As Introduced

136th General Assembly
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2025-2026

Representatives Fowler Arthur, Callender

To amend sections 4561.01, 4561.021, 4561.05, 4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 4561.15, 4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 4561.36, 4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 4563.09, 4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 4563.20, 4563.21, and 4906.10; to enact section 4561.40; and to repeal section 4561.30 of the Revised Code to make changes to the laws regarding navigable airspace and to name this act the Airspace Protection Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4561.01, 4561.021, 4561.05, 4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 4561.15, 4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 4561.36, 4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 4563.09, 4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 4563.20, 4563.21, and 4906.10 be amended and section 4561.40 of the Revised Code be enacted to read as follows:

Sec. 4561.01. As used in ~~sections 4561.01 to 4561.27 of the Revised Code~~this chapter:

(A) "Aviation" means transportation by aircraft; operation of aircraft; the establishment, operation, maintenance, repair, and improvement of airports, landing fields, and other air navigation facilities; and all other activities connected therewith or incidental thereto.

(B) "Aircraft" means any manned device used or intended for flight in the air. "Aircraft" does not include an ultralight vehicle as defined by 14 C.F.R. part 103.

(C) "Airport" means any location either on land or water which is used for the landing and taking off of aircraft, including heliports and seaplane landing sites. "Airport" does not include a federal navigable waterway or a military airport owned by the United States government.

(D) "Landing field" means any location either on land or water of such size and nature as to permit the landing or taking off of aircraft with safety, and used for that purpose but not equipped to provide for the shelter, supply, or care of aircraft.

(E) "Air navigation facility" means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, and any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid to the safe taking off, navigation, and landing of aircraft, or to the safe and efficient operation or maintenance of an airport or landing

field, and any combination of such facilities.

(F) ~~"Air navigation hazard" means any structure, object of natural growth, or use of land, that obstructs the air space required for the flight of aircraft in landing or taking off at any airport or landing field, or that otherwise is hazardous to such landing or taking off~~"Airport sponsor" means the controlling body of any regional airport authority, port authority, public university or college, county, or municipal corporation, or the owner or private entity that controls a privately owned airport or medical use heliport.

(G) "Air navigation~~,~~" or "navigation of aircraft~~,~~" ~~or "navigate aircraft"~~ means the operation of aircraft in the ~~air space~~ airspace over this state.

(H) ~~"Airperson"~~"Air crew" means any individual who, as the person in command, or as pilot, mechanic, or member of the crew, engages in the navigation of aircraft.

(I) "Airway" means a route in the ~~air space~~ airspace over and above the lands or waters of this state~~, designated by the Ohio aviation board as a route~~ suitable for the navigation of aircraft.

(J) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(K) "Government agency" means a state agency, state institution of higher education, regional port authority, or any other political subdivision of the state, or the federal government or other states.

(L) "Navigable airspace" means the airspace at and above

the minimum flight altitudes, including the airspace needed for safe takeoff and landing.

(M) "Obstruction" means any existing or proposed structure or object of natural growth that exceeds the obstruction standards as found in 14 C.F.R. part 77.

(N) "Structure" means any permanent or temporary object, including a building, tower, crane, scaffold, smokestack, batch plant, earth formation, stockpile, transmission line, light pole, flagpole, ship mast, traverse way, and mobile object.

(O) "Install, erect, construct, establish, or alter" means undertaking any action that affects the natural environment of the site of a structure or object of natural growth, including clearing of land, excavation, or planting. "Install, erect, construct, establish, or alter" does not include surveying changes necessary for temporary use of the site and use in securing geological data, including making necessary borings to ascertain foundation conditions.

(P) "Heliport" means the area of land, water, or a structure that is used or intended to be used for the landing and takeoff of helicopters, including any appurtenant buildings and facilities.

(Q) "Vertiport" means the identifiable ground or elevated areas, including the facilities thereon, that are designed to be used for the landing and takeoff of rotorcraft, tilt-rotor aircraft, or other powered lift aircraft.

(R) "Spaceport" means any facility in the state at which space vehicles may be landed or launched, including all facilities and support infrastructure related to the launch, landing, and payload processing.

Sec. 4561.021. There is hereby created in ~~the division of multi-modal planning and programs of~~ the department of transportation the office of aviation. The director of transportation shall appoint the administrator of the office of aviation~~, who shall serve at the pleasure of the director~~. The administrator of the office of aviation shall be responsible to the director for the organization, direction, and supervision of the work of the office and the exercise of the powers and the performance of the duties assigned to the office. Subject to Chapter 124. of the Revised Code and civil service regulations, the administrator, with the approval of the director, shall select and appoint the necessary employees. The director also may employ experts for assistance in any specific matter at a reasonable rate of compensation.

Sec. 4561.05. The department of transportation shall administer Chapter 4561. of the Revised Code. The department may issue and amend orders, create application forms for permits and certificates issued under this chapter, and adopt, modify, and ~~promulgate such~~ rescind any reasonable rules as it determines necessary to carry out this chapter.

~~The department may issue and amend orders, and make, promulgate, and amend, reasonable general and special rules and procedure, and establish minimum standards.~~

~~The department may establish safety rules governing air navigation hazards, and the location, size, use, and equipment of airports and landing areas, and rules governing air marking, the use of signs or lights designed to be visible from the air, and other air navigation facilities.~~

All rules and amendments thereto, prescribed by the department, shall ~~conform to and coincide~~ be in accordance with,

so far as possible, ~~the "Civil Aeronautics Act of 1938," 52 Stat. 973, 49 U.S.C. 401, as amended,~~ the federal aviation laws passed by the congress of the United States, and the air commerce regulations issued pursuant thereto.

All acts of the department authorized under this section shall be carried on in conformity with Chapter 119. of the Revised Code.

Sec. 4561.06. (A) The department of transportation shall encourage the development of aviation and the promotion of aviation education and research within this state as, in its judgment, may best serve the public interest.

(B)(1) The department may furnish engineering or other technical counsel and services, with or without charge therefor, to any appropriate government agency or private entity desiring such counsel or services in connection with any question or problem concerning the need for, or the location, construction, maintenance, or operation of airports, landing fields, or other air navigation facilities.

(2) The department also may furnish engineering or other technical counsel and services to any appropriate government agency or private entity desiring such counsel or services regarding the federal aviation administration's process under 14 C.F.R. part 77. Such counsel and services may include the process for petitioning the federal aviation administration for discretionary review of a determination, revision, or extension of a determination and any public notice and comment process available.

(C) The department shall be the official representative of this state in all civil actions, matters, or proceedings

pertaining to aviation in which this state is a party or has an interest.

(D)(1) The department may investigate, and may cooperate with any other appropriate government agency in the investigation of, any accident occurring in this state in connection with aviation. It may issue an order to preserve, protect, or prevent the removal of any aircraft or air navigation facility involved in an accident being so investigated until the investigation is completed. The chief executive officer or any law enforcement officer of this state or any political subdivision in which an accident occurred shall assist the department in enforcing such an order when called upon to do so.

(2) The department, in connection with any investigation it is authorized to conduct, or in connection with any matter it is required to consider and determine, may conduct hearings thereon. All such hearings shall be open to the public. The administrator of the office of aviation or those employees of that office or its agents who are designated to conduct such hearings may administer oaths and affirmations and issue subpoenas for and compel the attendance and testimony of witnesses and the production of papers, books, and documents at the hearings. In case of failure to comply with such a subpoena or refusal to testify, the administrator or the employees of the office of aviation or its agents who are designated to conduct the hearings may invoke the aid of the court of common pleas of the county in which the hearing is being conducted, and the court may order the witness to comply with the requirements of the subpoena or to give testimony concerning the matter in question. Failure to obey any order of the court may be punished as a contempt of the court.

(3) Reports of any investigations or hearings, or parts thereof, conducted by the department shall not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in the investigation, hearings, or report thereof, except in actions or proceedings instituted by the state or by the department on behalf of the state, nor shall any member of the department or any of its employees be required to testify to any facts ascertained in, or information obtained by reason of, the member's or employee's official capacity, or to testify as an expert witness in any action or proceeding involving or pertaining to aviation to which the state is not a party. Subject to this section, the department may make available to appropriate agencies of government any information and material developed in the course of its investigations and hearings.

(E) The department shall report to the appropriate agency of the United States all cases that come to its attention of persons navigating aircraft without a valid aviator's certificate, or in which an aircraft is navigated without a valid air-worthiness certificate in probable violation of the laws of the United States requiring such certificates, and it also shall report to the proper governmental agency any probable infringement or violation of laws, rules, and regulations pertaining to aviation that come to its attention.

(F) The department may prepare, adopt, and subsequently revise a plan showing the locations and types of airports, landing fields, and other air navigation facilities within this state~~; it also may prepare another plan of a system of airways within this state, the establishment, maintenance, and use of which will, in its judgment, serve the development of transportation by aircraft within this state in the best~~

~~interests of the public~~. It may publish plans and pertinent information as the public interest requires.

(G) The department periodically may prepare, publish, and distribute such maps, charts, or other information as the public interest requires, showing the location of and containing a description of all airports, landing fields, and other air navigation facilities then in operation in this state, together with information concerning the manner in which, and the terms upon which, those facilities may be used, and showing all airways then in use, or recommended for use, within this state, together with information concerning the manner in which the facilities should be used.

Sec. 4561.08. (A) As used in this section and section 4561.09 of the Revised Code:

(1) "Airport activities" means the acquisition, establishment, construction, enlargement, improvement, equipment, protection of navigable airspace, or operation of airports, heliports, vertiports, spaceports, landing fields, and other air navigation facilities.

(2) "Local authority" means a regional airport authority, port authority, public university or college airport, county, or municipal corporation.

(B) The department of transportation may cooperate with any ~~government agency,~~local authority in ~~the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities~~ conducting airport activities in this state, and may comply with the laws of the United States and any regulations made thereunder with respect to the expenditure of

federal funds for or in connection with such ~~airports, landing fields, and other air navigation facilities~~activities.

The department may accept, receive, and give receipt for federal funds, upon such terms as are prescribed by the laws of the United States and any regulations made thereunder, on behalf of the state, and may treat similarly, for the state or as agent for any ~~regional airport authority, county, or municipal corporation~~ local authority thereof, other funds, public or private, for ~~the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities~~conducting airport activities, whether such work is to be done ~~severally~~ by the state ~~or by~~, a political subdivision ~~thereof or by a regional airport authority, or by the state and a regional airport authority or one or more such political subdivisions jointly, or by any two or more such political subdivisions jointly, or by a regional airport authority and any one or more such political~~ or subdivisions ~~jointly~~of the state, a local authority or authorities, or some combination thereof. The department may also act as agent of any ~~regional airport authority, county, or municipal corporation~~ local authority of the state in any other matter connected with ~~the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities~~conducting airport activities. In the discharge of its duties as such agent, the department may use all its powers in the same manner as when acting for and ~~in~~ on behalf of the state.

(C) The department may approve or disapprove all contracts, grants, and agreements for ~~the acquisition, establishment, construction, enlargement, improvement,~~

~~equipment, or operation of airports, landing fields, and other air navigation facilities~~ conducting airport activities insofar as its rules require.

(D) The department may advise and cooperate with any regional airport authority or political subdivision of this state or of any other state, when it is acting jointly with a regional airport authority or subdivision of this state, in all matters pertaining to ~~the location, acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities~~airport activities.

(E) All federal money accepted by the department pursuant to ~~sections 4561.01 to 4561.151 of the Revised Code~~ this chapter shall be deposited in the state treasury to the credit of the highway operating fund. All such moneys shall be expended in accordance with the terms imposed by the United States in making the grants thereof.

Sec. 4561.09. Each ~~regional airport authority, county, municipal corporation, and agency~~ local authority of this state may accept, receive, and give receipt for federal funds upon such terms as are prescribed by the laws of the United States and any rules and regulations made thereunder, and may treat similarly other funds, public or private, for ~~the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities~~conducting airport activities.

~~The board of trustees of a regional airport authority and the legislative body of each county or municipal corporation~~ A local authority may designate the department of transportation as the agent of ~~such regional airport authority, county, or~~

~~municipal corporation~~ the local authority to accept, receive, and give receipt for federal funds upon such terms as are prescribed by the laws of the United States and any rules or regulations made thereunder, and to treat similarly other funds, public or private, for ~~the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities~~conducting airport activities, whether such work is to be done by the ~~regional airport authority, county, or municipal corporation~~ local authority alone, or jointly with the state, or jointly with the state and other counties or municipal corporations. Such ~~board of trustees or legislative body~~ local authority may designate the department as its agent in any other matter connected with ~~the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities~~conducting airport activities, and may enter into, or authorize the ~~executive department~~ designee of such ~~political subdivision~~ local authority to enter into, an agreement with the department prescribing the terms of such agency, in accordance with the laws of the United States and any rules or regulations made thereunder.

All contracts and grants for ~~the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, or other air navigation facilities~~ airport activities made by a ~~regional airport authority, county, municipal corporation,~~ local authority or agency of this state shall be made ~~pursuant to the~~ only for public-use, publicly owned airports and shall comply with all applicable state and federal laws ~~of this state~~, rules, and regulations governing the making of such contracts and grants~~;~~

~~provided that when the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, or other air navigation facilities is financed wholly or partly with federal funds, the regional airport authority, county, municipal corporation, or agency of this state may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder~~.

Sec. 4561.11. (A) All publicly and privately owned airports, landing fields, and landing areas, including those located on public waters, shall be inspected and approved by the department of transportation before being used for commercial purposes. The department may issue a certificate of approval in each case. ~~The~~ In accordance with Chapter 119. of the Revised Code, the department shall ~~require that a complete plan of such airport, landing field, or landing area~~ establish the documents and information required to be filed with ~~it~~ the department before ~~granting or issuing~~ it will grant or issue such approval; provided that in no case in which the department licenses or certifies for commercial operations an airport, landing field, or landing area constructed, maintained, or supported, in whole or in part, by public funds, under ~~sections 4561.01 to 4561.151 of the Revised Code~~this chapter, shall the public be deprived of the use thereof or its facilities for aviation purposes as fully and equally as all other parties.

In any case in which the department rejects or disapproves an application to commercially operate an airport, landing field, or landing area, or in any case in which the department issues an order requiring certain things to be done before approval, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be

given or such order modified or changed. In any case in which the department considers it necessary, it may order the closing of any airport, landing field, or landing area for commercial purposes until the requirements of the order made by the department are complied with.

Appeal from any action or decision of the department in any such matter shall be made in accordance with sections 119.01 to 119.13 of the Revised Code.

~~The department shall require that any person engaged within this state in operating aircraft, in any form of navigation, shall be the holder of a currently effective aviator's license issued by the civil aeronautics administration.~~

~~The aviator's license required by this section shall be kept in the personal possession of the pilot when the pilot is operating aircraft within this state, and shall be presented for inspection upon the request of any passenger, any authorized representative of the department, or any official manager or person in charge of any airport, landing field, or area in this state upon which the pilot lands.~~

(B) Whoever violates this section shall be fined not more than five hundred dollars, imprisoned not more than ninety days, or both.

Sec. 4561.12. (A) Unless operated by the department of transportation or its agents, no aircraft shall be operated ~~or maintained~~ on any public land or water owned or controlled by this state, or by any political subdivision of this state, except at such places and under such rules and regulations governing and controlling the operation ~~and maintenance~~ of

aircraft as are adopted and ~~promulgated~~ amended by the department in accordance with sections 119.01 to 119.13 of the Revised Code.

Such action and approval by the department shall not become effective until it has been approved by the adoption and ~~promulgation~~ amendment of appropriate rules governing, controlling, and approving said places and the method of operation ~~and maintenance~~ of aircraft, by the department, division, political subdivision, agent, or agency of this state having ownership or control of the places on said public land or water which are affected by such operation ~~or maintenance~~ of aircraft thereon.

(B) Whoever violates this section shall be fined not more than five hundred dollars, imprisoned not more than ninety days, or both.

Sec. 4561.14. (A) No person shall ~~operate~~ do any of the following:

(1) Operate any civil aircraft in this state unless ~~such~~ the person is the holder of a valid ~~aviator's license~~ pilot certification or authorization issued by the United States~~.~~

~~No person operating an aircraft within this state shall fail~~ or a valid pilot certification or similar document issued or validated by the country in which the aircraft is registered;

(2) Fail to exhibit ~~such license~~ the certification or document for inspection upon the demand of any passenger on such aircraft, or ~~fail to exhibit same for inspection~~ upon the demand of any peace officer, member or employee of the department of transportation, or manager or person in charge of an airport or landing field within this state, prior to taking off or upon

landing said aircraft~~.~~

~~No person shall operate~~;

(3) Operate an aircraft within this state unless ~~such~~ the aircraft is licensed and registered by the United States~~; this section is inapplicable~~. This division does not apply to the operation of military aircraft of the United States, aircraft of a ~~state,~~ territory~~,~~ or possession of the United States, or aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such aircraft.

~~No person shall operate~~ (4) Operate an aircraft within this state in violation of any air traffic rules in force under the laws of the United States or under ~~sections 4561.01 to 4561.14 of the Revised Code~~this chapter, and the rules and regulations of the department adopted pursuant thereto.

(B) Whoever violates this section shall be fined not more than five hundred dollars, imprisoned not more than ninety days, or both.

Sec. 4561.15. (A) No person shall commit any of the following acts:

(1) Carry passengers in an aircraft unless the person piloting the aircraft is a holder of a valid ~~airperson's~~ air crew certificate of competency issued by the United States that authorizes the holder to carry passengers and the person is carrying any passenger in accordance with the applicable certificate requirements; this division of this section is inapplicable to the operation of military aircraft of the United States, aircraft of a state, territory, or possession of the United States, or aircraft licensed by a foreign country with

which the United States has a reciprocal agreement covering the operation of such aircraft;

(2) Operate an aircraft on the land or water or in the ~~air space~~ airspace over this state in a careless or reckless manner that endangers any person or property, or with willful or wanton disregard for the rights or safety of others;

(3) Operate an aircraft on the land or water or in the ~~air space~~ airspace over this state while under the influence of intoxicating liquor, controlled substances, or other habit-forming drugs;

(4) Tamper with, alter, destroy, remove, carry away, or cause to be carried away any object used for the marking of airports, landing fields, or other aeronautical facilities in this state, or in any way change the position or location of such markings, except by the direction of the proper authorities charged with the maintenance and operation of such facilities, or illegally possess any object used for such markings;

(5) Operate an unmanned aerial vehicle, as defined in section 4561.50 of the Revised Code, on the land or water or in the ~~air space~~ airspace over this state in a manner that knowingly endangers any person or property or purposely disregards the rights or safety of others.

(B) Jurisdiction over any proceedings charging a violation of this section is limited to courts of record.

(C) Whoever violates this section shall be fined not more than five hundred dollars, imprisoned not more than six months, or both.

Sec. 4561.31. ~~(A)(1)~~(A) Notwithstanding section 4561.01 of the Revised Code, as used in sections 4561.31 to 4561.40 of the

Revised Code, "airport" means any airport issued a commercial operating certificate and a medical use heliport.

(B) Except as provided in divisions ~~(D),~~ (E)~~,~~ and (F) of this section, ~~no~~ any person ~~shall commence to~~ that is required to file notice with the federal aviation administration under 14 C.F.R. part 77 before the person may install, erect, construct, establish, or alter any structure or object of natural growth in this state~~, any part of which will penetrate or is reasonably expected to penetrate into or through any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface without first obtaining~~ also shall obtain a permit from the department of transportation under section 4561.34 of the Revised Code. ~~The replacement of an existing structure or object of natural growth with, respectively, a structure or object that is not more than ten feet or twenty per cent higher than the height of the existing structure or object, whichever is higher, does not constitute commencing to install a structure or object, except when any part of the structure or object will penetrate or is reasonably expected to penetrate into or through any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface. Such replacement of a like structure or object is not exempt from any other requirements of state or local law.~~

~~(2) No person shall substantially change, as determined by the department, the height or location of any structure or object of natural growth in this state, any part of which, as a result of such change, will penetrate or is reasonably expected to penetrate into or through any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface, and for which installation had~~

~~commenced or which was already installed prior to October 15, 1991, without first obtaining a permit from the department under section 4561.34 of the Revised Code. This division does not exempt the structure or object from any other requirements of state or local law.~~

~~(3) No person shall substantially change, as determined by the department, the height or location of any structure or object of natural growth for which a permit was issued pursuant to section 4561.34 of the Revised Code, without first obtaining an amended permit from the department under that section.~~

~~(B)~~ (C) No person shall install, erect, construct, establish, alter, operate, or maintain any structure or object of natural growth for which a permit has been issued under section 4561.34 of the Revised Code, except in compliance with the permit's terms and conditions and with any rules or orders issued under ~~sections 4561.30 to 4561.39 of the Revised Code~~this chapter.

~~(C)~~ (D) The holder of a permit issued under section 4561.34 of the Revised Code~~, with the department's approval,~~ may transfer the permit to another person who agrees to comply with its terms and conditions. The transferor shall notify the department of the transfer not later than sixty days after the transfer.

~~(D) Any~~ (E) A person ~~who receives~~ shall apply for a permit to install, erect, construct, establish, ~~substantially change,~~ or ~~substantially~~ alter a structure or object of natural growth from an airport zoning board ~~on or after October 15, 1991,~~ under Chapter 4563. of the Revised Code when both of the following apply:

(1) The airport zoning board exists in the geographical area of the proposed installation, erection, construction, establishment, or alteration of the structure or object of natural growth.

(2) The airport zoning board has adopted airport zoning regulations pursuant to section 4563.032 of the Revised Code.

Any person required to apply for a permit from the airport zoning board under this division is not required to apply for a permit from the department under ~~sections 4561.30 to 4561.39 of the Revised Code, provided that the airport zoning board has adopted airport zoning regulations pursuant to section 4563.032 of the Revised Code~~this chapter.

~~(E)~~ (F) Any person ~~who receives~~ required to apply for a certificate from the power siting board pursuant to section 4906.03 or 4906.10 of the Revised Code ~~on or after October 15, 1991,~~ is not required to apply for a permit from the department under ~~sections 4561.30 to 4561.39 of the Revised Code~~this chapter.

~~(F) Any person who, in accordance with 14 C.F.R. 77.11 to 77.19, notified the federal aviation administration prior to June 1, 1991, that the person proposes to construct, establish, substantially change, or substantially alter a structure or object of natural growth is not required to apply for a permit from the department under sections 4561.30 to 4561.39 of the Revised Code in connection with the construction, establishment, substantial change, or substantial alteration of the structure or object of natural growth either as originally proposed to the federal aviation administration or as altered as the person or the federal aviation administration considers necessary, provided that the federal aviation administration, pursuant to~~

~~14 C.F.R. Part 77, does not determine that the proposed construction, establishment, substantial change, or substantial alteration of the structure or object of natural growth would be a hazard to air navigation.~~

(G)(1) Whoever violates division ~~(A)(1) or (2)~~(B) of this section is guilty of a misdemeanor of the third degree. Each day of violation constitutes a separate offense.

(2) Whoever violates division ~~(A)(3) or (B)~~ (C) of this section is guilty of a misdemeanor of the first degree. Each day of violation constitutes a separate offense.

Sec. 4561.32. (A) In accordance with Chapter 119. of the Revised Code, the department of transportation shall adopt, and may amend and rescind, any rules necessary to administer sections ~~4561.30~~4561.31 to ~~4561.39~~4561.40 of the Revised Code ~~and shall adopt rules~~ based ~~in whole~~ upon the obstruction standards set forth in 14 C.F.R. ~~77.21 to 77.29, as amended~~part 77, to uniformly regulate the height and location of structures and objects of natural growth ~~in any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface~~that are considered an obstruction to air navigation in accordance with those federal standards. The rules shall provide that the department, upon a determination that the height and location of a structure or object of natural growth, as set forth in the permit application, will be an obstruction, may grant a permit under section 4561.34 of the Revised Code that includes a waiver from full compliance with the obstruction standards found in 14 C.F.R. part 77. The rules shall ~~also~~ provide ~~that the department shall base its~~ what information shall be included in the department's decision ~~on whether~~ to grant such a waiver on sound

aeronautic principles, ~~as set out in F.A.A. technical manuals, as amended, including advisory circular 150/5300-13, "airport design standards"; 7400.2c, "airspace procedures handbook,"; and the U.S. terminal procedures handbook~~ including the results of any studies or investigations conducted and any federal aviation administration technical manuals, advisory circulars, airport design standards, airspace procedures, and the U.S. terminal procedures that were consulted.

The consideration of safety shall be paramount to considerations of economic or technical factors. In making a determination under this division, the department may consider findings and recommendations of other government entities and interested persons concerning the proposed structure or object of natural growth. However, those findings and recommendations are not binding on the department.

(B) The department may conduct any studies or investigations it considers necessary to carry out sections ~~4561.30~~4561.31 to ~~4561.39~~4561.40 of the Revised Code or may enter into any contract for those services.

Sec. 4561.33. (A) An applicant for a permit required by section 4561.31 of the Revised Code shall ~~file with the department of transportation an application made on forms the department prescribes, which shall contain the following information:~~

~~(1) A description of the structure or object of natural growth for which the permit is sought, its location, and the planned date of commencement of installation;~~

~~(2) A statement explaining the need for the structure or object;~~

~~(3) A statement of the reasons why the proposed location is best suited for the structure or object;~~

~~(4) Any additional information the applicant considers relevant or the department requires~~.

~~An application for an amended permit shall be in the form and contain the information the department prescribes.~~

~~In lieu of an application prescribed by the department, an applicant may file a copy of the~~ submit a completed federal aviation ~~administration's~~ administration form 7460-1, "notice of proposed construction or alteration" to the federal aviation administration. Such submission shall serve as the application for the permit required from the department of transportation.

(B) ~~An applicant shall file an application not less than thirty days nor more than two years prior to the planned date of commencement of installation or substantial change. This period may be waived by the department for unforeseen emergencies.~~

~~(C) If the structure or object in the application could have a potential impact on a military installation, as such an impact is described in the airfield land use compatibility study of that military installation, the applicant shall send, within seven days after the filing of his application, a copy of the application to the commander of the installation and the appropriate branch of the United States department of defense.~~

~~(D)~~ It is not necessary that ownership of, option for, or other possessory right to a specific site be held by the applicant before an application may be filed under this section.

~~(E)~~ (C) If the department has reason to believe that any person has or is commencing to install, erect, construct, establish, or alter a structure or object of natural growth for

which a permit appears to be required under section 4561.31 of the Revised Code, but concerning which no application for a permit under section 4561.34 of the Revised Code has been filed or no permit issued, the department shall issue an order to such person to appear before the department and show cause why a permit need not be obtained.

Sec. 4561.34. (A) The department of transportation, subject to Chapter 119. of the Revised Code, shall grant or deny a permit or grant a permit with waiver from obstruction standards for which an application has been filed under section 4561.33 of the Revised Code. In determining whether to grant or deny a permit, the department shall ~~determine whether the height and location of a structure or object of natural growth, as set forth in the permit application, will be an obstruction to air navigation based upon the rules adopted under section 4561.32 of the Revised Code if installed as proposed. In the case of an application to substantially change an existing structure or object, the department shall determine whether the change in the height or location of the structure or object, as set forth in the application, will create such an obstruction. The consideration of safety shall be paramount to considerations of economic or technical factors. In making a determination under this division the department shall render its decision upon the record, but may consider findings and recommendations of other governmental entities and interested persons concerning the proposed structure or object; however, those findings and recommendations are not binding on the department~~conduct its own study and review of the permit application concurrent with the federal aviation administration's review. Not later than seventy-five days after the federal aviation administration issues its final determination, the department shall grant the

permit, deny the permit, or grant a permit with waiver from obstruction standards. In making the department's decision, the department shall do one of the following:

(1) If a federal aviation administration form 7460-1 was filed, but the proposed installation, erection, construction, establishment, or alteration does not meet the notification standards under 14 C.F.R. part 77, the department shall issue a written statement to the applicant that no permit is required.

(2) If the federal aviation administration issues a determination of hazard, the department shall deny the permit.

(3) If the federal aviation administration issues a determination of no hazard and the proposed installation, erection, construction, establishment, or alteration will not be an obstruction to the navigable airspace of an airport, the department shall issue a permit.

(4) If the federal aviation administration issues a determination of no hazard, but the proposed installation, erection, construction, establishment, or alteration will be an obstruction to the navigable airspace of an airport, the department shall make a determination of whether to grant a permit with waiver from obstruction standards pursuant to section 4561.32 of the Revised Code or to deny the permit. Prior to the department's determination, all of the following shall occur:

(a) Not later than five business days after the receipt of the federal aviation administration's final determination, the department shall contact the airport sponsor and request a written decision, on official letterhead, as to the federal aviation administration's determination of no hazard. If the

airport sponsor objects to the determination of no hazard, the airport sponsor within its written decision shall list the specific aeronautical impacts the obstruction would have to its facility or to the navigable airspace of the airport. The decision also shall include any proposed conditions or modifications that would allow the obstruction to exist in the navigable airspace of the airport.

(b) The airport sponsor shall submit the written decision to the department not later than sixty days after the federal aviation administration's determination is final.

(c) Not later than five days after receipt of the airport sponsor's written decision, the department shall forward that written decision to the permit applicant. The permit applicant may submit additional information to the department in response to the airport sponsor's written decision not later than seven days after receipt of the written decision. If submitted, the department shall consider any additional information in making its decision regarding the permit.

(B) ~~The~~ If a permit is denied, the department ~~may grant a permit under this section subject to~~ shall indicate any modification ~~of~~ to the height or location of ~~a structure or object the department considers necessary. In the absence of such modification or unless it grants a waiver from compliance with the obstruction standards, the department shall deny a permit if it determines, in accordance with division (A) of this section, that a proposed structure or object or a change to an existing structure or object, as set forth in the application, would be an obstruction to air navigation based upon the rules adopted under section 4561.32 of the Revised Code~~the proposed installation, erection, construction, establishment, or

alteration that would allow the department to issue the permit.

(C) In rendering a decision on an application for a permit, the department shall issue an opinion stating ~~its reasons for the action taken. The department~~ all factors it considered in making its decision, and shall serve upon the applicant and ~~each party, as provided in division (C) of section 4561.33 of the Revised Code,~~ the applicable airport sponsor a copy of its decision regarding a permit and the opinion. The department shall include with the copy of its decision a notice that an appeal of the decision may be made in accordance with Chapter 119. of the Revised Code.

(D) Any written decisions issued in accordance with this section may be sent to the recipient through electronic means, in addition to regular mail, in order to expedite sharing the content of the decision.

Sec. 4561.341. Pursuant to any consultation with the power siting board regarding an application for certification under section 4906.03 or 4906.10 of the Revised Code, the office of aviation ~~of the division of multi-modal planning and programs~~ of the department of transportation shall review the application to determine whether the facility constitutes or will constitute an obstruction to air navigation based upon the rules adopted under section 4561.32 of the Revised Code. Upon review of the application, if the office determines that the facility constitutes or will constitute an obstruction to air navigation, it shall provide, in writing, this determination and either the terms, conditions, and modifications that are necessary for the applicant to eliminate the obstruction or a statement that compliance with the obstruction standards may be waived, to the power siting board under section 4906.03 or 4906.10 of the

Revised Code, as appropriate.

Sec. 4561.35. The department of transportation shall specify all of the following in each permit and each permit with a waiver granted under section 4561.34 of the Revised Code:

(A) The terms and conditions regarding the height and location of the structure or object of natural growth that the department considers necessary to ensure the safety of aircraft in landing or taking off at any airport, the safety of persons occupying or using such area, and the security of property, including any modifications to the height or location of the structure or object of natural growth set forth in the permit application. If the department modifies the location of all or part of a proposed structure or object, it shall provide notice of the relocation to the municipal corporation or township and the county to which the structure or object is being relocated, and the persons residing in the area of the relocation, by whatever means the department considers appropriate.

(B) The obstruction markers, markings, lighting, or other visual or aural identification, if any, that must be installed on or in the vicinity of the structure or object of natural growth as a condition of the permit. Any such identification shall conform as much as practicable to federal guidelines and standards. As a condition of the permit, the department ~~shall~~ may require that any required lighting be maintained in operable condition.

Sec. 4561.36. (A) The department of transportation shall not issue any permit under ~~sections 4561.30 to 4561.39 of the Revised Code~~ this chapter that will result in the creation of an obstruction ~~to air navigation~~ based upon the rules adopted under section 4561.32 of the Revised Code, unless the department

waives compliance with the obstruction standards included in those rules.

(B) ~~Sections 4561.30 to 4561.39 of the Revised Code do~~ This chapter does not authorize the department to restrict the height or location of structures or objects of natural growth under ~~those sections~~ the chapter for any reason other than to ensure the safety of aircraft in landing and taking off at an airport, the safety of persons occupying or using the area, and the security of property.

Sec. 4561.37. ~~Sections 4561.30 to 4561.39 of the Revised Code~~ (A)(1) This chapter and the rules adopted under it shall not be construed to require the removal or lowering of, or the making of any other change ~~in~~ to, any structure or object of natural growth ~~not conforming to rules or orders of the department of transportation under those sections when adopted or amended, or otherwise interfere with the continuance of any nonconforming use; except that, if ordered by the department, the~~ that was in existence prior to the original enactment of this section on October 15, 1991, or for which a permit, a written statement of no permit required, or a permit with waiver from obstruction standards was issued by the department of transportation.

(2) Division (A)(1) of this section does not apply if the structure or object of natural growth was altered in a way that is contrary to the terms and conditions of the issued permit.

(B) A structure or object of natural growth is subject to the laws and rules that are effective as of the issue date of the permit for the structure's or object of natural growth's installation, erection, construction, establishment, or alteration. However, any substantial change to the structure or

substantial growth to the object of natural growth is subject to the laws and rules that are effective as of the date the substantial change or growth occurs.

(C) The owner of a nonconforming structure or object that is permanently out of service, or is partially dismantled, destroyed, deteriorated, or decayed shall demolish or remove that structure or object~~; and, if~~. If any nonconforming use is voluntarily discontinued for two years or more, any future use of the premises shall be in conformity with ~~sections 4561.30 to 4561.39 of the Revised Code~~this chapter.

Sec. 4561.38. With respect to any structure or object of natural growth for which a permit is required under section ~~4561.34~~ 4561.31 of the Revised Code, rules adopted or orders issued under ~~sections 4561.30 to 4561.39 of the Revised Code~~ this chapter and the terms and conditions of any permit issued under ~~those sections~~ it prevail in the event of a conflict with any airport zoning regulation adopted under sections 4563.01 to 4563.21 of the Revised Code, any local regulation under section 4905.65 of the Revised Code, any zoning regulation otherwise applicable to the structure or object, or the terms or conditions of any permit issued under sections 4563.01 to 4563.21 of the Revised Code after ~~the effective date of this section~~the effective date of this amendment.

Sec. 4561.39. In addition to any other remedy provided by law, the department of transportation or an airport sponsor may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any alleged violation or threatened violation of ~~sections 4561.30 to 4561.39 of the Revised Code~~ this chapter or any rule adopted or order issued under ~~them~~it. The court may grant such relief as may be

necessary.

Sec. 4561.40. The department of transportation and the office of aviation are not liable for any damages caused by a structure or object of natural growth that is an obstruction if any of the following apply:

(A) The structure or object of natural growth was installed, erected, constructed, established, or altered without a permit issued under this chapter.

(B) A permit was issued under this chapter for the structure or object of natural growth, but the structure or object of natural growth was installed, erected, constructed, established, altered, or allowed to grow in a manner that is not in compliance with the terms and conditions of the permit.

(C) The structure or object of natural growth was installed, erected, constructed, established, or altered pursuant to a certificate issued by the power siting board pursuant to section 4906.03 or 4906.10 of the Revised Code.

(D) The structure or object of natural growth was installed, erected, constructed, established, or altered pursuant to a permit issued by an airport zoning board pursuant to Chapter 4563. of the Revised Code.

Sec. 4561.99. Whoever violates any provision of ~~sections 4561.021 to 4561.13 of the Revised Code~~ this chapter for which no penalty otherwise is provided in the section that contains the provision violated shall be fined not more than five hundred dollars, imprisoned not more than ninety days, or both.

Sec. 4563.01. As used in ~~sections 4563.01 to 4563.21 of the Revised Code~~this chapter:

(A) "Airport" means any area of land or water designed and set aside for the landing and taking off of aircraft, and for that purpose possessing one or more hard surfaced runways of a length of not less than ~~three~~ one thousand ~~five~~ eight hundred feet, and designed for the storing, repair, and operation of aircraft, and utilized or to be utilized in the interest of the public for such purposes, and any area of land designed for such purposes for which designs, plans, and specifications conforming to the above requirements have been approved by the office of aviation ~~of the division of multi-modal planning and programs~~ of the department of transportation and for which not less than seventy per cent of the area shown by such designs and plans to constitute the total area has been acquired. An airport is "publicly owned" if the portion thereof used for the landing and taking off of aircraft is owned, operated, leased to, or leased by the United States, any agency or department thereof, this state or any other state, or any political subdivision of this state or any other state, or any other governmental body, public agency, or public corporation, or any combination thereof.

(B) "Airport hazard" means any structure or object of natural growth or use of land within an airport hazard area that obstructs the ~~air space~~ airspace required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to ~~such landing or taking off of aircraft~~air navigation.

(C) "Airport hazard area" means any area of land adjacent to an airport that has been declared to be an "airport hazard area" ~~by the office of aviation in connection with any airport approach plan recommended by the office~~as depicted on an approved airport approach plan.

(D) "Political subdivision" means any municipal corporation, township, or county.

(E) "Person" means any individual, firm, ~~copartnership~~partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

(F) "Structure" ~~means any erected object, including, without limitation, buildings, towers, smokestacks, and overhead transmission lines~~has the same meaning as in section 4561.01 of the Revised Code.

(G) "Navigable airspace" has the same meaning as in section 4561.01 of the Revised Code.

Sec. 4563.03. (A) When an airport is publicly owned and all airport hazard areas appertaining to such airport are located inside the territorial limits of one political subdivision, the legislative authority of the political subdivision shall constitute the airport zoning board. Such legislative authority, acting as the airport zoning board, may adopt, administer, and enforce airport zoning regulations for such airport hazard area. Airport zoning regulations may divide an airport hazard area into zones, and, within such zones, regulate and restrict land uses which by their nature constitute airport hazards, and regulate and restrict the height to which structures may be erected or objects of natural growth may be allowed to grow. ~~An obstruction of air space in an airport hazard area rising to a height not in excess of forty feet above the established elevation of the airport, or three feet for each one hundred feet or fraction thereof its location is distant from the nearest point in the perimeter of the airport,~~

~~whichever is greater, shall be prima facie reasonable.~~

(B) When an airport is publicly owned and any airport hazard area appertaining to such airport is located in more than one political subdivision, the board of county commissioners of each county in which such airport or such airport hazard area may exist, shall constitute the airport zoning board, which shall have the same power to adopt, administer, and enforce airport zoning regulations as provided in division (A) of this section. The board shall elect its own ~~chairman~~ chairperson.

Sec. 4563.031. Within the approach, transitional, ~~inner~~ horizontal, and conical areas at a publicly owned airport, an airport zoning board constituted under section 4563.03 of the Revised Code may adopt, administer, and enforce zoning regulations, in addition to its regulations adopted under section 4563.03 of the Revised Code, in order to ensure the safety of the navigable airspace, persons occupying or using such areas, and the security of property located within such areas. Airport zoning regulations may divide such approach, transitional, ~~inner~~ horizontal, and conical areas into zones, and within such zones, regulate and restrict land use in order to minimize injury, loss of life, and hazards to the safety of persons or to the security of property within such zones, and may include regulations governing population density and concentration of persons within such zones.

Prior to initial zoning under this section, the procedures set forth in sections 4563.05, 4563.06, and 4563.08 of the Revised Code for establishing the boundaries of the various zones and adopting the regulations therefor, shall be followed. "Approach area," "transitional area," "~~inner~~ horizontal area," or "conical area," respectively, means any area of land adjacent

to an airport and within an airport hazard area, which has been declared to be an "approach area," "transitional area," "~~inner~~ horizontal area," or "conical area" by the office of aviation, based upon the approach plan for the airport. No zone established under this section may include any area outside such approach, transitional, ~~inner~~ horizontal, and conical areas.

Sec. 4563.032. Any airport zoning board that adopts, administers, and enforces airport zoning regulations for an airport hazard area under section 4563.03 of the Revised Code shall adopt, as minimum regulations, the rules adopted by the department of transportation under section 4561.32 of the Revised Code that are based ~~in whole~~ upon the obstruction standards set forth in 14 C.F.R. ~~77.21 to 77.29, as amended,~~ part 77, in order to uniformly regulate the height and location of structures and objects of natural growth ~~in any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface~~pursuant to section 4563.031 of the Revised Code.

Sec. 4563.04. In the event of conflict between any airport zoning regulations adopted under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter, and any other zoning regulations applicable to the same area, whether the conflict be with respect to the height of structures or objects of natural growth, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the limitation or requirement best calculated to ~~insure~~ ensure safety shall govern.

Sec. 4563.05. Prior to initial zoning of any airport hazard area under ~~sections 4563.01 to 4563.21, inclusive, of the~~

~~Revised Code~~this chapter, the airport zoning board which is to adopt the regulations shall appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the airport zoning board shall not hold its public hearings or take other action until it has received the final report of such commission. Where a city planning commission, township zoning commission, or county rural zoning commission already exists, it may be appointed as the airport zoning commission.

Sec. 4563.06. No airport zoning regulations shall be adopted, amended, or changed under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter, except by action of the legislative body of the political subdivision, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least thirty days notice of the hearing shall be published in a newspaper of general circulation in the political subdivision in which the airport hazard area to be zoned is located and on the political subdivision's internet web site.

Sec. 4563.07. All airport zoning regulations adopted under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~ this chapter shall be reasonable, and none shall impose any requirement or restriction which is not reasonably necessary to ~~insure~~ ensure the safety of ~~aircraft in landing and taking off and~~ air navigation, the safety of persons occupying or using the area, and the security of property thereon. In determining what regulations are necessary, each political subdivision or airport zoning board shall consider, among other things, the character

of the flying operations expected to be conducted at the airport, the per cent of slope or grade customarily used in descent or ascent of the aircraft expected to use the airport with reference to their size, speed, and type, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put or is adaptable.

Sec. 4563.08. In order to define and determine the airport hazard area in which airport zoning shall be applicable, the office of aviation, upon request of any airport zoning commission appointed pursuant to section 4563.05 of the Revised Code, shall ~~formulate and adopt, and may revise when necessary,~~review and approve an airport approach plan for any airport within its jurisdiction. ~~Each~~ The airport zoning commission shall develop the plan. The plan shall indicate the airport hazard area, the circumstances under which structures, objects of natural growth, public highways, and certain uses of land would be airport hazards, and the height limits of structures and objects of natural growth, and what other restrictions should be contained in the airport zoning regulations. In ~~adopting or revising~~ developing the plan, the ~~office~~ airport zoning commission shall consider, among other things, the size, type, and speed of aircraft expected to use the airport, the character of the flying operations expected to be conducted at the airport, the traffic pattern and regulations affecting flying operations at the airport, the location of public highways, the nature of the terrain, the height of existing structures and objects of natural growth above the level of the airport, and the possibility of lowering or removing existing obstructions. The ~~office~~ airport zoning commission may obtain and consider information from and the

opinion of any agency of the federal government charged with the promotion, regulation, or control of civil aeronautics as to the approaches necessary to safe flying operations at the airport.

Sec. 4563.09. No airport zoning regulations adopted under ~~sections 4563.01 to 4563.21 of the Revised Code~~ this chapter shall require the removal, lowering, or other change or alteration of any structure or object of natural growth not conforming to the regulations ~~when adopted or amended~~on or before January 1, 2004, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 4563.14 of the Revised Code.

Sec. 4563.10. Nothing in ~~sections 4563.01 to 4563.21 of the Revised Code,~~this chapter shall confer any power on any political subdivision or airport zoning board to prohibit the use of any land for farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, or animal and poultry husbandry, except where such use shall create an airport hazard. The provisions of ~~sections 4563.01 to 4563.21 of the Revised Code~~ this chapter shall not apply in respect to the location, relocation, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures, now existing or constructed in the future, of any public utility or railroad.

Sec. 4563.11. All airport zoning regulations adopted under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this chapter shall provide for the administration and enforcement of such regulations. The duties of any administrative agency designated pursuant to ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this chapter shall include that of issuing all permits under section 4563.12 of the Revised Code.

Sec. 4563.12. Airport zoning regulations adopted under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this chapter may require that a permit be obtained before any new structure or use may be constructed or established and before any existing structure or use may be substantially changed or substantially altered in an airport hazard area. No permit shall be granted that would allow the establishment or creation of an airport hazard, or permit a nonconforming structure to be made higher or a nonconforming object of natural growth to become higher or become a greater hazard to air navigation than it was when the applicable regulations were adopted or than it is when the application for a permit is made. If any nonconforming use is voluntarily discontinued for two years or more, any future use of the premises shall be in conformity with ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter.

Sec. 4563.13. All airport zoning regulations adopted under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this chapter shall provide for an airport zoning board of appeals. Where a zoning board of appeals already exists, it may be designated as the airport zoning board of appeals. The airport zoning board of appeals, except in those instances in which an existing zoning board of appeals is designated as the airport zoning board of appeals, shall consist of five members, each to be appointed for a term of three years by the authority adopting the regulations and subject to removal by the appointing authority for cause upon written charges and after public hearing. The first members of such board of appeals shall be so designated that two shall serve for one year, two shall serve for two years, and one shall serve for three years.

Sec. 4563.16. Any person desiring to erect any structure, or increase the height of any structure, or permit the increases

in height of any object of natural growth, or otherwise use ~~his~~ the person's property in any manner in conflict with airport zoning regulations adopted under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter, may apply to the airport zoning board of appeals for a variance from the zoning regulations in question. Such variance shall be allowed where a literal application or enforcement of the regulations would result in unnecessary hardship and the relief granted would not be contrary to the public interest or create conditions dangerous to the safety of aircraft using the airport or the navigable airspace of an airport, but would do substantial justice and would not be in conflict with factors set down for consideration in ~~sections 4563.07 and 4563.08 of the Revised Code~~this chapter. The board of appeals may subject any variance to any reasonable conditions that ~~they deem~~ it considers necessary.

Sec. 4563.18. (A) ~~Any person aggrieved by any~~ Either of the following may appeal a decision ~~of~~ an administrative agency made in its administration of airport zoning regulations adopted under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code, or any~~ this chapter:

(1) Any person aggrieved by the decision;

(2) Any governing body of a political subdivision or any airport zoning board ~~which is of the opinion that a~~ that considers the administrative agency's decision ~~of such an administrative agency is~~ an improper application of airport zoning regulations ~~of concern to such governing body or board, may~~.

The appeal shall be made to the airport zoning board of appeals authorized to hear and decide appeals from the decisions

of ~~such~~ the administrative agency.

(B) All appeals taken under this section shall be taken within twenty days after an order is filed in the office of the administrative agency, as provided by the rules of the airport zoning board of appeals, by filing ~~with the administrative agency from which the appeal is taken and with the airport zoning board of appeals~~ a notice of appeal specifying the grounds of such appeal. The notice of appeal shall be filed with the administrative agency from which the appeal is taken and with the airport zoning board of appeals. The administrative agency from which the appeal is taken shall transmit to the airport zoning board of appeals all the papers constituting the record upon which the action appealed from was taken.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrative agency from which the appeal is taken certifies to the airport zoning board of appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed other than by order of the airport zoning board of appeals on notice of the agency from which the appeal is taken and on due notice to the parties in interest.

(D) The airport zoning board of appeals shall fix a reasonable time for the hearing of appeals that is not more than thirty days after the filing of the notice of appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent, or by attorney.

(E) The airport zoning board of appeals, in conformity

with ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter, may reverse, affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from.

Sec. 4563.20. (A) No person shall violate any regulation, order, or ruling promulgated or made pursuant to ~~sections 4563.01 to 4563.21 of the Revised Code~~this chapter.

(B) Whoever violates this section shall be fined not more than one hundred dollars. Each day's willful continuation of the violation is a separate offense.

Sec. 4563.21. The political subdivision or airport zoning board adopting zoning regulations under ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this chapter may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter, or of airport zoning regulations adopted under ~~such sections~~it, or of any order or ruling made in connection with the administration or enforcement. The court shall adjudge to the plaintiff such relief, by way of injunction, which may be mandatory, or otherwise, as may be proper under all the facts of and circumstances of the case, in order fully to effectuate the purposes of ~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this chapter and of the regulations adopted and orders and rulings made pursuant thereto.

Sec. 4906.10. (A) The power siting board shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, or modifications of the construction, operation, or maintenance of the major utility facility as the board considers

appropriate. The certificate shall be subject to sections 4906.101, 4906.102, and 4906.103 of the Revised Code and conditioned upon the facility being in compliance with standards and rules adopted under section 4561.32 and Chapters 3704., 3734., and 6111. of the Revised Code. An applicant may withdraw an application if the board grants a certificate on terms, conditions, or modifications other than those proposed by the applicant in the application.

The board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the board, unless it finds and determines all of the following:

(1) The basis of the need for the facility if the facility is an electric transmission line or gas pipeline;

(2) The nature of the probable environmental impact;

(3) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations;

(4) In the case of an electric transmission line or generating facility, that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, that the facility will serve the interests of electric system economy and reliability, and, in the case of an electric transmission line, that the facility must consider implementing cost-effective advanced transmission technologies to maximize the value, expand capacity, or improve the reliability of the facility;

(5) That the facility will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those chapters and under section 4561.32 of the Revised Code. In determining whether the facility will comply with all rules and standards adopted under section 4561.32 of the Revised Code, the board shall consult with the office of aviation ~~of the division of multi-modal planning and programs~~ of the department of transportation under section 4561.341 of the Revised Code.

(6) That the facility will serve the public interest, convenience, and necessity;

(7) In addition to the provisions contained in divisions (A)(1) to (6) of this section and rules adopted under those divisions, what its impact will be on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929. of the Revised Code that is located within the site and alternative site of the proposed major utility facility. Rules adopted to evaluate impact under division (A)(7) of this section shall not require the compilation, creation, submission, or production of any information, document, or other data pertaining to land not located within the site and alternative site.

(8) That the facility incorporates maximum feasible water conservation practices as determined by the board, considering available technology and the nature and economics of the various alternatives.

(B) If the board determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon that modification, provided that the municipal corporations and counties, and persons residing

therein, affected by the modification shall have been given reasonable notice thereof.

(C) A copy of the decision and any opinion issued therewith shall be served upon each party.

(D) The board shall render a decision under this section not later than one hundred fifty days after the date the application is determined to be complete. If the board does not render a decision within the time period required by this division, the application shall be deemed approved by operation of law, and the board shall issue a certificate to the applicant.

Section 2. That existing sections 4561.01, 4561.021, 4561.05, 4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 4561.15, 4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 4561.36, 4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 4563.09, 4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 4563.20, 4563.21, and 4906.10 of the Revised Code are hereby repealed.

Section 3. That section 4561.30 of the Revised Code is hereby repealed.

Section 4. This act shall be known as the Airspace Protection Act.