

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 2179

By: Ortega

7 AS INTRODUCED

8 An Act relating to aircraft and airports; amending 3
9 O.S. 2011, Sections 120.1, 120.2, 120.3, 120.7 and
10 120.8, which relate to the Aircraft Pilot and
11 Passenger Protection Act; specifying standards;
12 modifying definitions; modifying exemption to permit
13 requirement; extending time for permit recording;
14 allowing for amended permits; specifying conditions;
15 and providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 3 O.S. 2011, Section 120.1, is
18 amended to read as follows:

19 Section 120.1 A. This act shall be known and may be cited as
20 the "Aircraft Pilot and Passenger Protection Act".

21 B. It is the intent of this act to:

22 1. Regulate obstructions to air navigation that have the
23 potential of endangering the lives and property of aircraft pilots
24 and passengers and those that live or work in the vicinity of
public-use airports; that may affect existing and future instrument
approaches to a public-use airport; and that may reduce the size of

1 areas available for the landing, takeoff and maneuvering of aircraft
2 thus impairing the utility of a public-use airport and the public
3 investment therein;

4 2. Regulate the use of land in close proximity to a public-use
5 airport to ensure compatibility with aircraft operations; and

6 3. Provide specific powers and duties to the Oklahoma
7 Aeronautics Commission in the interest of the health, safety and
8 welfare of the public so that the state may properly fulfill its
9 duty to ensure that land use around a public-use airport is
10 compatible with normal airport operations including the landing and
11 takeoff of aircraft.

12 C. All heights or surfaces set forth in this act are from the
13 standards set forth in Subpart C of Federal Aviation Regulations
14 (FAR) Part 77.

15 D. Depending upon the type of survey used, an adjustment will
16 be made in accordance with Federal Aviation Administration standards
17 to the horizontal and vertical measurements of the proposed
18 structure as follows:

Survey	Horizontal	Survey	Vertical
Type	Adjustment	Type	Adjustment
1	±20 ft (6 m)	A	+3 ft (1 m)
2	±50 ft (15 m)	B	+10 ft (3 m)
3	±100 ft (30 m)	C	+20 ft (6 m)
4	±250 ft (75 m)	D	+50 ft (15 m)

1 5 ±500 ft (150 m) E +125 ft (38 m)

2 If the survey type (horizontal and vertical) is not certified by
3 a licensed engineer or a licensed surveyor, a horizontal adjustment
4 of plus or minus two hundred fifty (250) feet and a vertical
5 adjustment of fifty (50) feet will be applied to the structure
6 measurements.

7 E. This act shall neither prevent nor preempt a municipality
8 from having ordinances or regulations governing land use that may
9 affect public-use airports.

10 SECTION 2. AMENDATORY 3 O.S. 2011, Section 120.2, is
11 amended to read as follows:

12 Section 120.2 As used in the Aircraft Pilot and Passenger
13 Protection Act:

14 1. "Airport reference point" is the geometrical center of all
15 usable runways;

16 2. "Airport elevation" is the highest point of an airport's
17 usable runways measured in feet from mean sea level;

18 3. "Approach surface" is an imaginary surface shaped like a
19 trapezoid:

20 a. longitudinally centered on the extended runway
21 centerline at a public-use airport,

22 b. beginning two hundred (200) feet beyond the end of
23 each runway pavement and at the runway end elevation,
24

1 c. having an inner-edge width of one thousand (1,000)
2 feet expanding outward uniformly to a width of sixteen
3 thousand (16,000) feet at the outer edge, and

4 d. sloping upward for a distance of ten thousand (10,000)
5 feet at a slope of fifty (50) to one (1), with an
6 additional forty thousand (40,000) feet at a slope of
7 forty (40) to one (1);

8 4. "Commission" means the Oklahoma Aeronautics Commission or a
9 successor agency;

10 5. "Conical surface" is an imaginary surface extending outward
11 and upward from the periphery of the horizontal surface at a slope
12 of twenty (20) to one (1) for a horizontal distance of four thousand
13 (4,000) feet;

14 6. "FAA" means the Federal Aviation Administration or a
15 successor agency to the Federal Aviation Administration;

16 7. "Horizontal surface" is an imaginary horizontal plane one
17 hundred fifty (150) feet above the established airport elevation,
18 the perimeter of which is constructed by swinging arcs of ten
19 thousand (10,000) feet radii from a point located on the extended
20 runway centerline two hundred (200) feet beyond each end of runway
21 pavement and connecting the adjacent arcs by lines tangent to those
22 arcs;

23 8. "Incompatible purpose" means the use of a building ~~or~~,
24 structure or area as a residence, educational center (including all

1 types of primary and secondary schools, preschools, and child-care
2 facilities), ~~places~~ place of worship, place of public assembly,
3 hospital, medical inpatient treatment facility, nursing/convalescent
4 home, retirement home, transportation facility, storage facility,
5 aboveground utility facility or similar use;

6 9. "Legal representative" means a person who is authorized to
7 legally bind an entity;

8 10. "Permit" means a permit issued by the Commission under this
9 act;

10 11. "Person" means an individual, firm, partnership,
11 corporation, association, or body politic and includes a trustee,
12 receiver, assignee, or other similarly authorized representative of
13 any of them;

14 12. "Primary surface" is a surface longitudinally centered on a
15 runway. When the runway has a specially prepared hard surface, the
16 primary surface extends two hundred (200) feet beyond each end of
17 that runway; but when the runway has no specially prepared hard
18 surface, or planned hard surface, the primary surface ends at each
19 end of that runway. The elevation of any point on the primary
20 surface is the same as the elevation of the nearest point on the
21 runway centerline. The width of the primary surface is one thousand
22 (1,000) feet;

23 13. "Public-use airport" means a structure or an area of land
24 or water that is designed and set aside for the landing and taking

1 off of aircraft, is utilized or to be utilized by and in the
2 interest of the public for the landing and taking off of aircraft
3 and is identified by the FAA as a public-use airport. Public-use
4 airport shall include any military airport operated by a branch of
5 the armed services of the United States government. Public-use
6 airport shall not include any privately owned airport for private
7 use as identified by the FAA, or any airport owned by a municipality
8 with a population exceeding five hundred thousand (500,000)
9 according to the most recent Federal Decennial Census;

10 14. "Runway" means the portion of an airport designated as the
11 area used for the landing or takeoff of aircraft;

12 15. "Runway protection zone" is a trapezoidal zone centered
13 along the extended runway centerline, beyond each end of the primary
14 surface, two thousand five hundred (2,500) feet long, with an inner
15 width of one thousand (1,000) feet and an outer width of one
16 thousand seven hundred fifty (1,750) feet. The function of the
17 runway protection zone is to enhance the protection of people and
18 property on the ground;

19 16. "Structure" means any constructed or installed object,
20 including, but not limited to, buildings, towers, wind turbines,
21 smokestacks, electronic transmission or receiving towers, and
22 antennae and overhead transmission lines. The term does not
23 include:
24

1 a. any aviation navigational aids that are fixed by
2 function, or

3 b. any construction or installed object on property owned
4 by the federal government; and

5 17. "Total structure height" means the elevation of the ground
6 above mean sea level at the structure's location, plus the height of
7 the structure above ground level in feet, plus the applicable survey
8 type adjustment provided the survey adjustment is in accordance with
9 Federal Aviation Administration standards.

10 SECTION 3. AMENDATORY 3 O.S. 2011, Section 120.3, is
11 amended to read as follows:

12 Section 120.3 A. A person shall obtain a permit from the
13 Commission prior to the construction ~~or~~, installation, or use of any
14 of the following near a public-use airport:

15 1. Any proposed structure or area for an incompatible purpose
16 in the primary surface or the runway protection zone;

17 2. Any structure, alteration or addition to a structure within
18 three (3) statute miles from the airport reference point of a
19 public-use airport, that would result in a total structure height in
20 excess of one hundred fifty (150) feet above the established airport
21 elevation; and

22 3. Any structure, alteration or addition to a structure that
23 would result in a total structure height greater than the
24

1 horizontal, conical or approach surfaces, as defined in Section 2
2 120.2 of the Aircraft Pilot and Passenger Protection Act this title.

3 B. No permit shall be required:

4 1. For mobile or temporary equipment used to construct or
5 install a new structure or to perform routine maintenance, repairs,
6 or replace parts of an existing structure or for temporary
7 structures that will be in place for less than twenty-four (24)
8 months; or

9 2. To repair, replace, or alter an existing structure that
10 would not result in a total structure height greater than the
11 horizontal, conical or approach surfaces as defined in Section 2
12 120.2 of this act title, or change the location of an existing
13 structure.

14 C. Any person required to notify the FAA of any proposed
15 construction or alteration pursuant to Subpart B of Section 77.13 of
16 the Federal Aviation Regulations Part 77, that in response receives
17 an acknowledgement from the FAA that further aeronautical study is
18 required to determine whether the proposed construction or
19 alteration would be a hazard to air navigation, shall, upon
20 requesting further aeronautical study by the FAA, concurrently
21 notify the Commission of the request and shall provide the
22 Commission with true and correct copies of all relevant filings made
23 with the FAA.

1 Upon receipt of such notification of the filing of a request for
2 further aeronautical study, the Commission shall give timely notice
3 thereof to the Oklahoma Strategic Military Planning Commission, or
4 any successor agency, and to any military airport within Oklahoma
5 potentially affected by the proposed construction or alteration.

6 The Commission further shall use its best efforts to establish
7 regular and consistent communication with the FAA to encourage
8 sharing of information regarding construction or alteration in a
9 military training route or slow-speed low-altitude training route
10 within the State of Oklahoma with appropriate state agencies and
11 military installations.

12 SECTION 4. AMENDATORY 3 O.S. 2011, Section 120.7, is
13 amended to read as follows:

14 Section 120.7 A. If FAA Form 7460-1 is required, then an
15 application for a permit pursuant to Section ~~3~~ 120.3 of ~~the Aircraft~~
16 ~~Pilot and Passenger Protection Act~~ this title shall be filed at the
17 same time the FAA Form 7460-1 is sent to the FAA, or at any time
18 before that. If FAA Form 7460-1 is not required, then the
19 application shall be filed at least thirty (30) days before the
20 earlier of the following:

21 1. The date the proposed construction or alteration is to
22 begin; or

23 2. The date an application for a construction or building
24 permit is to be filed with the municipality.

1 Upon receiving an application, the Commission shall notify a legal
2 representative of the public-use airport owner affected by the
3 application and solicit comments from the airport owner.

4 B. In determining whether to issue a permit, the Commission
5 shall consider:

6 1. The nature of the terrain and height of existing structures;

7 2. Public and private interests and investments of an airport;

8 3. The character of flying operations and planned developments
9 of an airport;

10 4. Whether the construction of the proposed structure would
11 cause an increase in the minimum descent altitude or the decision
12 height at the affected airport;

13 5. Technological advances;

14 6. The safety of persons on the ground and in the air;

15 7. Land use density;

16 8. Comments from all interested persons; and

17 9. Findings and determinations of other government agencies.

18 C. If FAA Form 7460-1 is required, then the Commission shall
19 notify the applicant of its determination within thirty (30) days of
20 the FAA completing its aeronautical study. If the applicant has not
21 been notified by the Commission of its determination within thirty
22 (30) days of the FAA completing its aeronautical study, then the
23 applicant shall notify the Commission that it has not received
24 notice of the Commission's determination. The Commission shall then

1 have seven (7) working days from the date of the applicant's notice
2 to notify the applicant of its determination. Nothing herein
3 precludes the Commission from making its determination before the
4 FAA completes its aeronautical study.

5 D. If FAA Form 7460-1 is not required, then the Commission
6 shall notify the applicant of its determination within sixty (60)
7 days of filing the application. If the applicant has not been
8 notified by the Commission of its determination within sixty (60)
9 days of filing the application, then the applicant shall notify the
10 Commission that it has not received notice of the Commission's
11 determination. The Commission shall then have seven (7) working
12 days from the date of the applicant's notice to notify the applicant
13 of its determination.

14 SECTION 5. AMENDATORY 3 O.S. 2011, Section 120.8, is
15 amended to read as follows:

16 Section 120.8 A. Once a permit is issued by the Commission,
17 the applicant shall be required to complete the following steps to
18 complete the permit process:

19 1. The applicant for a permit under Section ~~3~~ 120.3 of ~~the~~
20 ~~Aircraft Pilot and Passenger Protection Act~~ this title shall record
21 each permit issued by the Commission in the office of the county
22 clerk for the county where the structure is located not later than
23 ~~thirty (30)~~ sixty (60) business days after the Commission issues the
24 permit. If a structure is located in more than one county, the

1 county that contains the majority of the structure is the county in
2 which the permit must be filed. A permit issued under paragraph 1
3 of subsection A of Section ~~3~~ 120.3 of this ~~act~~ title shall contain
4 the following statement:

5 "The permittee acknowledges for itself, its heirs, its
6 successors, and its assigns, that the real estate described in
7 this permit is located within the primary surface or the runway
8 protection zone of a public-use airport, and that the permittee
9 is building a structure upon this real estate with the full
10 knowledge and acceptance that it may be incompatible with normal
11 airport operations including the landing and takeoff of
12 aircraft.";

13 2. A permit issued in accordance with the provisions of Section
14 ~~3~~ 120.3 of this ~~act~~ title is valid only after the Commission
15 receives a certified copy of the recorded permit with the recording
16 data from the county clerk of the county in which the structure is
17 located; and

18 3. Every permit granted by the Commission shall specify that
19 obstruction markers, markings, lighting, or other visual or aural
20 identification required to be installed on or in the vicinity of the
21 structure shall conform to federal laws and regulations.

22 B. Once a permit is valid the permittee may request to amend a
23 permit under these conditions:
24

1 1. The amendment is to change the administrative items of the
2 permit including the transfer of ownership rights. There shall be
3 no limit to the number of times a permittee can request an amendment
4 that is administrative in nature; or

5 2. The amendment is for the purpose of micrositng a structure
6 that has been permitted, but not yet constructed. Micrositing shall
7 allow for a structure to be moved four hundred (400) feet or less in
8 a horizontal direction provided the new location will not impact an
9 airport's instrument or visual approaches. A permittee can request
10 to amend a permit for micrositing up to two times. A third
11 micrositing request on the structure will require the permittee to
12 file a new permit application.

13 SECTION 6. This act shall become effective November 1, 2017.

14
15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM,
16 dated 02/15/2017 - DO PASS.