# TITLE 25. OKLAHOMA AERONAUTICS COMMISSION
# CHAPTER 30. AIRCRAFT PILOT AND PASSENGER PROTECTION ACT

## SUBCHAPTER 1. GENERAL PROVISIONS

### 25:30-1-1. Purpose

The purpose of this chapter is to set administrative rules for the implementation of HB 2919 – the Aircraft Pilot and Passenger Protection Act. This chapter establishes the requirements and procedures to be followed by the Commission in the administration and enforcement of its duties under Title 3, Oklahoma Statues, Section 120.1 for construction of structures in the vicinity of public-use airports.

### 25:30-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

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

**"Airport reference point"** is the geometrical center of all usable runways;

**"Applicant"** is an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

**"Approach surface"** is an imaginary surface shaped like a trapezoid:

(A) longitudinally centered on the extended runway centerline at a public-use airport,

(B) beginning two hundred (200) feet beyond the end of each runway pavement and at the runway end elevation,

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

(D) sloping upward for a distance of ten thousand (10,000) feet at a slope of fifty (50) to one (1), with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1);

**"Commission"** means the Oklahoma Aeronautics Commission or a successor agency;

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

**"FAA"** means the Federal Aviation Administration or a successor agency;

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

**"Incompatible purpose"** means the use of a building or structure as a residence, educational center (including all types of primary and secondary schools, preschools, and child-care facilities), places of worship, hospital, medical inpatient treatment facility, nursing/convalescent home, retirement home, or similar use;

**"Legal representative"** means a person who is authorized to legally bind an entity;

**"Permit"** means a permit issued by the Commission under this act;

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

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

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

**"Runway"** means the portion of an airport designated as the area used for the landing or takeoff of aircraft;

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

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

(A) any aviation navigational aids that are fixed by function, or

(B) any construction or installed object on property owned by the federal government; and

**"Total structure height"** means the elevation of the ground above mean sea level at the structure's location, plus the height of the structure above ground level in feet, plus the applicable survey type adjustment as described in Appendix A.

**25:30-1-3. Who is required to file**

A person shall obtain a permit from the Commission prior to the construction or installation of any of the following near a public-use airport:

(1) Any proposed structure for an incompatible purpose in the primary surface or the runway protection zone;

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

(3) Any structure, alteration or addition to a structure that would result in a total Structure height greater than the horizontal, conical or approach surfaces, as Defined in 25:30-1-2 of the Aircraft Pilot and Passenger Protection Act.

**25:30-1-4. Who is not required to file**

A permit from the Commission shall not be required for the following:

(1) For mobile or temporary equipment used to construct or install a new structure or to perform routine maintenance, repairs, or replace parts of an existing structure; or
(2) To repair, replace, or alter an existing structure that would not result in a total structure height greater than the horizontal, conical or approach surfaces as defined in Section 25:30-1-2, or change the location of an existing structure.
(3) Structures that exist or have an approved building permit from the local authority with jurisdiction over the property that the structure is proposed to be constructed upon, prior to October 1, 2010.
(4) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

**25:30-1-5. Violations**

Each violation of the Aircraft Pilot and Passenger Protection Act, or rulings promulgated by the Commission pursuant to this act, shall constitute a misdemeanor punishable by a fine of not more than Five Hundred Dollars ($500.00). Each day that such a failure continues constitutes a separate violation. In addition, the Commission may institute in any court of general jurisdiction, an action to prevent, restrain, correct, or abate any violation of this act, or any rules adopted or orders issued by the Commission pursuant to this act. The court may grant such relief, by way of injunction, which may be mandatory, or otherwise, as may be necessary under this act and the applicable rules or orders of the Commission issued under this act.

## SUBCHAPTER 3. APPLICATION REQUIREMENTS

**25:30-3-1. Application form and time of notice**

(a) **Form.** Each person that is required to file for a permit from the Commission in accordance with 25:30-1-3, shall send one original and one copy of OAC form A-1 to the Commission or on an electronic form approved by the Commission. Copies of the Form may be obtained free of charge from the Commission's Office or downloaded in electronic format from the Commission's website. The Commission will make available a web-based application for online permit application that is consistent with the requirements set forth in Title 62 of the Oklahoma Statutes.

**(b) Additional application requirements.** Applications to the Commission for a permit in accordance with the provisions of these rules shall include the following in addition to the requirements of 25:30-3-1(a):

(1) For construction in a primary surface or runway protection zone, in accordance with section 25:30-5-1:

(A) The following statement signed by a legal representative of the applicant: "The applicant acknowledges for itself, its heirs, its successors, ant its assigns, that the real estate described in this application is located in the primary surface or the runway protection zone of a public-use airport, and that the applicant is building a structure upon this real estate, with the full knowledge and acceptance that it may be incompatible with the normal airport operations including the landing and takeoff of aircraft."

(B) if notice is required to be filed with FAA, a copy of the FAA Form 7460-1, "Notice of Proposed Construction or Alteration", as described in 14 CFR part 77, sub-part B, Section 17, to be submitted to the FAA.

(2) For construction or alteration of a structure in a horizontal, conical, or approach surface in accordance with section 25:30-5-2: a copy of FAA Form 7460-1, if required to be submitted to the FAA.

(c) **When to file for a permit.** If FAA Form 7460-1 is required to be filed for the proposed construction, then an application for a permit pursuant to Section 25:30-1-3 shall be filed at the same time the FAA Form 7460-1 is sent to the FAA, or at any time before that. If FAA Form 7460-1 is not required to be filed with the FAA, then the application shall be filed at least thirty (30) days before the earlier of the following:

(1) The date the proposed construction or alteration is to begin; or

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

**25:30-3-2. Acceptance of application and amendments**

(a) **Complete applications.** The date of receipt of an application shall be the date the Commission determines an application is complete in all respects including application fee in accordance with 25:30-3-4, and this date termed as the "date of record" shall be noted in the records.

(b) **Incomplete applications.** If the Commission determines the application is incomplete, the Commission shall advise the applicant and a period of sixty (60) days shall be allowed for the refiling of a complete application. If the Commission determines that a completed application was not submitted within the time allowed, the Commission will consider the application withdrawn, unless the Commission agrees to give the applicant more time.

(c) **Application amendments.** Applications shall be amended or revised by the applicant or his legal representative. Amendments to the application will be classified as either minor or major, depending upon the nature of the amendment requested.

(1) **Minor amendments** are administrative in nature and do not amend the location or total height of the proposed structure. Also, a minor amendment will not amend the "date of record" of the application.

(2) **Major amendments** are defined as those that affect the location and/or the total structure height. The "date of record" for a completed application will be revised once the amendment has been accepted by the Commission.

**25:30-3-3. Applications filed later than provided in section 25:30-3-1 subsection (c).**

Applications not filed in accordance with the provisions of section 25:30-3-1(c), or filed after construction has begun, will be assessed penalties or be subject to action in accordance with 25:30-1-5.

**25:30-3-4. Fees**

Pursuant to Title 3, Oklahoma Statues, Section 120.1 for construction of structures in the vicinity of public-use airports, the Commission shall charge reasonable fees for services rendered, not to exceed Two Hundred Dollars ($200.00). All fees shall be paid to the Oklahoma Aeronautics Commission. Required fees must be paid before any action will be taken by the Commission on the matter relating thereto and before the issuance of any permit. Permit fees will not be refunded if the application for a permit is denied or withdrawn. The following fee will be charged:

Application for a new permit: $200.00

## SUBCHAPTER 5. OBSTRUCTION STANDARDS

### 25:30-5-1. Incompatible structures

The construction of a structure for an incompatible purpose within the primary surface or the runway protection zone is presumed to be incompatible with normal airport operations including the landing and takeoff of aircraft.

### 25:30-5-2. Tall structures

Any structure or alteration to a structure is presumed to be a hazard to air navigation if its total structure height is greater than the horizontal, conical or approach surfaces, as defined in Section 25:30-1-2 of the Aircraft Pilot and Passenger Protection Act.

## SUBCHAPTER 7. NOTICE, DETERMINATION AND COMMISSION ACTIONS

### 25:30-7-1. Commission review

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

(b) In determining whether to issue a permit, the Commission shall consider sections 25:30-5-1 and 25:30-5-2, and the following:

(1) The nature of the terrain and height of existing structures;
(2) Public and private interests and investments;
(3) The character of flying operations and planned developments of an airport;
(4) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport;
(5) Technological advances;
(6) The safety of persons on the ground and in the air;
(7) Land use density;
(8) Comments from all interested persons;
(9) Findings and determinations of other government agencies;
(10) Depending upon the type of survey used, an adjustment will be made in accordance with FAA regulations to the horizontal and vertical measurements of the proposed structure as described in Appendix A of this Chapter. If the survey type (horizontal and vertical) is not certified by a licensed engineer or a licensed surveyor, a horizontal adjustment of plus or minus two hundred fifty (250) feet and a vertical adjustment of fifty (50) feet will be applied to the structure measurements;
(11) Any other information the Commission finds pertinent to that applications review.

### 25:30-7-2. Review time period

The review time period for an application will commence once a complete application has been accepted in accordance with section 25:30-3-2.

(1) If FAA Form 7460-1 is also required to be filed with FAA, then the Commission shall notify the applicant of its determination within thirty (30) days of the FAA completing its aeronautical study. If the applicant has not been

notified by the Commission of its determination within thirty (30) days of the FAA completing its aeronautical study, then the applicant shall notify the Commission that it has not received notice of the Commission's determination. The Commission shall then have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination. Nothing herein precludes the Commission from making its determination before the FAA completes its aeronautical study.

(2) If FAA Form 7460-1 is not required, then the Commission shall notify the applicant of its determination within sixty (60) days of the date of record. If the applicant has not been notified by the Commission of its determination within sixty (60) days of date of record, then the applicant shall notify the Commission that it has not received notice of the Commission's determination. The Commission shall then have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination.

**25:30-7-3. Commission's determination**

The Commission's review of an application can lead to the following determinations:

(1) The proposed construction would exceed the obstruction standards set forth in sections 25:30-5-1 or 25:30-5-2 and is therefore denied;

(2)The proposed construction would exceed the limitations set forth in section 25:30-1-3; however, due to other considerations listed in section 25:30-7-1, the application is approved; and

(3) The proposed construction would not exceed any limitation set forth in section 25:30-1-3; therefore, a permit from the Commission is not required and shall not be issued.

**25:30-7-4. Actions required for approved applications**

Upon the determination of the Commission to approve an application, an original permit shall be forwarded to the applicant. The applicant shall complete the following steps:

(1) The applicant for a permit under Section 25:30-1-3 shall record each permit issued by the Commission in the office of the county clerk for the county where the structure is located not later than thirty (30) business days after the Commission issues the permit. If a structure is located in more than one county, the county that contains the majority of the structure is the county in which the permit must be filed. A permit issued under Section 25:30-1-3 (1) shall contain the following statement: "The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit is located within the primary surface or the runway protection zone of a public-use airport, and that the permittee is building a structure upon this real estate with the full knowledge and acceptance that it may be incompatible with normal airport operations including the landing and takeoff of aircraft.";

(2) Every permit issued by the Commission shall specify that obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of the structure shall conform to federal laws and regulations; and

(3) A permit issued in accordance with the provisions of Section 25:30-7-3 is valid only after the Commission receives a certified copy of the recorded permit with the recording data from the county clerk of the county in which the structure is located.

**25:30-7-5. Denial of permit**

(a) **Denial of permit and notification.** If the Commission determines that a permit should not be issued under the provisions of these rules, the Commission shall notify the applicant in writing of its determination by sending it through certified or registered mail to the applicant at the address specified in the application.

(b) **Final determination and/or reconsideration.** The determination is final thirty (30) days after notification of the determination is served, unless the applicant, within the thirty-day period, requests reconsideration in writing to the Commission and provides written evidence showing why the application should have been approved. The Commission has up to a period of thirty (30) days from the receipt of the request. The Commission shall notify the applicant of its determination as specified in subsection (a) of this section. In the event of a second denial by the Commission of the permit request, the applicant can request a hearing before the Commission with reference to the application. A hearing under this section shall be open to the public. The applicant may appear and be heard either in person or by counsel and may present pertinent evidence and testimony. At the hearing, the applicant has the burden to show cause why the Commission should have issued the permit to erect the proposed structure.

**25:30-7-6. Construction of works.**

A permit issued in accordance with the provisions of the Aircraft Pilot and Passenger Protection Act is valid only if the proposed structure has been constructed within ten (10) years of the issuance of a permit by the Commission pursuant to Section 25:30-7-4.

## SUBCHAPTER 9. PERMITS

**25:30-9-1. Contents of permits**

(a) Every permit issued by the Commission shall contain the following:

(1) The date the permit is issued.

(2) The county or counties in which the structure(s) is or are located.

(3) The permit number and date issued, which shall be the date the permit is approved by the Commission or where appropriate, by the Director.

(4) The name and address to whom issued.

(5) The purpose for which the structure will be used.

(6) Survey information of the site location and total height of the structure provided with the application.

(7) Any other items to be specified by the Commission.

(b) In addition to the above, the permit shall contain any additional terms, conditions, limitations, or restrictions the Commission may prescribe.

**25:30-9-2. Acceptance of permit by permittee**

Acceptance of the permit shall be an acknowledgement and agreement that permittee will comply with all the terms, provisions, limitations, conditions and restrictions contained in the permit.

**25:30-9-3. Amendments to permit**

The Commission shall consider amendments to permits that are administrative in nature including the transfer of ownership rights. The permit holder or his legal representative shall notify the Commission in writing of the amendments to the permit and shall provide the affected permit number(s). A change to the latitude/longitude or an

increase in the total height of a permitted structure will require the applicant to obtain a new permit.

## SUBCHAPTER 11. MISCELLANEOUS PROVISIONS

**25:30-11-1. Military airspace**

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

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

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

## APPENDIX A

### Survey Type Adjustment

| Survey Type | Horizontal Adjustment | Survey Type | Vertical 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) |
| 5 | +500 ft (150 m) | E | +125 ft (38 m) |