

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 477

By: Newhouse and Standridge of
the Senate

6 and

7 Ortega of the House

8
9 CONFERENCE COMMITTEE SUBSTITUTE

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

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

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

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

24 B. It is the intent of ~~this act~~ the Aircraft Pilot and
Passenger Protection Act to:

1. Regulate obstructions to air navigation that have the
potential of endangering the lives and property of aircraft pilots

1 and passengers and those that live or work in the vicinity of
2 public-use airports; that may affect existing and future instrument
3 approaches to a public-use airport; and that may reduce the size of
4 areas available for the landing, takeoff and maneuvering of aircraft
5 thus impairing the utility of a public-use airport and the public
6 investment therein;

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

9 3. Regulate obstructions to air navigation that have the
10 potential of endangering the lives and property of military aircraft
11 pilots and passengers in military training routes, drop areas and
12 traffic patterns; and that may reduce the size of areas available
13 for the training of military pilots thus impairing the utility of
14 Oklahoma's airspace for military aircraft operations; and

15 4. Provide specific powers and duties to the Oklahoma
16 Aeronautics Commission in the interest of the health, safety and
17 welfare of the public so that the state may properly fulfill its
18 duty to ensure that land use around a public-use airport is
19 compatible with normal airport operations including the landing and
20 takeoff of aircraft.

21 C. ~~All heights or surfaces set forth in this act are from the~~
22 ~~standards set forth in Subpart C of Federal Aviation Regulations~~
23 ~~(FAR) Part 77.~~

24

1 ~~D.~~ Depending upon the type of survey used, an adjustment will
 2 be made in accordance with Federal Aviation Administration standards
 3 to the horizontal and vertical measurements of the proposed
 4 structure as follows:

5	Survey	Horizontal	Survey	Vertical
6	Type	Adjustment	Type	Adjustment
7	1	±20 ft (6 m)	A	+3 ft (1 m)
8	2	±50 ft (15 m)	B	+10 ft (3 m)
9	3	±100 ft (30 m)	C	+20 ft (6 m)
10	4	±250 ft (75 m)	D	+50 ft (15 m)
11	5	±500 ft (150 m)	E	+125 ft (38 m)

12 If the survey type (horizontal and vertical) is not certified by
 13 a licensed engineer or a licensed surveyor, a horizontal adjustment
 14 of plus or minus two hundred fifty (250) feet and a vertical
 15 adjustment of fifty (50) feet will be applied to the structure
 16 measurements.

17 ~~E. D.~~ This act The Aircraft Pilot and Passenger Protection Act
 18 shall neither prevent nor preempt a municipality from having
 19 ordinances or regulations governing land use that may affect public-
 20 use airports.

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

23 Section 120.2. As used in the Aircraft Pilot and Passenger
 24 Protection Act:

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

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

5 3. "Approach surface" is an imaginary surface shaped like a
6 trapezoid:

7 a. longitudinally centered on the extended runway
8 centerline at a public-use airport,

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

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

14 d. sloping upward for a distance of ten thousand (10,000)
15 feet at a slope of fifty (50) to one (1), with an
16 additional forty thousand (40,000) feet at a slope of
17 forty (40) to one (1);

18 4. "Commission" means the Oklahoma Aeronautics Commission or a
19 successor agency;

20 5. "Conical surface" is an imaginary surface extending outward
21 and upward from the periphery of the horizontal surface at a slope
22 of twenty (20) to one (1) for a horizontal distance of four thousand
23 (4,000) feet;

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1 6. "FAA" means the Federal Aviation Administration or a
2 successor agency to the Federal Aviation Administration;

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

10 8. "Incompatible purpose" means the use of a building ~~or~~,
11 structure or area as a residence, educational center (including all
12 types of primary and secondary schools, preschools, and child-care
13 facilities), ~~places~~ place of worship, place of public assembly,
14 hospital, medical inpatient treatment facility, nursing/convalescent
15 home, retirement home, transportation facility, storage facility,
16 aboveground utility facility or similar use;

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

19 10. "Military drop area" means a designated drop area
20 identified by the military which takes the shape of a rectangle with
21 dimensions of thirty (30) nautical miles in the longitudinal
22 direction and six (6) nautical miles wide. The rectangle shall be
23 positioned in the drop area so that twenty (20) nautical miles is
24 located prior to the center of the drop area and ten (10) nautical

1 miles is located beyond the center of the drop area along the
2 longitudinal axis of the flight path. The centers of the drop areas
3 are identified by the following latitude and longitude coordinates:
4 34-34-07.8N, 99-41-34.2W and 34-38-47.9N, 98-17-42.8W;

5 11. "Military training route" means any training route
6 designated by the military including visual routes (VR), instrument
7 routes (IR), and slow-speed routes (SR). The width of the route
8 will vary with the mission of the aircraft and shall include the
9 approach and departure points of the route which are measured in a
10 radius equal to one-half (1/2) the width of the route;

11 12. "Military traffic pattern" means a fifteen-nautical-mile
12 radius around the airport reference point of a military airport;

13 13. "Permit" means a permit issued by the Commission under ~~this~~
14 act the Aircraft Pilot and Passenger Protection Act;

15 ~~11.~~ 14. "Person" means an individual, firm, partnership,
16 corporation, association, or body politic and includes a trustee,
17 receiver, assignee, or other similarly authorized representative of
18 any of them;

19 ~~12.~~ 15. "Primary surface" is a surface longitudinally centered
20 on a runway. When the runway has a specially prepared hard surface,
21 the primary surface extends two hundred (200) feet beyond each end
22 of that runway; but when the runway has no specially prepared hard
23 surface, or planned hard surface, the primary surface ends at each
24 end of that runway. The elevation of any point on the primary

1 surface is the same as the elevation of the nearest point on the
2 runway centerline. The width of the primary surface is one thousand
3 (1,000) feet;

4 ~~13.~~ 16. "Public-use airport" means a structure or an area of
5 land or water that is designed and set aside for the landing and
6 taking off of aircraft, is utilized or to be utilized by and in the
7 interest of the public for the landing and taking off of aircraft
8 and is identified by the FAA as a public-use airport. Public-use
9 airport shall include any military airport operated by a branch of
10 the armed services of the United States government. Public-use
11 airport shall not include any privately owned airport for private
12 use as identified by the FAA, or any airport owned by a municipality
13 with a population exceeding five hundred thousand (500,000)
14 according to the most recent Federal Decennial Census;

15 ~~14.~~ 17. "Runway" means the portion of an airport designated as
16 the area used for the landing or takeoff of aircraft;

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

1 ~~16.~~ 19. "Structure" means any constructed or installed object,
2 or area including, but not limited to, buildings, towers, wind
3 turbines, smokestacks, electronic transmission or receiving towers,
4 and antennae and overhead transmission lines. The term does not
5 include:

- 6 a. any aviation navigational aids that are fixed by
- 7 function, or
- 8 b. any construction or installed object on property owned
- 9 by the federal government; and

10 ~~17.~~ 20. "Total structure height" means the elevation of the
11 ground above mean sea level at the structure's location, plus the
12 height of the structure above ground level in feet, plus the
13 applicable survey type adjustment provided the survey adjustment is
14 in accordance with Federal Aviation Administration standards.

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

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

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

22 2. Any structure, alteration or addition to a structure within
23 three (3) statute miles from the airport reference point of a
24 public-use airport, that would result in a total structure height in

1 excess of one hundred fifty (150) feet above the established airport
2 elevation; and

3 3. Any structure, alteration or addition to a structure that
4 would result in a total structure height greater than the
5 horizontal, conical or approach surfaces, as defined in Section 2
6 120.2 of the Aircraft Pilot and Passenger Protection Act this title.

7 B. A person shall obtain a permit from the Commission prior to
8 the construction or installation of any of the following near a
9 military training route, drop area or traffic pattern:

10 1. Any structure, alteration or addition to a structure that
11 would exceed two hundred (200) feet above ground level underneath a
12 military training route;

13 2. Any structure, alteration or addition to a structure that
14 would exceed fifty (50) feet above ground level within a military
15 drop area; and

16 3. Any structure, alteration or addition to a structure that
17 would exceed one hundred fifty (150) feet above the established
18 airport elevation underneath a military traffic pattern.

19 C. No permit shall be required:

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

1 2. To repair, replace, or alter an existing structure that
2 would not result in a total structure height greater than the
3 horizontal, conical or approach surfaces as defined in Section 2
4 120.2 of this act, ~~or change the location of an existing structure~~
5 title; or

6 3. To repair, replace or alter an existing structure that would
7 not result in a total structure height greater than two hundred
8 (200) feet above ground level underneath a military training route,
9 fifty (50) feet above ground level within a military drop area, or
10 one hundred fifty (150) feet above the established airport elevation
11 within a military traffic pattern.

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

22 Upon receipt of such notification of the filing of a request for
23 further aeronautical study, the Commission shall give timely notice
24 thereof to the Oklahoma Strategic Military Planning Commission, or

1 any successor agency, and to any military airport within Oklahoma
2 potentially affected by the proposed construction or alteration.

3 The Commission further shall use its best efforts to establish
4 regular and consistent communication with the ~~FAA~~ Oklahoma military
5 installations to encourage sharing of information regarding
6 construction or alteration ~~in~~ of a structure underneath a military
7 training route ~~or slow speed low altitude training route~~ within a a
8 military drop area or underneath a military traffic pattern in the
9 State of Oklahoma ~~with appropriate state agencies and military~~
10 ~~installations.~~

11 SECTION 4. AMENDATORY 3 O.S. 2011, Section 120.5, is
12 amended to read as follows:

13 Section 120.5. A. Any structure or alteration to a structure
14 is presumed to be a hazard to air navigation if its total structure
15 height is greater than the horizontal, conical or approach surfaces,
16 as defined in Section ~~2~~ 120.2 of ~~the Aircraft Pilot and Passenger~~
17 ~~Protection Act~~ this title.

18 B. Any structure or alteration to a structure is presumed to be
19 a hazard to air navigation if its total structure height is greater
20 than two hundred (200) feet above ground level underneath a military
21 training route, fifty (50) feet above ground level within a military
22 drop area or one hundred fifty (150) feet above the established
23 airport elevation underneath a military traffic pattern.

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1 SECTION 5. AMENDATORY 3 O.S. 2011, Section 120.6, is
2 amended to read as follows:

3 Section 120.6. Applications to the Commission for a permit in
4 accordance with the provisions of the Aircraft Pilot and Passenger
5 Protection Act for construction near a public-use airport, or
6 military training route, drop area or traffic pattern shall include
7 the following:

8 1. For construction in a primary surface or runway protection
9 zone, under paragraph 1 of subsection A of Section ~~3~~ 120.3 of this
10 ~~act~~ title:

11 a. a completed application on a form prescribed by the
12 Commission with the following statement on the
13 application, signed by a legal representative of the
14 applicant:

15 "The applicant acknowledges for itself, its heirs, its
16 successors, and its assigns, that the real estate
17 described in this application is located in the
18 primary surface or the runway protection zone of a
19 public-use airport, and that the applicant is building
20 a structure upon this real estate, with the full
21 knowledge and acceptance that it may be incompatible
22 with normal airport operations including the landing
23 and takeoff of aircraft.", and

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1 b. if required, a copy of the FAA Form 7460-1, "Notice of
2 Proposed Construction or Alteration", as described in
3 14 CFR part 77, sub-part B, Section 17, to be
4 submitted to the FAA; ~~and~~

5 2. For construction or alteration of a structure in a
6 horizontal, conical, or approach surface under paragraph 2 or 3 of
7 subsection A of ~~Section 3~~ Section 120.3 of this ~~act~~ title:

8 a. a completed application on a form prescribed by the
9 Commission, and

10 b. a copy of FAA Form 7460-1, to be submitted to the FAA;
11 and

12 3. For construction or alteration of a structure underneath a
13 military training route, within a military drop area or underneath a
14 military traffic pattern as defined in Section 120.3 of this title:

15 a. a completed application on a form prescribed by the
16 Commission, and

17 b. a copy of FAA Form 7460-1, to be submitted to the FAA.

18 SECTION 6. AMENDATORY 3 O.S. 2011, Section 120.7, is
19 amended to read as follows:

20 Section 120.7. A. If FAA Form 7460-1 is required, then an
21 application for a permit pursuant to Section ~~3~~ 120.3 of ~~the Aircraft~~
22 ~~Pilot and Passenger Protection Act~~ this title shall be filed at the
23 same time the FAA Form 7460-1 is sent to the FAA, or at any time
24 before that. If FAA Form 7460-1 is not required, then the

1 application shall be filed at least thirty (30) days before the
2 earlier of the following:

3 1. The date the proposed construction or alteration is to
4 begin; or

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

7 Upon receiving an application filed pursuant to paragraphs 1 and 2
8 of Section 120.6 of this title, the Commission shall notify a legal
9 representative of the public-use airport owner affected by the
10 application and solicit comments from the airport owner; and upon
11 receiving an application filed pursuant to paragraph 3 of Section
12 120.6 of this title, the Commission shall notify a legal
13 representative of the military installation affected by the
14 application and the chairman of the Oklahoma Strategic Military
15 Planning Commission or successor agency and solicit their comments.

16 B. In determining whether to issue a permit for an application
17 pursuant to paragraphs 1 and 2 of Section 120.6 of this title, the
18 Commission shall consider:

- 19 1. The nature of the terrain and height of existing structures;
20 2. Public and private interests and investments of an airport;
21 3. The character of flying operations and planned developments
22 of an airport;

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1 4. Whether the construction of the proposed structure would
2 cause an increase in the minimum descent altitude or the decision
3 height at the affected airport;

4 5. Technological advances;

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

6 7. Land use density;

7 8. Comments from all interested persons; and

8 9. Findings and determinations of other government agencies.

9 C. In determining whether to issue a permit for an application
10 pursuant to paragraph 3 of Section 120.6 of this title, the
11 Commission shall consider:

12 1. Comments from the chairman of the Oklahoma Strategic
13 Military Planning Commission or successor agency;

14 2. Comments from a legal representative of the military
15 installation affected by the proposed structure;

16 3. Whether the proposed structure would encroach upon or
17 otherwise have an adverse impact on the mission, training or
18 operations of any military installation;

19 4. The safety of military aircraft, pilots and passengers; and

20 5. Whether the proposed structure would allow for a clear
21 corridor within a military training route that preserves the
22 capability for a military installation to conduct low level
23 operations.

1 D. If FAA Form 7460-1 is required, then the Commission shall
2 notify the applicant of its determination within thirty (30) days of
3 the FAA completing its aeronautical study. If the applicant has not
4 been notified by the Commission of its determination within thirty
5 (30) days of the FAA completing its aeronautical study, then the
6 applicant shall notify the Commission that it has not received
7 notice of the Commission's determination. The Commission shall then
8 have seven (7) working days from the date of the applicant's notice
9 to notify the applicant of its determination. Nothing herein
10 precludes the Commission from making its determination before the
11 FAA completes its aeronautical study.

12 ~~D.~~ E. If FAA Form 7460-1 is not required, then the Commission
13 shall notify the applicant of its determination within sixty (60)
14 days of filing the application. If the applicant has not been
15 notified by the Commission of its determination within sixty (60)
16 days of filing the application, then the applicant shall notify the
17 Commission that it has not received notice of the Commission's
18 determination. The Commission shall then have seven (7) working
19 days from the date of the applicant's notice to notify the applicant
20 of its determination.

21 SECTION 7. AMENDATORY 3 O.S. 2011, Section 120.8, is
22 amended to read as follows:

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1 Section 120.8. A. Once a permit is issued by the Commission,
2 the applicant shall be required to complete the following steps to
3 complete the permit process:

4 1. The applicant for a permit under Section ~~3~~ 120.3 of ~~the~~
5 ~~Aircraft Pilot and Passenger Protection Act~~ this title shall record
6 each permit issued by the Commission in the office of the county
7 clerk for the county where the structure is located not later than
8 ~~thirty (30)~~ sixty (60) business days after the Commission issues the
9 permit. If a structure is located in more than one county, the
10 county that contains the majority of the structure is the county in
11 which the permit must be filed. A permit issued under paragraph 1
12 of subsection A of Section ~~3~~ 120.3 of this ~~act~~ title shall contain
13 the following statement:

14 "The permittee acknowledges for itself, its heirs, its
15 successors, and its assigns, that the real estate described in
16 this permit is located within the primary surface or the runway
17 protection zone of a public-use airport, and that the permittee
18 is building a structure upon this real estate with the full
19 knowledge and acceptance that it may be incompatible with normal
20 airport operations including the landing and takeoff of
21 aircraft.";

22 2. A permit issued in accordance with the provisions of Section
23 ~~3~~ 120.3 of this ~~act~~ title is valid only after the Commission
24 receives a certified copy of the recorded permit with the recording

1 data from the county clerk of the county in which the structure is
2 located; and

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

7 B. Once a permit is valid the permittee may request to amend a
8 permit under these conditions:

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

13 2. The amendment is for the purpose of micrositing a structure
14 that has been permitted, but not yet constructed. Micrositing shall
15 allow for a structure to be moved four hundred (400) feet or less in
16 a horizontal direction provided the new location will not impact an
17 airport's instrument or visual approaches or a military training
18 route, drop area or traffic pattern. A permittee can request to
19 amend a permit for micrositing up to two times. A third micrositing
20 request on the structure will require the permittee to file a new
21 permit application.

22 SECTION 8. This act shall become effective July 1, 2017.

23 SECTION 9. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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