ESTABLISHMENT OF OR IMPROVEMENT TO PRIVATELY-OWNED AIRPORTS IN NEW YORK STATE

January 2020
SUBJECT: NEW YORK STATE GUIDELINES PRIVATE AIRPORT ESTABLISHMENT

To Private Airport and Heliport Proponents:

The NYSDOT guidelines for establishment or modification of privately-owned airports and heliports are contained in a document entitled ESTABLISHMENT OF OR IMPROVEMENT TO PRIVATELY-OWNED AIRPORTS IN NEW YORK STATE. These guidelines accompany this letter. It may be beneficial to share a copy with the local municipality staff when you discuss the airport or heliport proposal with them.

The first step in airport or heliport establishment or modification is FAA airspace review and approval, which examines potential impacts on nearby aviation facilities and reserves airspace for your airport or heliport. Please contact Mr. Diogenes Ramos of the FAA at the following address to obtain FAA Form 7480-1. The document mentioned above includes a copy of the 7480-1 form for familiarization purposes or go to https://www.faa.gov/documentLibrary/media/Form/faa-form-7480-1-notice-for-construction-2019.pdf

Mr. Diogenes Ramos
Federal Aviation Administration
Airports Division AEA 620
Eastern Region
1 Aviation Plaza
Jamaica, NY  11434-4809
Telephone:  718-553-3341

If the local municipality must review the airport/heliport proposal, New York General Business Law 249 requires that the NYS Department of Transportation Aviation Bureau first review the proposal with regards to State standards and issue a positive determination. State standards require adequate approach surface clearance over public thoroughfares (roads, railroads, navigable waterways, etc.) and compatibility with publicly owned buildings.

The request for a determination must come from the local municipality and include a local legislative resolution that authorizes a representative to submit a request to us. A sample resolution is included in the guidelines.

The accompanying guidelines identify the documents we require for our review, which include:

1. FAA airspace approval letter
2. Topographic quadrangle which identifies the heliport location and the ingress/egress paths
3. Plan view map at 1” equals 100’ or 200’ scale
4. Letter request from municipality with authorizing resolution

Please contact Nazmul Hoque at 518-485-5428 if you have any questions or wish to discuss private airport or heliport establishment.

NYS Department of Transportation
Aviation Bureau
50 Wolf Road, POD-54
Albany, NY  12232
Tel. 518-485-7691; Fax 518-457-9779; Bureau General E-mail:  aviation@dot.ny.gov
Establishment of privately-owned airports (broadly defined to include heliports, seaplane bases and other landing facilities) in New York State is subject to the provisions of NYS General Business Law, Article 14, Section 249. The legislation applies to airports established after January 1, 1970. In accordance with this legislation, you must request authorization to establish the private airport or improvement (see definition of airport improvement) to an existing airport from the governing body of the city, village or town having jurisdiction. Under the same law, the governing body, before granting authorization, must request from the Commissioner of Transportation, a determination as to whether or not the establishment of such a privately-owned airport or improvement complies with standards. The Commissioner of Transportation must make findings of fact (1) that operations of such airport will not conflict with or affect the safety of public buildings or facilities, or operations on public highways or waterways; and (2) that the volume, character and direction of traffic at such airport will not constitute a menace to the safety of operations at other airports in the vicinity. The standards prescribed and documents required for investigation of airport sites are published in the NYS Official Compilation of Codes, Rules and Regulations, Title 17, Transportation, Volume A, Part 75, Approval of Privately Owned Airports.

In order for the Commissioner of Transportation to issue a determination to the local governing body, he must receive documents that are described in paragraph 75.3 of Part 75 of the NYS Official Compilation of Codes, Rules and Regulations cited above (see copy of this reference attached). They generally include the following items:

- Municipal Resolution requesting determination
- Topographical Map showing site
- Site Plan
- FAA Airport Space Determination
- Proponents Letter of Request to Municipality
- Municipal Statement of Owner Consent

One of the required documents is a favorable airspace determination issued by the Federal Aviation Administration (FAA). FAA’s airspace determination is governed by Federal Aviation Regulation Part 157. If you haven’t already done so, you can request an airspace determination using FAA Form 7480-1 available on the web at: [https://www.faa.gov/documentLibrary/media/Form/faa-form-7480-1-notice-for-construction-2019.pdf](https://www.faa.gov/documentLibrary/media/Form/faa-form-7480-1-notice-for-construction-2019.pdf) (see copy attached). Forms may be obtained from the FAA Eastern Region, Airports Division, AEA-620, One Aviation Plaza, Jamaica, NY 11434. Contact Diogenes Ramos at (718) 553-3341, fax (718) 995-5615

Once the New York State Department of Transportation (NYSDOT) has received the request for a determination from the governing municipality and all required documents, an inspection of the proposed airport will be conducted with the
The Commissioner’s finding may include reasonable conditions for the establishment of the proposed airport or improvement such as the requirement to create a displaced landing threshold to provide needed clearances over roads. Waivers to standards may be considered on a case by case basis.

The Commissioner of Transportation or his designee will send a letter to the municipality with his determination as to whether the proposal meets Department standards. This determination should not be construed to mean State approval of the physical development of the site as the law does not give such authority to the State. Upon receipt of favorable determination, the municipality may complete their actions notifying the State as to the final disposition.

Attachments

✓ NYS General Business Law Section 249 Commonly Asked Questions and Answers

✓ Sample Resolution

✓ Airport Closure Notification

✓ State of New York Official Compilation of Rules and Regulations, Title 17, Part 75 “Approval of Privately Owned Airports.”

✓ FAA Form 7480-1 “Notice of Landing Area Proposal.”

For further information, please write or call:

New York State Department of Transportation
Aviation Bureau
50 Wolf Road
Albany, New York 12232

Phone: (518) 485-7691
Fax: (518) 457-9779
Email: aviation@dot.ny.gov
What do I do if there is no local zoning?
You must still apply to the locality and ask for their approval.

What can I do if the local government doesn’t wish to approve or takes no action in regard to the airport or airport improvement proposal?
You’ll have to talk to your locality further.

I am making improvements to taxiways, ramp and/or hangars, but not to the runway, does the General Business Law Section 249 apply?
Section 249 only applies to runway improvements and new runways, whether to an existing airport or new airport, on privately owned land. This state law also applies, in the case of seaplane bases, only to bodies of water that are privately owned (the runway).

How long is the NYSDOT determination good for?
It is valid until the FAA’s airspace determination expires.

If I purchase or sell an airport that has previously received a positive determination under General Business Law Section 249 and local approval, is it necessary to obtain another determination under Section 249?
No, not unless an airport improvement (as described in Part 75) is proposed.
SAMPLE RESOLUTION

TOWN/CITY/VILLAGE OF ________________________
__________________________ COUNTY, NEW YORK
BOARD RESOLUTION PURSUANT TO NEW YORK STATE
GENERAL BUSINESS LAW SECTION 249

WHEREAS, (owner’s names) is/are the owner(s) of a certain parcel of real
property located on ______________ Road/Street, Town/City/Village of
______________________, County of ____________________, State of New York; and

WHEREAS, New York State General Business Law Section 249 provides that no
person shall establish or improve a privately owned (specify: airport/heliport/etc.) except
by authorization of the governing board of the Town/City/Village in which such private
(specify: airport/heliport/etc.) is proposed to be established or improved; and

WHEREAS, New York State General Business Law Section 249 provides that
the governing body of a Town/City/Village shall not authorize the establishment or
improvement of a private (specify: airport/heliport/etc.) at the requested location unless
in accordance with the standards prescribed by the Commissioner of Transportation of
the State of New York; and

WHEREAS, the (specify: airport/heliport/etc.) proposed to be established or
improved will be privately owned and the owner(s) of the real property upon which the
establishment is to take place has (have) consented to such establishment; and

NOW, THEREFORE, BE IT RESOLVED THAT, the New York State
Commissioner of Transportation is hereby requested to make a determination as to
whether or not the establishment or improvement of such a privately owned (specify:
airport/heliport, etc.) complies with his standards adopted pursuant to Section 249 of the New York State General Business Law.

Seconded by: ____________________

DATED:

Roll Call vote as follows: (Names with yes/no/abstention or absent)

(Certified copy specified by Town Clerk, etc. with seal required)
AIRPORT CLOSURE NOTIFICATION

Chapter 478 of the Laws of 1995 (Section 14-h.3 of the NYS Transportation Law) requires property owners to notify the New York State Department of Transportation of their intention to dispose of, sell, lease, or otherwise transfer interest in an air transportation facility that would result in such facility no longer being used for aviation purposes. The Department must receive written notice of the proposed transfer 90 days prior to transfer. Notifications should be forwarded to:

New York State Department of Transportation
Aviation Bureau
50 Wolf Road – POD 54
Albany, NY  12232

When forwarding a notification, we request that all airport tenants be informed of the intended closure, and that evidence of this notification be provided to us. In addition, the Department should be notified of any change of use.

FAA notification is also required in some instances involving deactivation, abandonment or discontinued use of an airport for a period of one year or more. Notification should be done by submittal of Form 7480-1, available on the web at:


The form should be sent to: Diogenes Ramos, FAA Eastern Region, Airports District AEA-620, One Aviation Plaza, Jamaica, NY  11434, tel. (718) 553-3341, fax (718) 995-5614
75.1 Definitions.

For the purposes of this Part, the terms hereinafter listed shall mean as follows:

(a) Landing area.
Any locality, either of land or water, including airports and intermediate landing fields, which is used or intended to be used for the landing and takeoff of aircraft, whether or not facilities are provided for shelter, servicing or repair of aircraft or for receiving or discharging passengers or cargo.

(b) Airport.
Any landing area used regularly by aircraft for receiving or discharging passengers or cargo; or for the landing and takeoff of aircraft being used for personal or training purposes.

(c) Airport improvement.
The extension, alteration, addition to or realignment of the runway(s) of an existing airport, or the modification in any way of the landing or takeoff directions at such an airport.

(d) Approach surface.
(1) For airports used by fixed-wing aircraft.
An imaginary plane sloping upward from a point at the same elevation as, and 200 feet from, the appropriate runway end to provide the required clearances above roads, waterways and railroads. (See Exhibit A [Appendix A-6, infra] for applicable approach surface dimensions.)

(2) For heliports.
An imaginary plane sloping upward from the helipad primary surface to provide the required clearances above roads, waterways and railroads. (See Exhibit B [Appendix A-6, infra] for applicable approach surface dimensions.)

(e) Approach zone.
A trapezoidal area formed by the projection of the approach surface onto the ground directly below the approach surface. Approach zone dimensions are the same as those of the associated approach surface and vary according to runway category, as shown in Exhibit C for airports and Exhibit D for heliports (Appendix A-6, infra) (see “approach surface”, subdivision [d] of this section).

(f) Primary surface.
That surface which is longitudinally centered on a runway or landing area centerline extending the full length of either side of, and 200 feet beyond the ends of, a runway. It is the same elevation as the nearest point of the runway centerline. The primary surface width will vary according to the runway category (see dimension A on Exhibit A). The primary surface of a helipad is the overall size of the landing area (see dimensions R & S on Exhibit B) (Appendix A-6, infra).

(g) Lateral transition surface.
An area on each side of the primary surface of the runway or landing area and approach surface. The lateral transition surface slopes upward and outward on a seven-to-one plane for airports and a two-to-one plane for heliports (see Exhibits C and D [Appendix A-6, infra] for applicable lateral transition surface dimensions for airports and heliports, respectively). The same clearances apply for lateral transition surfaces as apply for approach surfaces (see Exhibits A and B [Appendix A-6, infra]).

(h) Lateral transition zone.
An area on the ground formed by the projection of the lateral transition surface onto the ground directly below the lateral transition surface. Lateral transition zone dimensions are the same as those of the associated lateral
transition surface and vary according to runway category, as shown in Exhibit C for airports and Exhibit D for heliports (Appendix A-6, infra) (see “lateral transition surface”, subdivision [g] of this section).

(i) Visual runway.
A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designations. There are two types of visual runways:
(1) Utility runway.
A runway that is constructed for, and intended to be used by, propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
(2) Larger than utility runway.
A runway that is constructed for, and intended to be used by, propeller-driven aircraft of more than 12,500 pounds maximum gross weight, and turbofan and turbojet aircraft.

(j) Non-precision instrument runway.
A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an approved FAA planning document.

(k) Precision instrument runway.
A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS). It also means a runway for which a precision approach system is planned and is also indicated on an FAA-approved airport layout plan or any other FAA planning document.

(l) Instrument Landing System (ILS).
An Instrument Landing System (ILS) is a system which provides aircraft the lateral, longitudinal and vertical guidance necessary for a landing.

(m) Aircraft operation.
Either a landing or takeoff by an aircraft.

(n) Aircraft.
Any contrivance, now or hereafter invented, for avigation of or flight in the air, except a parachute or other contrivance designed for use as, and carried primarily for, safety equipment.
(1) Fixed-wing aircraft.
An aircraft, the support of which in the air is normally derived from airfoils that are stationary.
(2) Helicopter/rotary-wing aircraft.
An aircraft, the support of which in the air is normally derived from airfoils mechanically rotated about an approximately vertical axis.
(3) Balloon.
An aircraft, the support of which in the air is normally derived from its own buoyancy.

(o) Heliport/helipad.
An airport used exclusively by helicopters (see “airport”, subdivision [b] of this section).

(p) Seaplane operational area.
That part of a body of water on which seaplane operations take place.

(q) Approach/departure paths.
The centerline of approach surfaces (see “approach surface”, subdivision [d] of this section).

75.2 Standards prescribed by Commissioner of Transportation for approval of privately owned airports.

(a) Primary surfaces, approach zones and lateral transition zones shall be clear of all public-owned buildings (see Exhibit C for fixed-wing aircraft and Exhibit D for rotary-wing aircraft and balloons [Appendix A-6, infra]).
75.2 Standards prescribed by Commissioner of Transportation for approval of privately owned airports. (continued)

(b) For airports used by fixed-wing aircraft, the primary, approach and lateral transition surfaces for each runway shall be established in accordance with the dimensions shown on Exhibits A and C, respectively (Appendix A-6, infra).

c) For airports used solely by helicopters or balloons, the primary, approach and lateral transition surfaces shall be established in accordance with the dimensions shown on Exhibits B and D, respectively (Appendix A-6, infra).

d) Primary, approach and lateral transitional surfaces shall maintain the following clearances: 17 feet above interstate highways; 15 feet above all other highways; 23 feet above railroads, and above the highest object which normally traverses waterways.

e) Favorable airspace determination from the Federal Aviation Administration must be issued and a copy submitted to the commissioner.

(f) The commissioner may waive any or all of these requirements if his investigation of all factors discloses that the establishment or alteration of a particular airport does not conflict with or affect the safety of public buildings or facilities, or operations on public highways or waterways, and that the volume, character and direction of traffic at such airport will not constitute a menace to the safety of operations at other airports in the vicinity.

75.3 Documents required by Commissioner of Transportation for investigation of airport sites.

(a) A certified copy of a resolution (or official meeting minutes) duly adopted by the local governing body of the city, village or town in which the airport or any part thereof is proposed to be established or improved, requesting the Commissioner of Transportation to make a determination as to whether or not the establishment or improvement of such a privately-owned airport complies with his standards adopted pursuant to section 249 of the General Business Law.

(b) One USGS topographical map (scale 1:24,000) and one plan view map (scale 1:1000) with the position of the airport indicated thereon. The airport runway(s), helipad or seaplane operational area must be plotted thereon accurately. The direction and length of runways and seaplane operational areas must be included on the map. Helipads must be precisely located with the approach/departure paths clearly indicated. The map must be sufficiently large so as to include all approach and lateral transition zones to the airport.

(c) One copy of the favorable airspace determination issued by the Federal Aviation Administration for the proposed airport establishment or improvement.

(d) One copy of the letter from the proponent to the local governing body requesting approval to establish or improve the airport with the following information included:

(1) name and address of proponent;

(2) the type of aviation activities proposed (aircraft sales and service, flight instruction, crop-dusting, air taxi, etc.);

(3) number of aircraft expected to be based at the airport;

(4) type of aircraft expected to be based at the airport;

(5) whether an instrument approach procedure will be requested for this airport; and

(6) maximum number of daily operations and the anticipated total annual operations.

e) A statement from the local governing body making the request for such determination that the airport proposed to be established or improved is privately owned, and that all of the owners of the real property upon which the establishment or improvement is to take place have consented to such establishment or improvement.

End of Document