation on said board, provided, however, that if one or more of the municipalities involved shall fail to contribute its or their proportionate part of such additional investment, the representation of such municipality on such board shall be readjusted, to the end that the

representation of each municipality on said board shall represent as nearly as possible its pro rata contribution to the entire investment.

Provided further that where one municipality at the time of the passage of this Article shall have invested more than one half of the total investment in a jointly owned airport, then, and in that event the minority owner or owners shall be allowed five years from the date of the passage of this Article in which to pay over to the majority owner a sum sufficient to equalize the amount of ownership of the present minority owner or owners with the total ownership of the majority owner. Provided further that this Article shall not be construed to amend or impair in any respect contracts or agreements in effect at the time of the adoption of this Article.

(q) In the case of an airport board or commission authorized by agreement between two cities, as defined in G.S. 160A-1(2), pursuant to this section, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, the board or commission shall have the authority to acquire, construct, establish, enlarge, improve, maintain, own, operate and contract for the operation of water supply and distribution systems and wastewater collection, treatment and disposal systems of all types, on and off the airport premises. In no event, however, shall such a board or commission be held liable for damages to those off the airport premises for failure to provide such water or wastewater services. (1945, c. 490, s. 9; 1995 (Reg. Sess., 1996), c. 644, s. 1.)

§ 63-57. Powers specifically granted to counties.

(a) The purposes of this Article are specifically declared to be county purposes as well as generally public, governmental and municipal.

(b) The powers herein granted to all municipalities are specifically declared to be granted to counties in this State, any other statute to the contrary notwithstanding. (1945, c. 490, s. 10.)

§ 63-58. Municipal jurisdiction exclusive.

Every airport and other air navigation facility controlled and operated by any municipality, or jointly controlled and operated pursuant to the provisions of this Article, shall, subject to federal and State laws, rules, and regulations, be under the exclusive jurisdiction and control of the municipality or municipalities controlling and operating it, and no other municipality in which such airport or air navigation facility is located shall have any police jurisdiction of the same. (1945, c. 490, s. 11.)

§ 63-59. Designation of legacy airports.

The Department of Transportation shall name as a legacy airport any airport located in North Carolina that meets the following requirements: the airport (i) is owned and operated by a county or airport authority, (ii) was established as an airport or military facility before 1945, (iii) contains a terminal building or runway that was built before 1945, (iv) has an actively used runway that is at least 6,500 feet long, and (v) has contributed significantly to the development of aviation in this State. (2020-62, s. 1.)

§ 63-60: Reserved for future codification purposes.

§ 63-61: Reserved for future codification purposes.

§ 63-62: Reserved for future codification purposes.

§ 63-63: Reserved for future codification purposes.

§ 63-64: Reserved for future codification purposes.

Article 7.

State and Federal Aid; Authority of Department of Transportation.

§ 63-65. Authority of Department of Transportation generally; "airport" defined.

(a) The Department of Transportation is hereby authorized, subject to the limitations and conditions of this Article, to provide State aid in form of loans and grants to cities, counties, and public airport authorities of North Carolina for the purpose of planning, acquiring, constructing, or improving municipal, county, and other publicly owned or controlled airport facilities, and to authorize related programs of aviation safety, education, promotions, and long-range planning.

(b) Repealed by Session Laws 1979, c. 148, s. 1. (1967, c. 1006, s. 1; 1975, c. 716, s. 3; 1977, 2nd Sess., c. 1219, s. 39; 1979, c. 148, ss. 1, 5.)

§ 63-66. Administration of Article; powers of Department of Transportation.

The Department of Transportation shall carry out the provisions of this Article. In exercising such power, the Department shall:

(1) Promote the further development and improvement of air routes, airport facilities, seaplane bases, heliports, protect their approaches and stimulate the development of aviation, commerce and air facilities. In exercising this power, the Department shall prepare and develop goals, objectives, standards and policies for the most efficient and economical expenditure of State funds as may be appropriated for the purposes of this Article.

(2) Publish and make available to aviation interests, the Federal Aviation Administration, and the people of the State generally, current information regarding such criteria, standards, and policies.

(3) Prepare and keep current a State airport plan and submit annual revisions of that plan to the Federal Aviation Administration.

(4) Make a detailed and thorough study of all applications for State assistance authorized herein and make specific recommendations regarding applications to the Federal Aviation Administration for federal grants.

(5) Develop a plan of priorities and allocations of State funds to be revised annually.

(6) Represent the State before all federal agencies and elsewhere where the aviation interests of the State may be affected.

(7) Subject to the availability of funds for the purpose, promote aviation safety throughout the State and conduct such promotional, educational and other programs as may be necessary to keep the people of the State properly informed with respect to aviation and to further aeronautics generally throughout the State. (1967, c. 1006, s. 1; 1973, c. 507, s. 5; c. 1262, ss. 28, 86; c. 1443, s. 1; 1975, c. 716, s. 3; 1979, c. 148, ss. 2, 5; 2011-266, s. 1.21(c).)

§ 63-67. Activities eligible for State aid.

Loans and grants of State funds may be made for the planning, acquisition, construction, or improvement of any airport, seaplane base, or heliport owned or controlled, or which will be owned or controlled by any city, county or public airport authority acting by itself or jointly with any other city or county. An airport, seaplane base, or heliport development project or activity eligible for State aid under this Article shall also be deemed to include projects such as air navigation facilities, aviation easements, and the acquisition of land, lighting, marking, security items, terminal improvements, and the elimination of aviation safety hazards, and the preservation or enhancement of essential air service as defined by the Federal Aviation Act of 1958, as amended. (1967, c. 1006, s. 1; 1973, c. 1443, s. 2; 1977, 2nd Sess., c. 1219, s. 39.1; 1979, c. 148, s. 5; 1987 (Reg. Sess., 1988), c. 1086, s. 164.)

§ 63-68. Limitations on State financial aid.

Grants and loans of funds authorized by this Article shall be subject to the following conditions and limitations:

(1) Loans and grants may be for such projects, activities, or facilities as would in general be eligible for approval by the Federal Aviation Administration or its successor agency or agencies with the exception that the requirement that the airport be publicly owned shall not be applicable. Further, airport terminal and security areas, seaplane bases, and heliports are also eligible for State financial aid.

(2) Loans and grants of State funds shall be limited to a maximum of fifty percent (50%) of the nonfederal share of the total cost of any project for which aid is requested, and shall be made only for the purpose of supplementing such other funds, public or private, as may be available from federal or local sources provided, however, using one hundred percent (100%) State funding in its discretion the Department of Transportation may purchase, install and maintain navigational aids necessary for the safe, efficient use of airspace and may conduct other projects or programs to improve the safety and planning of the air transportation system, including but not limited to, marking serviceable runways and taxiways. Further, the Department of Transportation may contract out the maintenance and installation of state-owned navigational aids when necessary and may give or transfer such aids to the Federal Aviation Administration.

(3) Loans and grants of State funds shall be made from General Assembly appropriations specifically designated for aviation improvement, and from no other source. The Department of Transportation may utilize the State Aviation Grant Funds to cover the direct and indirect costs of administering airport grant projects, other services authorized by this Article including planning, and the costs of services provided by nonadministrative Department of Transportation divisions or other State agencies in connection with these projects.

(4) Notwithstanding the provisions of this section or G.S. 63-67, the Department of Transportation may allow up to ten percent (10%) of State aviation grant funds to be used for maintenance on General Aviation and Air Carrier Airports having a Department of Transportation approved maintenance plan on a seventy-five percent (75%) local – twenty-five percent (25%) State basis.

(5) Notwithstanding the provisions of this section, the Department of Transportation may allow loans and grants of State funds up to eighty percent (80%) of the nonfederal share of the total cost of the development of new or unpaved publicly owned airports identified in the North Carolina Airport System Plan, provided that such funding shall be limited to land acquisition, site preparation, basic runway, taxiway, and apron system construction, together with associated lighting and navigational aids, and construction of the primary airport access road. Electronic navigational aids, terminal buildings, access taxiways, and other items eligible for State airport aid at the rate of fifty percent (50%) of the nonfederal share of project cost shall not be eligible for the foregoing eighty percent (80%) State funding, even though constructed as part of the initial airport development.

(6) Notwithstanding the provisions of this section, the Department of Transportation may allow loans and grants of State funds up to ninety percent (90%) of the total cost of the development of new or unpaved publicly owned rural airports identified in the North Carolina Airport System Plan and receiving no federal funding. Such State funding shall be limited to land acquisition, site preparation, basic runway, taxiway, and apron system construction, together with associated lighting and navigational aids, and construction of the primary airport access road.

The Department of Transportation shall develop rules and regulations to define rural airports. (1967, c. 1006, s. 1; 1969, c. 293; 1973, c. 1262, s. 28; c. 1443, s. 3; 1975, c. 716, s. 3; 1977, 2nd Sess., c. 1219, s. 39.2; 1979, c. 148, ss. 3, 5; c. 149; 1981, c. 1117, ss. 1, 2; 1983, c. 319; 1983 (Reg. Sess., 1984), c. 1094; 1985, c. 782; 1989, c. 636; 1991, c. 430, s. 1.)

§ 63-69. Sources of State funds.

State financial assistance under this Article shall be limited to appropriations of funds made for the purpose by the General Assembly to the Department of Transportation, or to private funds which may become available to the Department for such purpose. (1967, c. 1006, s. 1; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, s. 5.)

§ 63-70. Acceptance, receipt, accounting, and expenditure of State and federal funds.

All North Carolina municipalities, counties and public airport authorities are hereby authorized to accept, receive, receipt for, disburse and expend State funds, and other funds, public and private, which may be made available to them to accomplish any purpose of this Article. All federal funds accepted and expended by any municipality or county shall be accepted, accounted for, and expended according to such terms and conditions as may be prescribed by the United States and not inconsistent with State law. All State funds accepted by any municipality, county or public airport authority shall be accepted, accounted for, and expended according to such terms and conditions as may be prescribed by the Department of Transportation. Unless otherwise prescribed by the federal or State agency from which funds were made available, the chief financial officer of the municipality, county or public airport authority shall deposit all funds received and keep the same in separate funds according to the purpose for which they were received. The accounting of all such funds shall be subject to the municipal and county fiscal control acts. (1967, c. 1006, s. 1; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, s. 5.)

§ 63-71. Receipt of federal grants.

(a) The Department of Transportation is hereby designated the State agency to accept grants for public airport development and improvements made by the United States pursuant to federal law. The Department shall have authority to comply with federal-aid provisions, to obtain and to disburse said grants in accordance with applicable federal laws and regulations, and to enter into contracts with the federal government, municipalities, counties, or airport authorities in connection with said grants. The Department shall also have the authority to enter into contracts with the Federal Aviation Administration or its successor agency for aeronautics related purposes, including joint acquisition and installation of aviation related equipment in accordance with the procurement procedures of the Federal Aviation Administration where such method of acquisition would result in a cost savings to the Department.

(b) The Department of Transportation shall have authority to act as an agent of any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary of Transportation of the United States an application for federal aid in connection with airport development, improvement, or planning. (1969, c. 1109, ss. 1, 2; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, ss. 4, 5; 1983 (Reg. Sess., 1984), c. 1093.)

§ 63-72. Authority of Department of Transportation to operate airports and expend funds therefor.

The Department is authorized to operate state-owned or leased airports or any airport for which the State has obtained a special use permit to operate. The Department may expend funds appropriated for grants to airports for the purpose of operating, maintaining, and improving state-owned or leased airports, or any airport for which the State has obtained a special use permit to operate and maintain. (1969, c. 1109, s. 3; 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, s. 5.)

§ 63-73. Letting of contracts.

All contracts that the Department of Transportation may let for construction, repair, maintenance or those services listed in 49 U.S.C. App. § 2210(a)(16) in furtherance of this Article shall be let in accordance with the provisions of G.S. 136-28.1. (1983 (Reg. Sess., 1984), c. 1033, s. 1; 1991, c. 430, s. 2.)

§ 63-74. Airport Improvement Program.

(a) Purpose. – There is established an Airport Improvement Program (AIP) that shall serve to (i) fund improvements at eligible airports and (ii) pay debt service or related financing costs and expenses on revenue bonds or notes issued by eligible airports. The Department of Transportation shall allocate funds appropriated to this program to eligible airports based on the findings in the biennial economic impact study, as described in this section. The Department shall adopt rules governing the distribution and use of these funds.

(b) Eligible Airport. – Any publicly owned, commercial service airport with more than 10,000 passenger boardings during the two calendar years preceding the fiscal year in which funds are allocated is eligible for Airport Improvement Program funds.

(c) Economic Impact Study and Distribution Formula. – The Department of Transportation shall conduct a biennial economic impact study that examines the annual economic impact of each commercial service airport in North Carolina. The Department shall disburse AIP funds

appropriated in a year to each eligible airport in proportion to the total economic impact of the airport, adjusted as provided in this subsection:

(1) For an eligible airport with one of the three largest economic impacts, the airport's distribution amount shall be reduced by a percentage equal to the lesser of twenty percent (20%) or five percent (5%) multiplied by each full ten percent (10%) of economic impact calculated for that airport. The aggregate amount of the reduction to the eligible airports with the three largest economic impacts is the amount to be redistributed to the remaining eligible airports as provided in subdivision (2) of this subsection.

(2) For an eligible airport that does not have one of the three largest economic impacts, the airport's distribution amount shall be increased based upon the following formula:

a. Twenty-five percent (25%) of the redistribution amount shall be distributed equally.

b. Seventy-five percent (75%) of the redistribution amount shall be based upon the airport's share of passenger boardings compared to the total number of passenger boardings used for all airports receiving a distribution pursuant to this subdivision.

(d) Permissible Uses, Reporting, and Return of Funds. – The Department of Transportation shall not allocate funds to an airport under this section until that airport has provided a report outlining how the airport will use the funds in conformance with the purposes of the program. Airports shall submit their report between July 1 and August 15 of the fiscal year. No later than 45 days from the date the Department receives the report required under this subsection, the Department shall determine whether the intended use of the funds matches the purposes of the program and, if so, allocate funds under this section to the compliant airport. The Department of Transportation shall disburse funds appropriated under this section on a quarterly basis beginning September 30 of the fiscal year. An airport that receives funds under this section shall return the funds to the Department if the funds are in the possession or control of the airport and not expended or encumbered by September 30 of the year following the fiscal year in which the Department makes the allocation. All funds returned to the Department under this section, or retained by the Department for failure of an eligible airport to submit a report under this subsection, shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly.

(e) Limitation. – Notwithstanding any provision of law to the contrary, the allocation of funds under this section to eligible airports, the enactment of this section, and the issuance of bonds or notes by the airports in reliance thereon shall not in any manner constitute a pledge of the full faith and credit and taxing power of the State. Additionally, allocations under this section are subject to the availability of funds appropriated to the Airport Improvement Program. A security interest shall not be granted in funds allocated under this section. (2019-199, s. 4(a); 2021-180, s. 41.12(b).)

§ 63-74.2. Division of Aviation grant funded positions prohibited.

The Department of Transportation shall not create or authorize any Division of Aviation positions that are paid for using State funds appropriated for State Aid to Airports or any other airport aid program. (2021-180, s. 41.13(b).)

§ 63-74.5. Division of Aviation annual report.

Beginning October 1, 2021, and annually thereafter, the Division of Aviation shall submit to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division a report containing the following information from the prior fiscal year:

(1) A list of all public use airports within the State, their municipality and county, status as commercial services or general aviation, airport code, and the following corresponding information:
   a. Total amount of funds allocated to each airport subtotaling federal, Commercial Services, State Aid to Airports, Special Projects, Economic Development, and State Transportation Improvement Program dollars and total number of projects receiving allocations.
   b. Total amount of funds disbursed to each airport subtotaling federal, Commercial Services, State Aid to Airports, Special Projects, Economic Development, and State Transportation Improvement Program dollars and total number of projects receiving disbursements.
   c. Total amount of unallocated State appropriations for Commercial Services, State Aid to Airports, Special Projects, and Economic Development.

(2) Repealed by Session Laws 2024-15, s. 15, effective June 27, 2024.

(3) Total number of trips and flight hours by each manned aircraft owned by the Department of Transportation, subtotaled by agency, fees charged to each agency, and total cost of providing services to each agency.

(4) Summary of activities related to Safety and Education, including total expenditures, number and description of programs, and number of participants. (2021-180, s. 41.11(a); 2024-15, s. 15.)

Article 8.

North Carolina Special Airport Districts Act.

§ 63-78. Short title.

This Article shall be known and may be cited as the "North Carolina Special Airport Districts Act." (1979, c. 689, s. 1.)

§ 63-79. Definitions.

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Aeronautical facilities" means airports, runways, terminals, hangars and other facilities related thereto;

(2) "District" means a special airport district created under the provisions of this Article;

(3) "District board" or "board" means a special airport district board established under the provisions of this Article as the governing body of a district;

(4) "Governing body" means the board, commission, council or other body, by whatever name it may be known, of a unit of local government in which the general legislative powers thereof are vested;

(5) "Unit" or "unit of local government" means counties, cities, towns and incorporated villages. (1979, c. 689, s. 2.)

§ 63-80. Procedure for creation of districts; concurrent resolutions; notice and public hearing; submission of question to voters; publication of notice; actions to set aside proceedings.

(a) Any unit of local government in this State and any one or more other units of local government in this State may, by concurrent resolutions adopted by the governing body of each such unit, create special airport districts under the provisions of this Article which shall be public bodies corporate and politic and political subdivisions of the State. The district shall comprise the territory of the participating units. The district shall be designated "Special Airport District of __" and shall be of such duration as the participating units shall determine.

(b) Prior to the adoption of any resolutions creating a special airport district, there shall be held a joint public hearing convened by the governing bodies of each of the participating units of government concerning the creation of the proposed special airport district. The presiding officers of the governing body of the units proposing to create such district shall name a time and place within the proposed district at which the public hearing shall be held. The presiding officers shall give prior notice of such hearing at the courthouse of the county or counties within which the district lies and also by publication at least once a week for two successive weeks in a newspaper having general circulation in the proposed district, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the creation of such special airport district cannot be concluded at such hearing, such hearing may be continued to a time and place within the proposed district determined by the governing body of each of the respective units of local government.

(c) Following the joint public hearing but prior to the adoption by a unit of local government of any resolution creating a special airport district, the governing body of such unit may submit the question of the unit's participation in a special airport district to the qualified voters of such unit. The form of the question as stated on the ballot shall be in substantially the following words:

"Shall the governing body of ___ approve ___'s participation in the proposed ____ special airport district?

YES NO"

If a majority of the qualified voters of the unit who vote thereon approve such participation, the governing body of such unit may adopt a resolution creating the particular special airport district. The election shall be conducted in accordance with G.S. 163-287 and the results thereof certified, declared and published in the same manner as bond elections within the unit.

(d) Following the adoption of the resolutions creating the district by the governing body of each participating unit, the presiding officer of each such governing body shall cause to be published a single time in a newspaper circulating within the unit a notice in substantially the following form:

The governing body of _____ and the governing body of ___ passed resolutions on ____, __, and on ____, __, respectively, creating the Special Airport District of _____. Notice of the creation of such special airport district is hereby given on the date hereof. Any action or proceeding questioning the validity of the resolutions or the creation of the special airport district must be commenced within 30 days after the publication of this notice.

_____

Presiding Officer

(e) Any action or proceeding in any court to set aside the resolutions or the creation of a special airport district, or to obtain any other relief upon the ground that such resolutions or any proceeding or action taken with respect to the creation of such district is invalid, must be commenced within 60 days after the publication of the foregoing notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolutions or the creation of the special airport district shall be asserted nor shall the validity of the resolutions or the creation of such airport district be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period. (1979, c. 689, s. 3; 1999-456, s. 59; 2013-381, s. 10.4; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 63-81. District board; composition, appointment, terms and oaths; organization; meetings; quorum.

(a) Appointment of Board for District. – The board of the special airport district shall be composed of two representatives from each of the participating units of local government appointed annually by the governing body of each of said units of local government, respectively, from among their members at the first regular meeting thereof in January. Each member of the district board must be a member of the governing body of the unit of local government by which he was appointed. Membership on the district board may be held in addition to the offices authorized by G.S. 128-1 or 128-1.1. Said representatives shall hold office from their appointment until their successors are appointed and qualified, except that when any member of the district board ceases for any reason to be a member of the governing body of the unit of local government by which he was appointed, he shall simultaneously cease to be a member of said district board. Upon the occurrence of any vacancy on said district board, the vacancy shall be filled within 30 days after notice thereof by the governing body of the participating unit of local government having a vacancy in its representation. Within 30 days after the expiration of the period set forth in G.S. 63-80 hereof, the governing body of each participating unit of local government shall appoint its representatives to hold office until successors shall be appointed in the manner hereinbefore provided. Each member of the district board, before entering upon his duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of the United States and of this State and to discharge faithfully the duties of his office; and a record of each such oath shall be filed in the minutes of the respective participating units of local government.

(b) District Board Procedures. – The district board shall meet regularly at such places and on such dates as are determined by the board. Special meetings may be called by the chairman on his own initiative and shall be called by him upon request of two or more members of the board. All members shall be notified in writing at least 24 hours in advance of such meeting. A majority of the members of the district board shall constitute a quorum. No vacancy in the membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. No action, other than an action to recess or adjourn, shall be taken except upon a majority vote of the entire authorized membership of said district board. Each member, including the chairman, shall be entitled to vote on any question.

(c) District Board Officers. – The district board shall elect annually in January from among its members a chairman, vice-chairman, secretary and treasurer. (1979, c. 689, s. 4.)

§ 63-82. Procedure for inclusion of additional units of local government; notice and hearing; actions to set aside proceedings.

(a) If, at any time subsequent to the creation of a special airport district, there shall be filed with the district board a resolution of the governing body of a unit of local government requesting inclusion in the district of such unit of local government, and if the district board shall favor the inclusion in the district of such unit of local government, the district board shall notify the governing body of each of the participating units of local government within which the district lies and shall propose to such governing bodies an appropriate amendment of the concurrent resolutions creating the special airport district.

(b) The procedures set forth in G.S. 63-79 regarding the creation of a special airport district shall apply to the inclusion in such special airport district of additional units of local government.

(c) If all of the participating units of local government agree to the amendment of the concurrent resolutions creating the special airport district to include such unit of local government in the special airport district, the presiding officer of the governing body of each of such participating units of local government, including the unit proposed to be included, shall cause to be published in the manner provided in G.S. 63-79, a notice of the inclusion of such unit of local government.

(d) Any action or proceeding in any court to set aside such amendatory resolutions providing for the inclusion of a unit of local government within a special airport district or to obtain any other relief upon the ground that such amendatory resolutions or any proceeding or action taken with respect to the inclusion of the unit of local government within the district is invalid, must be commenced within 30 days after publication of the notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the amendatory resolutions or the inclusion of the unit of local government in the district shall be asserted, nor shall the validity of the amendatory resolutions or the inclusion of the unit of local government in the district be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period. Provided that no such action or proceeding to set aside such amendatory resolutions shall impair or otherwise affect the conclusivity of the concurrent resolutions as provided in G.S. 63-80.

(e) Immediately following the inclusion of any additional unit of local government within an existing district, members representing such additional unit of local government shall be appointed to the district board in the manner provided in G.S. 63-81 hereof.

(f) The annexation by a participating unit of local government of an area lying outside the district shall not be construed as the inclusion within the district of an additional unit of local government within the meaning of the provisions of this section; but any such area so annexed shall become a part of the district and shall be subject to all debts and supplemental tax obligations thereof. (1979, c. 689, s. 5.)

§ 63-83. Powers of districts generally.

Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to aid counties, cities, towns, incorporated villages and airport authorities in constructing and financing aeronautical facilities and enhancing the security of airport revenue bonds issued by counties, cities, towns, incorporated villages and airport authorities, and each district is hereby authorized and empowered:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business not in conflict with this or other laws;

(2) To adopt an official seal and alter the same at pleasure;

(3) To maintain an office at such place or places in the district as it may designate;

(4) To sue and be sued in its own name, plead and be impleaded;
(5) To acquire in the name of the district by gift, purchase or exercise of the power of eminent domain any improved or unimproved lands or rights-in-land and make a conveyance thereof to a county, city, town, incorporated village or airport authority for use as or in connection with aeronautical facilities;
(6) To enter into contracts with any person, firm or corporation, public or private, or any airport authority or other public authority or governmental entity, upon such terms as the district board may determine with respect to aeronautical facilities owned or operated by counties, cities, towns, incorporated villages or airport authorities;
(7) To lend to any airport authority heretofore or hereafter created by statute such sum or sums of money and at such rate of interest and upon such other terms as the district and the airport authority shall contract and agree upon, for the purpose of establishing, enlarging, improving, or maintaining any airport under the control of such airport authority;
(8) To issue bonds or other obligations of the district as hereinafter provided and apply the proceeds thereof to the financing of aeronautical facilities owned or operated by counties, cities, towns, incorporated villages or airport authorities or to the retirement of bonds theretofore issued by such units for such purposes or by the district and to refund, whether or not in advance of maturity or the earliest redemption date, any such bonds or other obligations;
(9) To levy for the life of airport revenue bonds issued by counties, cities, towns, incorporated villages or airport authorities an annual property tax for operating supplements or debt service reserved supplements as hereinafter provided;
(10) To cause taxes to be levied and collected upon all taxable property within the district sufficient to meet the obligations of the district; and
(11) To do all acts and things necessary or convenient to carry out the powers granted by this Article. (1979, c. 689, s. 6.)

§ 63-84. Bonds and notes authorized.

In addition to the powers hereinbefore granted, a district shall have power to issue bonds and notes pursuant to the provisions of the Local Government Bond Act and the Local Government Revenue Bond Act for the purpose of financing aeronautical facilities and to refund such bonds and notes, whether or not in advance of their maturity or earliest redemption date, and such bond or note issues may include bonds or notes, the proceeds of which are to be applied to the retirement of outstanding bonds or notes of counties, cities, towns, incorporated villages or airport authorities theretofore issued for the purpose of financing aeronautical facilities. (1979, c. 689, s. 7.)

§ 63-85. Taxes for supplementing airport revenue bond projects.

A district shall have power from time to time to levy taxes or cause the levy thereof for operating supplements and debt service reserve supplements with respect to aeronautical facilities under and subject to the Local Government Revenue Bond Act. (1979, c. 689, s. 8.)

§ 63-86. Determination of tax rate by district board; levy and collection of tax; remittance and deposit of funds.

After each assessment for taxes following the creation of the district, the board or boards of commissioners of the county or counties within which the district is located shall file with the district board the valuation of assessable property within the district. The district board shall then determine the amount of funds to be raised by taxation for the ensuing year in excess of available funds to provide for the payment of interest on and principal of all outstanding general obligation bonds as the same shall become due and payable and to pay all obligations incurred by the district in the performance of its lawful undertakings and functions.

The district board shall determine the number of cents per hundred dollars necessary to raise said amount and certify such rate to the appropriate board or boards of commissioners of the appropriate county or counties. The board or boards of commissioners of such county or counties shall include the number of cents per hundred dollars certified by the district board in its next annual levy against all taxable property within the district, which tax shall be collected as other county taxes are collected, and every month the amount of tax so collected shall be remitted to the district board and deposited by the district board in a separate account in a bank in the State. Such levy may include an amount for reimbursing the particular county for the cost to the county of levying and collecting any such taxes. The officer or officers having charge or custody of the funds of the district shall require security for protection of deposits as provided in the Local Government Budget and Fiscal Control Act. (1979, c. 689, s. 9.)

§ 63-87. Bond elections.

Elections for the purpose of authorizing the levy of taxes for the issuance of bonds shall be called by the district board and shall be conducted in accordance with G.S. 163-287 and the results canvassed by the boards of elections having jurisdiction within the participating units. Such results shall be certified to the district board and such board shall certify and declare the result of the election and publish a statement of the result once as provided in the Local Government Bond Act. (1979, c. 689, s. 10; 2013-381, s. 10.5; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 63-88. Advances.

Any participating unit of local government is hereby authorized to make advances, from any moneys that may be available for such purpose, in connection with the creation of the special airport district and to provide for the preliminary expenses of such district. Any such advances may be repaid to such participating units of local government from the proceeds of the bonds issued by such district or from other available funds of the district. (1979, c. 689, s. 11.)

§ 63-89. Inconsistent laws declared inapplicable.

All general, special or local laws, or parts thereof, inconsistent herewith, are hereby declared to be inapplicable, unless otherwise specified in the provisions of this Article. (1979, c. 689, s. 12.)

Article 9.

Changes in Special Use Airspaces.

§ 63-90. Public purpose declared.

It is the intent of the General Assembly that the legislative branch review and comment on all applications and actions of the Federal Aviation Administration concerning the creation of or changes in special use airspaces for aircraft operation over North Carolina. (1987, c. 494, s. 1.)

§ 63-91. General Assembly review and approval.

The Division of Aviation of the Department of Transportation shall bring before the General Assembly or the Joint Legislative Commission on Governmental Operations all applications to the Federal Aviation Administration and all proposed rule changes by the Federal Aviation Administration for the creation of or changes in special use airspaces, including military operation areas and restricted areas for aircraft operation over North Carolina during the period for public comment. If the General Assembly is in session during that period, information on the pending application or rule change shall be presented to the standing Transportation Committees of the House of Representatives and the Senate. If the comment period occurs when the General Assembly is not in session then the Division of Aviation of the Department of Transportation shall bring the relevant information before the Joint Legislative Commission on Governmental Operations. The General Assembly or the Joint Legislative Commission on Governmental Operations will then review and comment on those applications. (1987, c. 494, s. 1.)

§ 63-92. Effect of General Assembly review.

(a) If the General Assembly or the Joint Legislative Commission on Governmental Operations determines that the proposed change is in the best interests of the citizens of this State, then the Division of Aviation of the Department of Transportation shall notify the Federal Aviation Administration of the General Assembly's official position on the pending application or rule change when it submits the State's official position on the pending application or rule change.

(b) If the General Assembly or the Joint Legislative Commission on Governmental Operations determines that the proposed change is not in the best interests of the citizens of this State, then the Division of Aviation of the Department of Transportation shall notify the Federal Aviation Administration of the General Assembly's official position opposing the pending application or rule change when it submits the State's official position on the pending application or rule change. (1987, c. 494, s. 1.)

§ 63-94. Repealed by Session Laws 2024-15, s. 21(a), effective December 1, 2024.

§ 63-95. Repealed by Session Laws 2024-15, s. 21(a), effective December 1, 2024.

§ 63-96. Repealed by Session Laws 2024-15, s. 21(a), effective December 1, 2024.

Article 10.

Operation of Unmanned Aircraft Systems.

§ 63-94. Applicability of Article.

(a) Applicability. – This Article does not apply to model aircraft, as defined in subsection (b) of this section.

(b) Model aircraft. – An aircraft, as defined in G.S. 63-1, that is mechanically driven or launched into flight and that meets all of the following requirements:

(1) Is flown solely for hobby or recreational purposes.

(2) Is not used for payment, consideration, gratuity, or benefit, directly or indirectly charged, demanded, received, or collected, by any person for the use of the aircraft or any photographic or video image produced by the aircraft. (2017-160, s. 5.)

§ 63-95. Training required for operation of unmanned aircraft systems.

(a) As used in this Article, the term "Division" means the Division of Aviation of the Department of Transportation.

(b) The Division shall develop a knowledge test for operating an unmanned aircraft system that complies with all applicable State and federal regulations and shall provide for administration of the test. The test shall ensure that the operator of an unmanned aircraft system is knowledgeable of the State statutes and regulations regarding the operation of unmanned aircraft systems. The Division may permit a person, including an agency of this State, an agency of a political subdivision of this State, an employer, or a private training facility, to administer the test developed pursuant to this subsection, provided the test is the same as that administered by the Division and complies with all applicable State and federal regulations.

(c) No agent or agency of the State, or agent or agency of a political subdivision of the State, may operate an unmanned aircraft system within the State without completion of the test set forth in subsection (b) of this section. (2014-100, s. 34.30(g); 2015-232, s. 2.3.)

§ 63-96. Permit required for commercial operation of unmanned aircraft systems.

(a) No person shall operate an unmanned aircraft system, as defined in G.S. 15A-300.1, in this State for commercial purposes unless the person is in possession of a permit issued by the Division valid for the unmanned aircraft system being operated. Application for the permit shall be made in the manner provided by the Division. Unless suspended or revoked, the permit shall be effective for a period to be established by the Division not exceeding eight years.

(b) No person shall be issued a permit under this section unless all of the following apply:

(1) The person is at least the minimum age required by federal regulation for operation of an unmanned aircraft system.

(2) The person possesses a valid government-issued photographic identification acceptable to the Federal Aviation Administration for issuing authorization to operate an unmanned aircraft system.

(3) The person has passed the knowledge test for operating an unmanned aircraft system as prescribed in G.S. 63-95(b).

(4) The person has satisfied all other applicable requirements of this Article or federal regulation.

(c) A permit to operate an unmanned aircraft system for commercial purposes shall not be issued to a person while the person's license or permit to operate an unmanned aircraft system is suspended, revoked, or cancelled in any state.

(d) The Division shall develop and administer a program that complies with all applicable federal regulations to issue permits to operators of unmanned aircraft systems for commercial purposes, including a fee structure for permits. Criteria and requirements established under the subdivisions set forth in this subsection shall be no more restrictive than the rules or regulations adopted by the Federal Aviation Administration setting forth the criteria and requirements under which a person may operate an unmanned aircraft system for commercial purposes. The program must include the following components:

(1) A system for classifying unmanned aircraft systems based on characteristics determined to be appropriate by the Division.

(2) Repealed by Session Laws 2017-160, s. 4, effective July 21, 2017.

(3) A permit application process, which shall include a requirement that the Division provide notice to an applicant of the Division's decision on issuance of

a permit no later than 10 days from the date the Division receives the applicant's application.

(4) Technical guidance for complying with program requirements.

(5) Criteria under which the Division may suspend or revoke a permit.

(6) Criteria under which the Division may waive permitting requirements for applicants currently holding a valid license or permit to operate unmanned aircraft systems issued by another state or territory of the United States, the District of Columbia, or the United States.

(7) A designation of the geographic area within which a permittee shall be authorized to operate an unmanned aircraft system.

(8) Requirements pertaining to the collection, use, and retention of data by permittees obtained through the operation of unmanned aircraft systems, to be established in consultation with the State Chief Information Officer.

(9) Requirements for the marking of each unmanned aircraft system operated pursuant to a permit issued under this section sufficient to allow identification of the owner of the system and the person issued a permit to operate it.

(10) A system for providing agencies that conduct other operations within regulated airspace with the identity and contact information of permittees and the geographic areas within which the permittee is authorized to operate an unmanned aircraft system.

(e) A person who operates an unmanned aircraft system for commercial purposes other than as authorized under this section shall be guilty of a Class 1 misdemeanor.

(f) Subject to the limitations set forth in subsection (d) of this section, the Division may issue rules and regulations to implement the provisions of this section. (2014-100, s. 34.30(g); 2015-232, s. 2.4; 2016-90, s. 14.5; 2017-160, s. 4.)

Article 11.

Marking and Notice of Meteorological Towers.

§ 63-110. Marking of meteorological towers.

(a) As used in this Article, the term:

(1) "Height" means the distance from the base of a tower to the highest point of the tower.

(2) "Meteorological tower" means a structure that is either self-standing or supported by guy wires and ground anchors and has guy wires and accessory facilities on which equipment used to measure wind speed and direction is mounted. "Meteorological tower" does not include a structure that is affixed or located adjacent to a building, house, or barn.

(b) Except as required by federal law, rule, or regulation, any meteorological tower over 50 feet in height shall be marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than 2,000 feet. Meteorological towers shall also comply with the following additional requirements:

(1) A meteorological tower shall be painted in equal alternating bands of aviation orange and white, beginning with orange at the top of the tower.

(2) One marker ball shall be attached to the top third of each outside guy wire.

(3) Guy wires shall have a seven-foot-long safety sleeve at each anchor point that extends from the anchor point along each guy wire attached to the anchor point. (2015-263, s. 10(a).)

§ 63-111. Registration; notification; tower database; penalty.

(a) The Department of Transportation shall adopt rules requiring any person proposing to construct a meteorological tower to register with the Department. The person proposing to construct the tower shall notify the Department of the proposal, the location and height of the proposed tower, and any other information the Department may require to ensure aviation safety and shall pay a registration fee of three hundred fifty dollars ($350.00). The rules shall require the owner of a meteorological tower to notify the Department upon removal or destruction of a tower.

(b) The Department of Transportation shall establish and maintain an electronic database that contains the location of all meteorological towers in the State by January 1, 2017. The Department may contract with a governmental entity or private entity to create and maintain the database. The Department shall make the contents of the database available on its website. (2015-263, s. 10(a); 2025-25, s. 29(5).)

§ 63-112. Penalties.

The Secretary of Transportation may assess a civil penalty of not more than ten thousand dollars ($10,000) per violation against any person who violates any provision of this Article. (2015-263, s. 10(a).)