

# **TxDOT Guideline Series: Aeronautical Activity; Use of Hangars on Public Airports**

05/28/2013 supersedes all previous

**Aeronautical activity defined** - any of the following - any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following:

- general and corporate aviation, air taxi and charter operations,
- scheduled and nonscheduled air carrier operations, pilot training,
- aircraft rental and sightseeing, aerial photography, crop dusting,
- aerial advertising and surveying, aircraft sales and services, aircraft storage,
- sale of aviation petroleum products, repair and maintenance of aircraft,
- sale of aircraft parts, parachute or ultralight activities,
- and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities. (FAA Order 5190.6B)

**Other activities, such as model aircraft or model rocket operations, are not aeronautical activities.**

**Residential property defined** – Residential property is defined as a piece of real property used for single or multi-family dwellings; duplexes; apartments; primary or secondary residences even when co-located with a hangar, aeronautical facility, or business; hangars that incorporate living quarters for permanent or long-term use; and time-share hangars with living quarters for variable occupancy of any term. (Federal Register / Vol. 76, No. 53 / Friday, March 18, 2011 / Notices)

Texas state and federal grant assurance guidelines imply that it is prohibited to use a hangar for anything other than aeronautical activity. FAA legal has stated that residential property use of structures on publically funded airports is not compatible with the intent and funding purpose of the airport. Privately owned hangars (POH) on a public airport ground leases must comply with federal and state grant assurance as part of the ground lease agreement; the hangar lease is subordinate to the grant assurance APPA contract even if not so stated in the ground lease agreement.

Business areas used to directly support flight activity, such as aircraft dispatch, pilot weather stations, maintenance dispatch and management, on call first responder living quarters, or airport employee on call are considered aeronautical activity. If these activities are located on airport property, the sponsor, with assistance from TxDOT and the FAA, should determine if this business or residential area use is most appropriately located within a hangar or should be located in a non-hangar structure on or off of

airport property.

POH on public airports often have small areas of non aeronautical use in the form of living quarters or storage areas- anything from a lawn chair in the back, to small "getaway" living quarters, to non aeronautical use storage. Federal guidelines make a blanket statement that any non aeronautical use is not permitted; however the sponsor may determine a matter of degree – if any non aeronautical use occurs in a private hanger, then the kind of use, the location, and amount of space used may be evaluated.

**Kind of use** – the sponsor must not permit any non aeronautical use that is hazardous, does not meet local fire or building codes, or might compromise the sponsor’s ability to control the airport property at any time

**Location of use** – the sponsor might determine that the space used cannot reasonable be used to store any kind of airworthy aircraft. Such areas might include the rear area of a nested T hangar, a small back corner of a box hangar, or a cantilevered area above the hangar floor.

**TxDOT Clarifies Permanent / Long Term Residential Use** - if the privately owned hangar owner or tenant lists the hangar address as his / her primary or permanent residence, or resides therein overnight more than 180 days in a calendar year, or has create a time share arrangement for hangar living for any length of time in a calendar year, and there is no aeronautical cause, such as on-call EMS flight crew or on-site airport manager or employee.

TxDOT considers permanent or long term residence on airport property as non aeronautical use and the sponsor must take steps to move this person off of airport property. If the privately owned hangar owner or tenant does not exceed the limits given here or the definition of residential property given above, and the hangar is used 85% or more (determined by square footage) for aeronautical activity, then this become a local issue for the sponsor to regulate this non aeronautical activity. If a privately owned hangar meets the “non-permanent residence” and “85% guideline” for aeronautical activity then any additional non aeronautical use of the hangar that is within local sponsor guidelines usually means this hangar meets the test for aeronautical activity.

If a privately owned hangar owner or lessee uses more than 15% (by square footage) for other than aeronautical activity, then TXDOT would be interested in the circumstances and would render an opinion concerning grant assurances. If a person uses a hangar as a permanent residence but meets the 85% guideline for aeronautical activity vs. living area, then the sponsor would still have to take steps to stop this non aeronautical use of airport property.

For sponsor owned hangars leased to tenants, the sponsor has the right to prohibit living in a hangar to any extent in their minimum standards and may stipulate that 100% of the space is only used for aeronautical activity.