

LEGISLATIVE BILL 271

Approved by the Governor March 11, 1993

Introduced by Wesely, 26

AN ACT relating to State Capitol environs; to amend sections 90-302 and 90-303, Reissue Revised Statutes of Nebraska, 1943, and section 90-301, Revised Statutes Supplement, 1992; to rename an act; to change and authorize regulation of the Nebraska State Capitol Environs District; to authorize appeals of decisions; to require an annual report; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 90-301, Revised Statutes Supplement, 1992, be amended to read as follows:

90-301. Sections 90-301 to 90-306 and sections 4 to 6 of this act shall be known and may be cited as the Nebraska State Capitol Environs ~~Protection and Improvement~~ Act.

Sec. 2. That section 90-302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

90-302. The Legislature hereby finds that the Nebraska State Capitol and its environs are a source of pride and inspiration to the citizens of the state. It recognizes that the State Capitol, designated as a National Historic Landmark and regarded as one of the architectural masterpieces in the world, owes a major part of its recognition, esteem, and value to the inspiring manner ~~that~~ in which its high tower physically dominates neighboring buildings and to the fact that it serves as a prominent landmark and focal point for inspiring vistas in the capital city of the state and for many miles beyond. The Legislature further finds that the preservation of the dominant height of the State Capitol in relation to surrounding structures should ~~not only~~ be a concern not only for the citizens of the city of Lincoln; but for all of the citizens of the state, for the State Capitol is a financial, cultural, and aesthetic investment and resource of the entire citizenry. The Legislature further finds that the structures and improvements in the State Capitol environs directly affect the ability of citizens to enjoy the historical, cultural, and aesthetic treasure they have in their State Capitol. Therefore, the Legislature declares and explains its intention to reclaim certain regulatory powers that it has delegated to municipalities, in this case to the city of Lincoln, by directly imposing maximum height restrictions in the State Capitol environs. The Legislature implements these restrictions for the benefit of all the citizens of Nebraska with the further explanation that the maximum height restrictions being required by section 90-303 are those which were in effect at the time this legislation was introduced, that the value of real estate in the State Capitol environs has been increased substantially by the

proximity of such real estate to the State Capitol and by the investment of state resources in the construction, maintenance, and protection of the State Capitol, that the value of such real estate will undoubtedly continue to increase because of state maintenance and protection of the State Capitol despite, and in part because of, the height restrictions imposed by the city of Lincoln or ~~sections 90-301 to 90-305~~ such section, and that the involvement of the State of Nebraska in the regulation of structure height in the State Capitol environs through ~~sections 90-301 to 90-305~~ such section, in conjunction with the regulatory power of the city of Lincoln, will inject a greater degree of stability in the governmental process for regulating heights in the State Capitol environs, which will in turn benefit all Nebraska citizens. The Legislature further declares its intention to exercise certain regulatory powers for the benefit of the citizens of Nebraska by delegating to the city of Lincoln the authority to review and approve or disapprove plans and proposals for demolition, exterior alteration, and construction of structures and other improvements in the Nebraska State Capitol Environs District.

Sec. 3. That section 90-303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

90-303. (1) The maximum height of any buildings and structures built after March 8, 1977, shall be restricted as follows:

(a) The maximum height of buildings and structures shall be forty-five feet within an area bounded on the west by Seventeenth Street, on the north by K Street, on the east by Capitol Parkway, and on the south by a boundary formed by a line extending directly in a true east direction to Capitol Parkway from the centerpoint of the intersection of Seventeenth and H Streets, all streets in the city of Lincoln, Lancaster County, Nebraska;

(b) The maximum height of buildings and structures shall be forty-five feet within an area bounded on the west by Fourteenth Street, on the north by G Street, on the east by Sixteenth Street, and on the south by Washington Street, all streets in the city of Lincoln, Lancaster County, Nebraska;

(c) The maximum height of the buildings and structures shall be fifty-seven feet within an area bounded on the west by Thirteenth Street, on the north by L Street, on the east by Seventeenth Street, and on the south by G Street, all streets in the city of Lincoln, Lancaster County, Nebraska;

(d) The maximum height of the buildings and structures shall be fifty-seven feet within an area bounded on the west by Fourteenth Street, on the north by R Street, on the east by Sixteenth Street, and on the south by L Street, all streets in the city of Lincoln, Lancaster County, Nebraska; and

(e) The maximum height of the buildings and structures shall be ~~seventy-five~~ fifty-seven feet within an area bounded on the west by Tenth Street, on the north by K Street, on the east by Thirteenth Street, and on the south by H Street, all streets in the city of Lincoln, Lancaster County, Nebraska.

(2) For the purposes of ~~sections 90-301 to 90-305~~ the Nebraska State Capitol Environs Act, the five areas and the full width of the right-of-way boundary streets described in subsection (1) of this section shall together constitute and be defined as the Nebraska State Capitol Environs District.

(3) The city of Lincoln shall insure, through its inspection and permit procedures, that the maximum height restrictions and design review process prescribed by this section for the Nebraska State Capitol Environs District are enforced.

(4) The height restrictions and design review process required by this section shall apply, within the Nebraska State Capitol Environs District, to all real estate in private or quasi-public ownership and to real estate owned by the State of Nebraska and local governmental units of all types.

(5) The following appurtenances shall be exempt from the height restrictions required by this section, but such appurtenances shall not exceed twenty feet in height above the maximum height permitted in subsection (1) of this section and shall be set back a minimum of fifteen feet from all faces of a building when such faces are adjacent to a street: ~~Chimneys, church~~ Church spires, cooling towers with approved screening, elevator bulkheads, fire towers, monuments, ~~stacks~~; stage towers or scenery lofts, ~~tanks, water towers~~, ornamental towers, and spires, ~~; wireless towers, grain elevators, or necessary mechanical appurtenances.~~

(6) Nothing in ~~sections 90-301 to 90-305~~ the act shall be construed as limiting the authority of the city of Lincoln to impose lower height restrictions than those maximum height limits established by subsection (1) of this section or in establishing lower height restrictions for appurtenances than those required by subsection (5) of this section.

(7) The city of Lincoln shall review and approve or disapprove plans and proposals for demolition, exterior alteration, and construction of structures and other improvements in the Nebraska State Capitol Environs District. The city of Lincoln shall adopt regulations within its zoning code vesting responsibility for review, approval, and disapproval of projects with the Nebraska State Capitol Environs Commission established by the city of Lincoln.

(8) The regulations of the city of Lincoln for design review in the Nebraska State Capitol Environs District shall emphasize the long-term enhancement of the State Capitol's setting and of enjoyment of the State Capitol by the citizens while respecting the interests of property owners, including economic interests and the desirability of predictable, expeditious review.

Sec. 4. Any decision or action of the Nebraska State Capitol Environs Commission may be appealed to the city council of the city of Lincoln by filing an appeal with the city clerk within thirty days of the date of the commission's action, except that governmental units may opt to appeal actions of the commission to the Department of Administrative Services by so indicating at the time of filing the appeal

with the city clerk.

Sec. 5. Within six months after the effective date of this act the city of Lincoln shall prepare for preliminary review regulations implementing the design review process in accordance with the Nebraska State Capitol Environs Act and shall adopt such regulations as an amendment to its zoning code within twelve months after the effective date of this act.

Sec. 6. The Nebraska State Capitol Environs Commission shall report each January to the city council and mayor of the city of Lincoln, to the Legislature, and to the Governor. The report shall review the major decisions rendered during the preceding year and outline the rationale for the decisions. The report may also survey the status of the Nebraska State Capitol Environs District and make recommendations for its enhancement and protection.

Sec. 7. That original sections 90-302 and 90-303, Reissue Revised Statutes of Nebraska, 1943, and section 90-301, Revised Statutes Supplement, 1992, are repealed.