



# COPA

CANADIAN OWNERS AND PILOTS ASSOCIATION

## The COPA Guide to Private Aerodromes



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## Introduction

Some Canadians value being able to sail their own sailboat in the waters of Canada, others prize having the freedom to camp in the wilderness or perhaps to ski in the national parks of Canada. For many of those Canadians who fly, the dream of having their own private aerodrome, from which to fly their own aircraft, ranks highest. Fortunately, in most places in Canada, Canadians have the right to build their own aerodrome and fly from it, if a few basic rules are followed. This edition includes the regulations for new aerodromes or a new runway or extension of a runway that were implemented on January 1<sup>st</sup>, 2017

**Part I** serves as a useful list of things to be considered in the development of a private aerodrome. An aerodrome does not have to be certified or registered, however, we strongly recommend that aerodromes be registered so that potential users, including in an emergency, can get some basic information about your aerodrome from the Canada Flight Supplement (CFS). The CFS is the only document available to development companies for planning purposes and knowing you are there may help these companies plan their developments around you.

**Part II** of this guide discusses federal jurisdiction over “Aeronautics”, including aerodromes, and the legal considerations and responsibilities regarding private aerodromes.

**Part III** presents the complete regulations for aerodromes from the [Canadian Aviation Regulations](#) (CARs). And the steps required by the new 2017 regulations requiring notification, consultation and mitigation of concerns and comments. [CAR Part III, subpart 7 Aerodrome Consultation](#).

COPA encourages the “good neighbour” approach to aerodrome development. While aerodromes are within federal jurisdiction, there are now legal requirements to inform municipal officials or neighbours, it is now required for discussions to take place with parties that may be affected by an aerodrome development. This would include neighbours, local land use decision-makers and municipal bylaw inspectors. More details are explained in Part III of this guide.

Sharing the information in this guide may help non-aviation people to understand what is being developed and under whose jurisdiction. These pre-development discussions may prevent misunderstandings and problems after the aerodrome is in use.

### NOTES

*This guide contains information of a general nature only. It should not be considered a definitive document on aerodrome development or federal jurisdiction. Use of this guide does not make COPA responsible for legal action taken against you. Individual circumstances involving private aerodromes and the law vary greatly. For information that applies to your individual circumstances consult a lawyer. For liability reasons, COPA does not provide recommendations for lawyers.*

*Some regulations are reprinted in this Guide for your convenience. They are current as of the date of this Guide. If you are reading this Guide in electronic form, the links lead to the current version of each regulation. If you are reading a hard copy, you should refer to the current version of the Canadian Aviation Regulations on Transport Canada website at <https://www.tc.gc.ca/eng/acts-regulations/regulations-sor96-433.htm> or Canada Justice Laws Canada web site <http://laws-lois.justice.gc.ca/eng/regulations/SOR-96-433/index.html>*

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## Part I Aerodromes

### Aerodromes and Airports

An “aerodrome” means any area of land, water (including the frozen surface thereof) or other supporting surface used, designated, prepared, equipped or set apart for use either in whole or in part for the arrival, departure, movement or servicing of aircraft and includes any buildings, installations and equipment situated thereon or associated therewith. This definition is from the [Aeronautics Act](#).

Of particular interest is the Ministerial Order amended in December 2014

*“4.31 (1) The Minister may make an order prohibiting the development or expansion of a given aerodrome or any change to the operation of a given aerodrome, if, in the Minister’s opinion, the proposed development, expansion or change is likely to adversely affect aviation safety or is not in the public interest.”*

[Follow this link to read about the New Regulations, January 1<sup>st</sup>, 2017](#)

An “airport” is simply an aerodrome that meets the requirements of [CAR 302](#) and is certified by Transport Canada. There are about 725 airports in Canada, each listed and described in either the Canada Flight Supplement (CFS) or the Water Aerodrome Supplement (WAS), as appropriate.

It is estimated that there are over 6,000 aerodromes in Canada. Only about one-third of this total are Transport Canada registered aerodromes. Where an aerodrome is registered information describing it is published in the CFS or the WAS.

Aerodromes, including those not listed in the CFS or the WAS, are required to be marked, lighted (when used at night), equipped and operated in accordance with [CAR 301](#).

While Transport Canada conducts regular audits and inspections of certified airports they do not have the resources to provide a similar level of inspection to registered aerodromes. However registering an aerodrome in the CFS or WAS will be inspected by Transport Canada inspectors and may require extra costs to the owner to satisfy safety requirements.

### Aerodrome Certification/Registration

#### Certification

A certified aerodrome (“an airport”) is subject to inspection and must be operated in accordance with an Airport Operations Manual. Transport Canada policy dictates that aerodromes are required to be

certified when:

- located within the built-up area of any city, town or other settlement or
- an aerodrome is used under a CAR part 701 (Foreign Carrier), 704 (Commuter) or 705 (Airline) air carrier for a scheduled service for the transport of passengers or
- it is in the public interest (in other words because TC wants it to be certified) or
- the operator of the aerodrome wants to have it certified.

Certification costs and ongoing costs to maintain certification status can be very significant. Most owners of private aerodromes will not require certification status nor is there any advantage to doing so.

## Registration

The requirements for registering an aerodrome are relatively simple. [CAR 301.03](#) defines these requirements:

- (1)** Subject to subsection (2), where the operator of an aerodrome provides the Minister with information respecting the location, markings, lighting, use and operation of the aerodrome, the Minister shall register the aerodrome and publish the information in the *Canada Flight Supplement* or the *Water Aerodrome Supplement*, as applicable.
- (2)** The Minister may refuse to register an aerodrome where the operator of the aerodrome does not meet the requirements of [Sections 301.05 to 301.09](#) or where using the aerodrome is likely to be hazardous to aviation safety and, in such a case, shall not publish information with respect to that aerodrome.
- (3)** The operator of an aerodrome registered pursuant to subsection (1) shall notify the Minister immediately after any change is made to the location, marking, lighting, use or operation of the aerodrome that affects the information published by the Minister pursuant to subsection (1).
- (4)** An aerodrome that is listed in the *Canada Flight Supplement* or the *Water Aerodrome Supplement* on the coming into force of this Subpart is deemed to be registered pursuant to subsection (1).

There is no requirement to register an aerodrome but an aerodrome will be required to be certified if it meets one of the four criteria listed above for airports. COPA recommends that aerodromes be registered for safety reasons (pilots will know that the aerodrome is there in case of emergency), for liability (you can list restrictions on its use and highlight potential hazards) and, most important, if you are ever faced with defending your right to have an aerodrome on your property, the courts have demonstrated that they look more favorably on your case when it has some recognition by the federal government, such as being registered.



Transport Canada has an [Advisory Circular](#) (copy at the end of this Guide) explaining the process and also emphasizing that “ It is generally viewed by the aviation industry that there exists a positive effect on safety of having information regarding an aerodrome available to the users hence, benefit for the registration of an aerodrome, culminating in the publication of its aeronautical information in the appropriate *AIP Canada* (ICAO) such as CFS and WAS, may enhance aviation safety.” COPA supports this view and encourages all aerodrome owners to register their aerodrome.

## COPA Aerodrome Repository

All existing aerodromes prior to January 1 2017 are not considered “new” and thus do not require consultation to continue operating. There is no requirement to complete this COPA Aerodrome Repository declaration form, but it is in the interest of COPA members to gather information proving that their aerodrome (affected by the new regulations) existed and was in operation prior to the new regulations coming into force.

[Click here for the instructions and the form](#)

## Insurance

There is no legal requirement for insurance for private aerodromes. However, that doesn’t mean that you should not have insurance.

## Aerodrome Legal Liability

A COPA member had some concerns about the legal liability of operating a private aerodrome and in 2003 wrote to the COPA’s Legal Committee about it. Here is his letter and the response from the Committee member:

*Dear Mr. Harris. We are in the process of purchasing property in a remote area with an abandoned air strip that we will restore. I wish to enquire about our legal responsibilities. What if an accident occurs when the strip is used by others with our permission / without permission?*

*Could the strip just be marked as unserviceable? I don't like this solution as it could mislead a pilot needing an alternate. We would like to find a way of allowing use of the strip other than our own without the risk of a lawsuit.*

Roger Harris, a member of COPA’s Legal Committee at that time, replied with this advice:

*I would like to be able to tell you that you don't need to worry about the prospect of litigation. Canada is not a terribly litigious country, compared to the USA. However, the truth is that everyone who explicitly or implicitly permits other people onto their property assumes a duty of care.*

*Unfortunately, there is no effective way to guarantee that you will not be at risk of a lawsuit.*

*The best that you can do is minimize or manage that risk.*

*You can take various steps such as requiring anyone using the strip to provide you with signed waiver confirming that they have voluntarily assumed all risks of using the air strip. That would help, but frankly it would not provide you with air-tight protection, particularly against the claims of third parties (e.g., passengers) who have not signed the waiver.*

*Really, the simplest way to handle this is probably to ensure that you have adequate liability insurance in place. Check your farm, residential or umbrella policy to see if there is an exclusion for aviation risks. If there is, speak with your broker about obtaining a rider for such risks. I don't know what the additional premium might be, but perhaps it will be modest.*

*If you have, or can obtain, liability insurance, you can pretty much not worry about the possibility of an accident because if it ever happens and a claim is made, your insurer will pay for your legal defense and will indemnify you for any settlement or damages award, up to the policy limits.*

*What those limits should be depends upon the anticipated risk (e.g., what sort of personal injury or property damage is most likely), and how much coverage you can afford. I suspect that probably \$1 million would be the least that you would want. Fortunately, increased limits are relatively cheap compared to basic coverage.*

*If you have insurance protecting you, do whatever you think is reasonable. For example, in the winter I put sand outside my front door so the mailman doesn't slip, but I don't feel the need to cancel all deliveries.*

*As a pilot, you know that aviation is inherently risky; but that doesn't stop you from flying. I hope that this message is of some help, and that you will not let worries about potential lawsuits prevent you from enjoying your property and sharing it with your friends.*

*Regards,*

*Roger*

P.S. The text of Ontario's [Occupiers' Liability Act](#) is available online. Alberta, British Columbia, Manitoba, Nova Scotia and P.E.I. all have similar legislation. The other provinces don't have specific statutes, but the common law is pretty much the same. Quebec of course has its Civil Code, which is quite similar.

## **Recommended Aerodrome Physical Characteristics**

This section describes practices that are required for certified airports in accordance with TC publication [TP 312](#). These practices are not mandatory, but are recommended, for registered aerodromes. Refer to [CAR 301](#) (reprinted at the end of this Guide) for the exact standards that



registered aerodromes are required to meet.

## Runway Orientation

When only one runway is proposed it should be oriented to take maximum advantage of the prevailing wind. Local terrain features can influence wind patterns. Alignment with built-up areas should be avoided if possible or provision of at least a two-mile buffer should be planned.

Takeoff and landing paths directly over built-up area will likely prompt complaints from inhabitants.

Keep in mind the provisions of CAR [602.12](#) (reprinted below) when considering runway orientation:

### **Overflight of Built-up Areas or Open-air Assemblies of Persons during Take-offs, Approaches and Landings**

**602.12** (1) For the purposes of this section and sections 602.14 and 602.15, an aircraft shall be deemed to be operated over a built-up area or over an open-air assembly of persons if the built-up area or open-air assembly of persons is within a horizontal distance of

- a) 500 feet from a helicopter or balloon; or
- b) 2,000 feet from an aircraft other than a helicopter or balloon.

(2) Except at an airport or military aerodrome, no person shall conduct a take-off, approach or landing in an aircraft over a built-up area or over an open-air assembly of persons, in a manner that is likely to create a hazard to persons or property.

(3) Except at an airport or military aerodrome, no person shall conduct a take-off, approach or landing in an aircraft over a built-up area or over an open-air assembly of persons unless that aircraft will be operated at an altitude from which, in the event of an engine failure or any other emergency necessitating an immediate landing, the aircraft can land without creating a hazard to persons or property.

## Runway Surface

The runway may be grass, clay, gravel or hard surfaced, capable of supporting the weight of any aircraft likely to make use of the aerodrome. Allowances may be made for spring breakup, at which time a runway may be temporarily closed or restricted for use to certain aircraft types. For winter operation of aircraft on wheels, snow must be cleared or compacted.

A runway should be constructed to have a maximum end-to-end slope of two and a half per cent (two and a half feet per 100) with no abrupt changes. For drainage purposes the runway should be crowned with two per cent slopes down to the runway edges. Care should be taken to avoid areas where water

pooling could create soft spots or ice patches that will hamper aircraft directional control.

## Runway Dimensions

Runway length, including stopway and clearway if provided, should be adequate to meet the operational requirements for the aircraft intended. Expansion possibilities should be considered.

It is recommended that a minimum width be 75 feet although a 50-foot width (Code 1-[Figure 1](#)) would be acceptable for use by small aircraft or ultralight aircraft in a non-training situation.

## Graded Area

The runway should be surrounded by a graded area or shoulders to prevent major damage to an aircraft in the event it leaves the side or end of the runway. The dimensions of the graded area vary with the code ([Figure 1](#) and [Figure 2](#)) and should be prepared in a manner consistent with the type of aircraft utilizing the aerodrome.

## Obstacle Clearance Limits

In addition to the actual runway and graded areas, reasonable obstacle-free airspace on and around the aerodrome should be provided to allow safe aircraft operation.

## Strip

At ground level the runway should be surrounded by a cleared levelled area (“strip” or “strip area”) in which no obstacles protrude above the runway surface elevation. This elongated rectangular shaped area is the equivalent of a highway right-of-way ([Figures 1](#) and [Figure 2](#)).

## Obstacle Clearance Surfaces

Obstacle clearance surfaces (approach and transitional) are imaginary surfaces rising from the edges of the strip to a height of 150 feet above the aerodrome, and then running level to a distance of two miles radius above the aerodrome centre.

“Approach” surfaces extend from both ends of the strip and diverge at 10 per cent (one foot every 10 feet) from each side to provide a fairly shallow obstacle free area for landing and takeoff. The approach surface angle varies with runway codes ([Figures 1](#) and [Figure 2](#)).

“Transitional” surfaces rise more steeply from the sides of the strip and approach surfaces to provide for safe overflight at low heights, i.e. during a missed landing. The transitional slope is normally 1:5 (i.e. maximum height of an obstacle at 20 feet from strip edge is four feet). Under certain conditions this slope may be steepened, (see [Figure 1](#) and [Figure 2](#) note 5).

Penetration of these obstacle limit surfaces may jeopardize future certification of an aerodrome as an airport.

To protect obstacle surfaces, land purchases or agreements/caveats against building obstacles by neighboring landowners may be considered. Including the aerodrome in the municipality's official plan is a good way to protect the approach and departure paths from encroachment. An example of such a plan is included as Appendix 1 to this Guide.

## Lighting

Aerodromes intended for night use shall meet the following lighting guidelines ([Figure 4](#)).

### Runway Edge

Lights should be placed along the full length of each side at a distance of five feet from the runway with a distance between lights no greater than 200 feet. The colour is required to be white and an average intensity of 25 candelas is recommended with a symmetrical light distribution.

### Threshold/End

The runway threshold lights should be placed in two groups symmetrically disposed about the runway centre line with the outermost runway threshold lights positioned to align with the runway edge lights and the remainder spaced at intervals. Color should be bicolor green/red with red in the direction of the takeoff and green in the direction of the approach. Intensity should be approximately six candelas.

### Taxiway Edge

Placement should be in straight lines as close to the edge as practicable and not in excess of 200 feet apart. Color shall be blue with intensity of 0.4 candelas.

### Windsock Lighting

External (4 x 150 watts) or internal lights are recommended for night operations.

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## Marking Recommendations

### Runway Markers

Runway markers for non-hard surfaced runways should be made of frangible material ([Figure 3](#)). They should be situated five feet outside the runway edge and spaced uniformly along the runway length at a preferred spacing of 200 feet but in no case more than 300 feet.

Runway ends are marked with an additional marker on each side at a further distance of five feet outwards of the last marker. Color of markers shall be international orange or international orange and white.

### Aprons/Taxiways

Aprons and taxiways can be marked with blue colored markers.

## Miscellaneous

### Windsock

Except where the direction of the wind at an aerodrome can be determined by radio or other means such as smoke movement in the air or wind lines on water, the operator of the aerodrome shall install and maintain at the aerodrome a wind direction indicator that is:

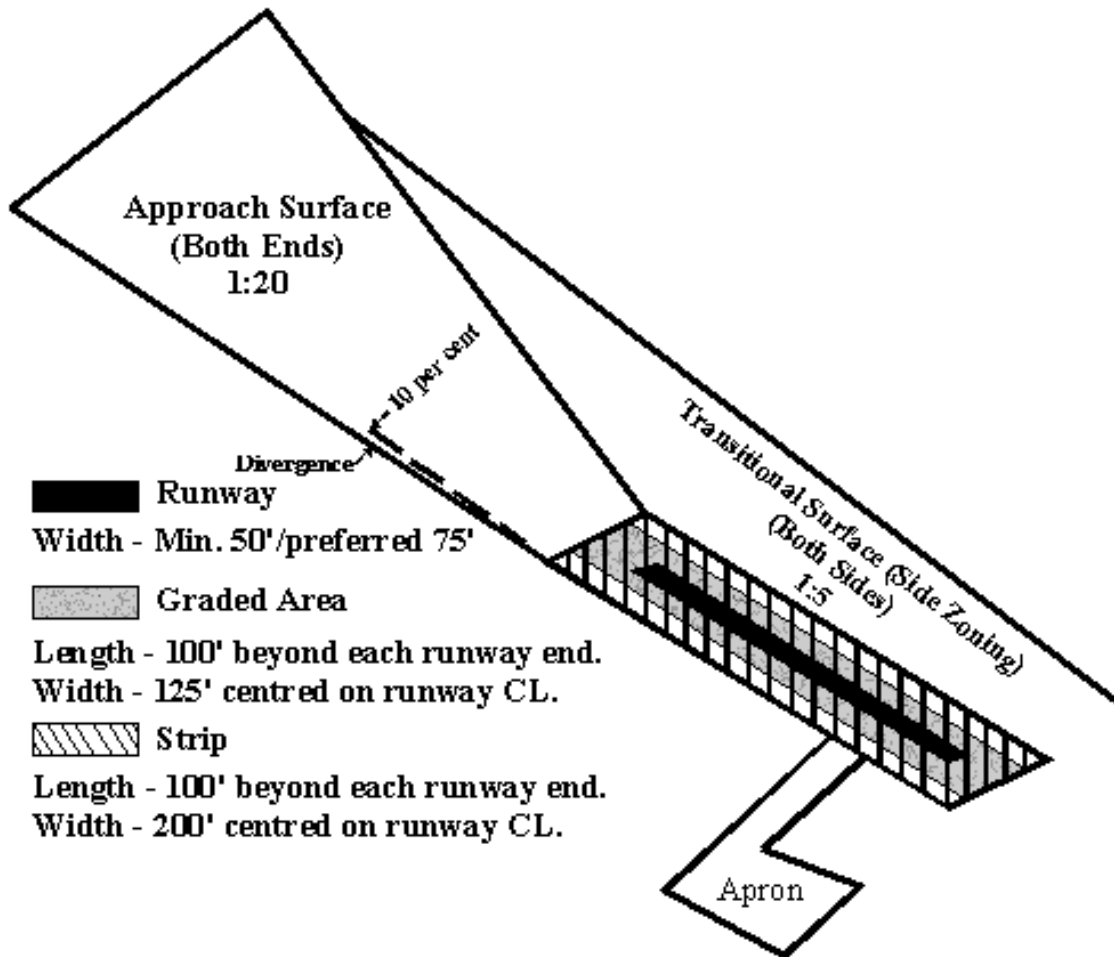
- (a) of a conspicuous colour or colours;
- (b) in the shape of a truncated cone;
- (c) visible from an aircraft flying at an altitude of 300 m (1,000 feet) above the wind direction indicator; and
- (d) illuminated when the aerodrome is used at night.

### Fire Extinguisher/First Aid Kit

At least 60 lbs of dry chemical fire retardant should be available at the aerodrome. Several extinguishers are recommended, with one being kept in the refueling area. An industrial-type first aid kit is recommended.

## Additional Information

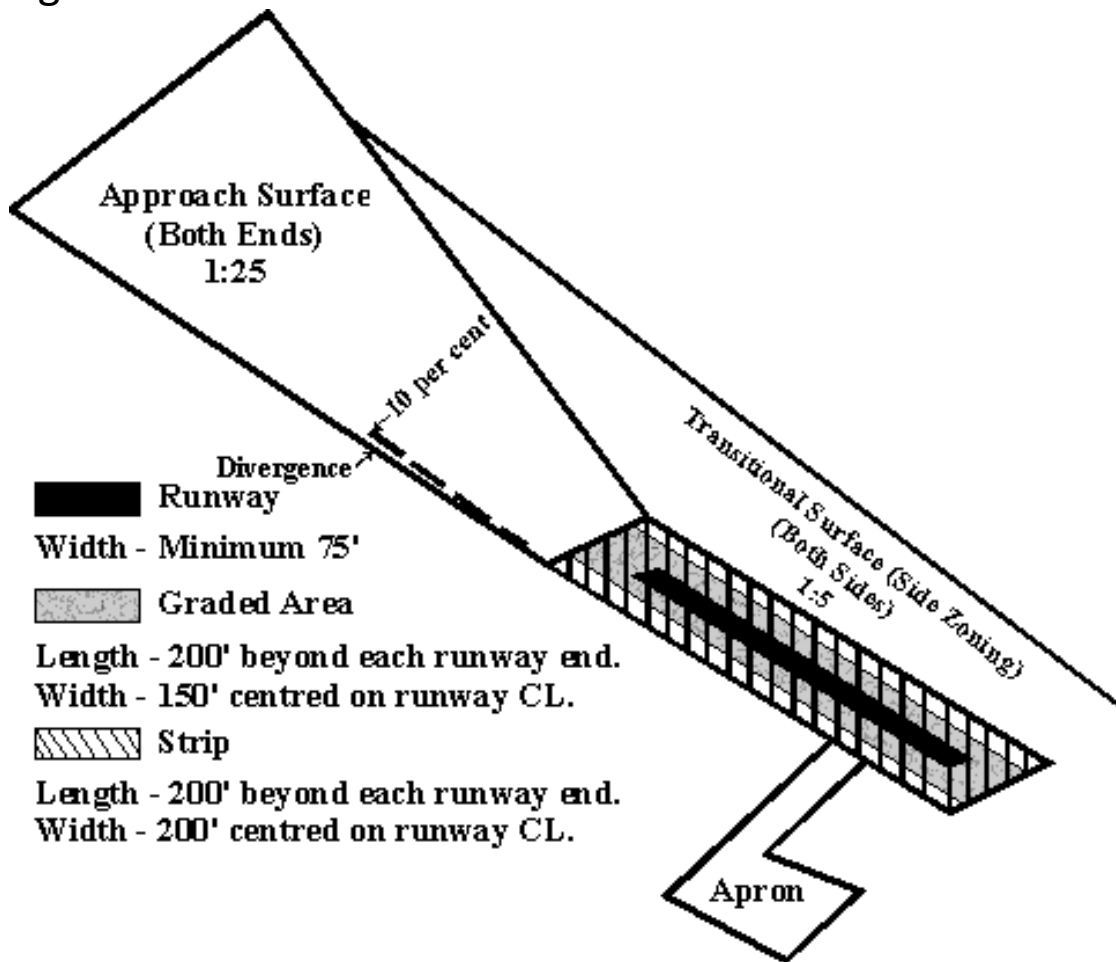
Figure 1



### Notes - Obstructions and Zoning

1. No obstruction permitted to penetrate approach or transitional surface.
2. Roads are considered to be obstructions at 14' above road surface.
3. Railroads are considered to be obstructions at 20' above R.R. surface.
4. Hangars, light standards, etc. and aircraft perched on apron must not penetrate transitional surface.
5. Transitional zoning may vary with strip width.
  - 300' strip 1:4
  - 400' strip 1:3
  - 500' strip vertical

Figure 2



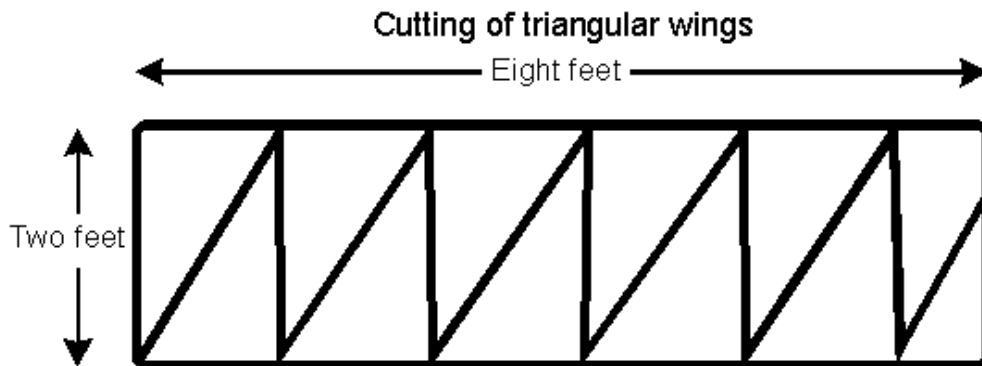
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5. Transitional zoning may vary with strip width.
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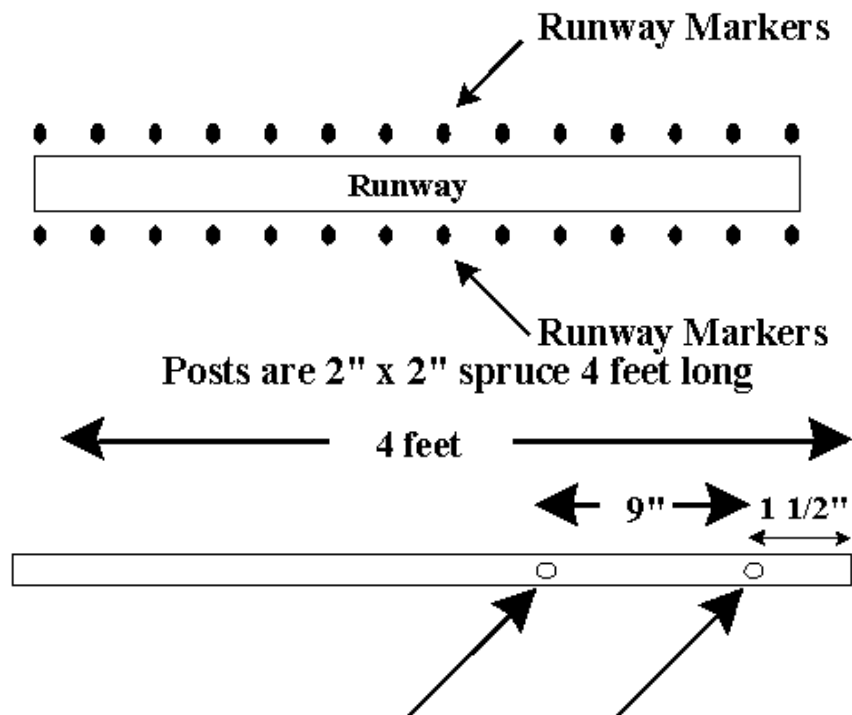


Figure 3

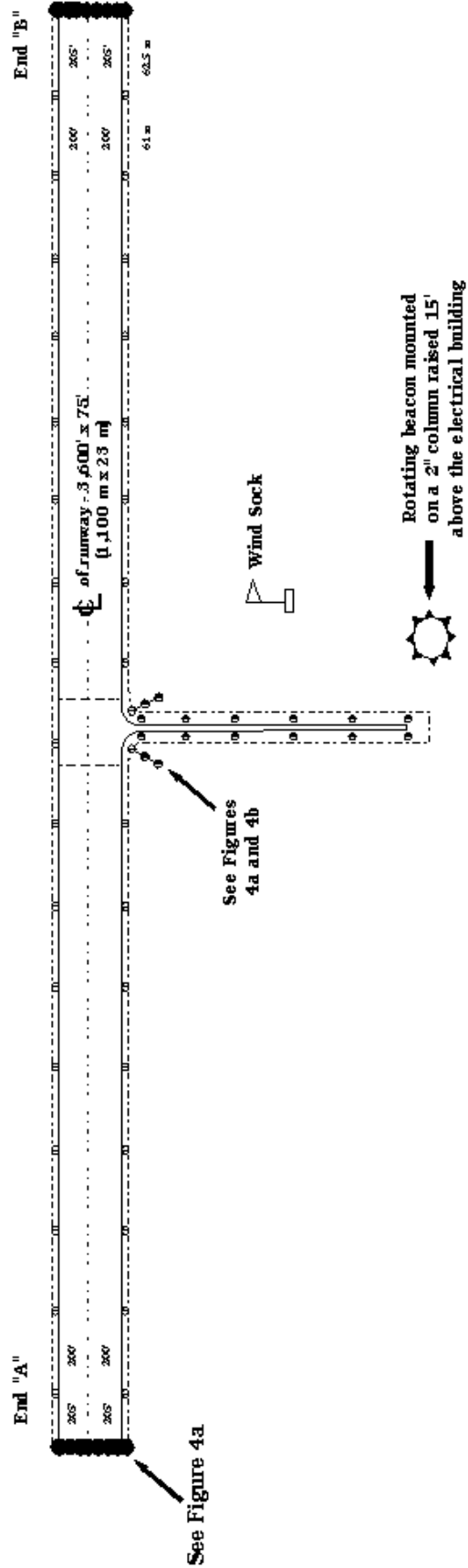


Place runway markers along the edges the full length of the runway into two parallel straight lines, equidistant from the centreline, approximately five to six feet outside of the runway edge.

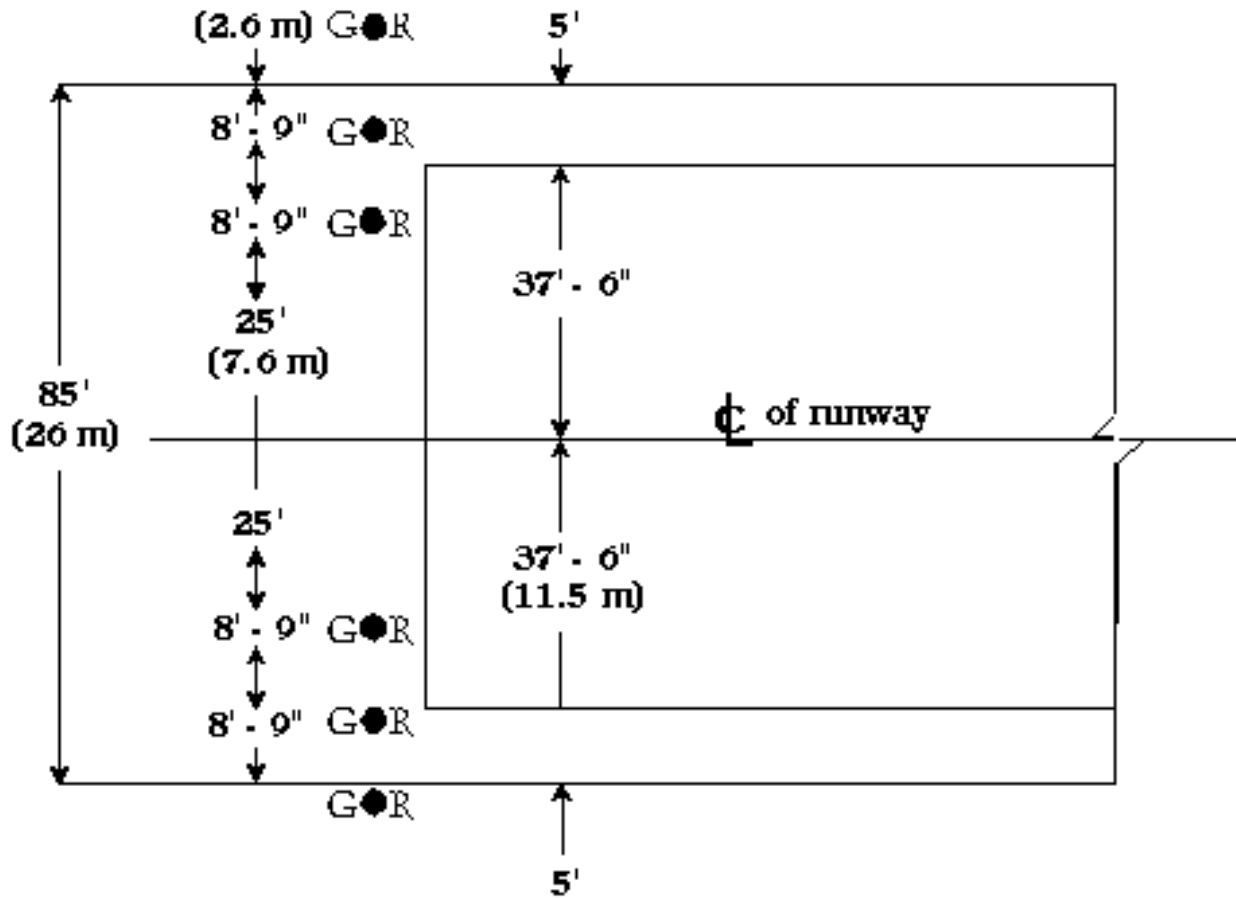
Markers to be uniformly spaced at intervals of 200 feet at 90 degrees to the centreline.



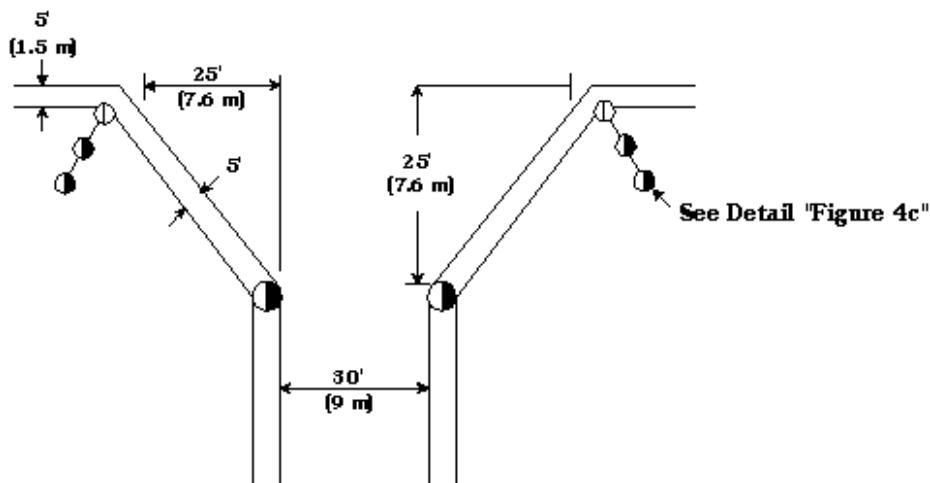
Drill two holes 9" apart, 1 1/2" from one end to take 1/4" Cadmium plated bolts



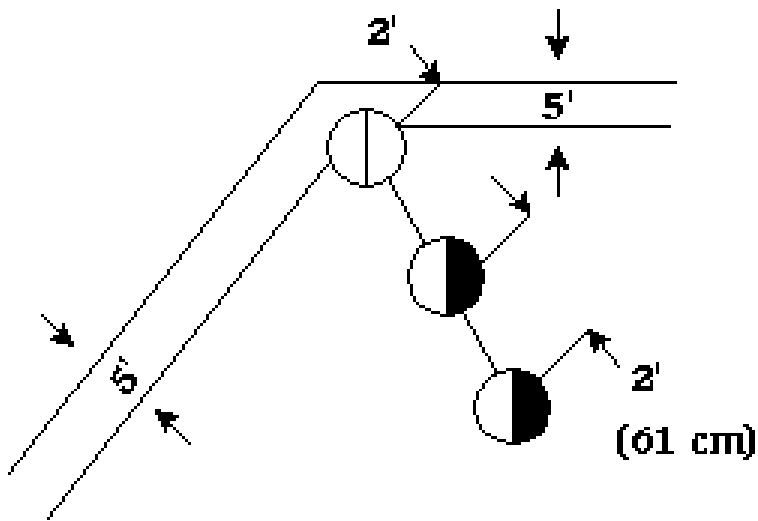
# Detail "Figure 4a" Threshold



Detail "Figure 4b"



# Detail "Figure 4c"



## Legend for Simple Lighting System Only

- ⊕ - L.I. Runway Edge Light - White
- ◐ - L.I. Taxiway Edge Light - Blue
- - L.I. Threshold Edge Light - Green/Red

## Part II Federal Jurisdiction over Aerodromes

### NOTE

*This guide contains information of a general nature only. It should not be considered a definitive document on aerodrome development or federal jurisdiction. Use of this guide does not make COPA responsible for legal action taken against you. Individual circumstances involving private aerodromes and the law vary greatly. For information that applies to your individual circumstances consult an aviation lawyer.*

*Court decisions referred to in the following section are listed at the end of this section along with others that involve this issue. The online version of this Guide contains links to these decisions.*

Who has the final say as to where an aerodrome may be located in Canada: the federal government, the provinces, or both?

According to Transport Canada's current Advisory Circular AC 300-009 Issue 3, Transport Canada has the power to determine the location of aerodromes, by "Prohibiting" or "Remaining Silent". Meaning aerodrome owners will always have a sword over their heads, in the event of any future expansion of the aerodrome or encroachment of residential developments. These developers or any group of people can complain, argue and sway the Minister to unilaterally "Prohibit" the aerodrome without any rights to appeal this decision.

<http://www.tc.gc.ca/media/documents/ca-opssvs/AC-300-009-Issue-03.pdf>

### Supreme Court of Canada

According to the Supreme Court of Canada ("SCC"), the unequivocal answer is the federal government alone. In the first of two decisions released October 15, 2010 which were sponsored by COPA's [Freedom to Fly Fund](#), the SCC ruled that a provincial law which prohibited non-agricultural land uses in provincially designated agricultural zones could not apply to aerodromes. In the second decision, the SCC ruled that a municipal by-law, which prohibited the use of a specific lake as a water aerodrome, was beyond the jurisdiction of ("*ultra vires*") the municipality and thus, the by-law could not apply to the aerodrome. In the result, the owners/operators of the aerodromes in question remain free to carry on their aeronautical activities unhindered by provincial or municipal prohibitions to the contrary.

These two decisions are a reaffirmation and an expansion of decisions dating back 60 years. In 1951, the SCC decided that aeronautics was a matter of national concern and thus should be within the jurisdiction of the federal government. Since taking off and landing was an essential part of aeronautics, the location of aerodromes was necessarily part of that federal power. In that case, the provincial (Manitoba) law in question that authorized municipalities to prohibit the establishment of aerodromes was ruled to be beyond the jurisdiction of ("*ultra vires*") the provinces (the "*Johannesson*" decision).

Notwithstanding this 1951 ruling as well as a number of similar decisions in the decades which followed, provincial and municipal legislators, regulators and by-law officers have relentlessly sought to



control the establishment of aerodromes and activities thereupon. They have sought to do so through provincial and municipal planning controls, by the imposition of permit and fee requirements and through the passage of outright prohibitions against aerodromes. In some cases, such efforts to control aerodromes did succeed. For example, in 1987, the British Columbia Court of Appeal upheld a municipal by-law which prohibited the use of a privately owned airstrip by anyone other than the property owner (the “*Van Gool*” decision). In 1990, the Québec Court of Appeal upheld a provincial law which prohibited a property owner from using his land as an aerodrome because the property was located within a provincial designated agricultural area (the “*St-Louis*” decision).

The threat to the freedom to fly posed by such decisions, as well as numerous other instances of provincial and municipal attempts to regulate aerodromes, was clear. If such efforts succeeded, it would mean a patchwork of regulations affecting aerodromes which could change from province to province or indeed, from municipality to municipality. On behalf of tens of thousands of aviators, COPA became very active in defending the principle that the federal government, and only the federal government, had the jurisdiction to control aeronautics through a single regulatory scheme that would be consistent across the country. This included the power to determine whether and where to establish aerodromes and how such power was exercised. A number of years ago, the COPA leadership created our Special Action Fund (now called more appropriately the Freedom to Fly Fund) to, amongst other things, provide a source of funding to defend this principle. It was recognized that it might be necessary to take these issues back to the SCC, particularly in light of the *Van Gool* and *St-Louis* decisions.

As matters turned out, COPA became involved in two such cases: one involving a private aerodrome (“*Laferrière*” also known as “*COPA*”) and one involving a commercial aerodrome (“*Lacombe*”). Both cases directly involved the issue of federal jurisdiction over aeronautics and provincial and municipal attempts to encroach into same. On October 14, 2009, the SCC heard appeals in these two cases. We are pleased to report that on October 15, 2010 the SCC ruled in favour of COPA’s long-standing position. In addition, SCC expressly recognized that the *Van Gool* and *St-Louis* decisions had been overruled and were no longer good law.

While these decisions vindicate the rights of Canadians to establish aerodromes, they do not mean that we can let down our guard against continuing challenges. This article is intended to explain what was decided, what the decisions mean and provide some guidance for those who are considering establishing an aerodrome and who may be confronted by local authorities because of their aerodrome. It also highlights the need for keeping our Freedom to Fly Fund strong.

## Facts of the Cases:

### Laferrière/COPA

Bernard Laferrière and Sylvie Gervais owned a wood lot near Shawinigan, Québec. In 1998, they cleared part of the lot and built a grass airstrip and a hangar for the storage, assembly and maintenance of aircraft. They also registered the aerodrome pursuant to the *Canadian Air Regulations*.

The aerodrome was built on lands designated by the Province of Québec as an agricultural region further to *An Act respecting the preservation of agricultural land and agricultural activities* (referred to herein as the “APA” or “*Agricultural Preservation Act*”). Section 26 of the APA prohibited lots in a designated agricultural region from being used for anything other than agriculture unless prior permission for such non-agricultural use was first obtained from the Commission responsible for administering the APA. Section 14 empowered the Commission to issue orders forcing owners to restore lots to their former condition if used for non-agricultural purposes. The Commission was also authorized to impose fines. Relatively little of the land area of Québec is ideally suited for agriculture. The land that is suitable also happens to coincide, in many respects, with land that is best suited for aerodromes.

Acting on the belief that the Québec government had no jurisdiction over their aerodrome, Laferrière and Gervais did not obtain permission from the Commission prior to constructing their aerodrome. As a consequence, the Commission ordered them to remove the aerodrome and restore the lands to their pre-aerodrome state. The owners challenged the Commission’s order before the Administrative Tribunal of Québec. The Tribunal upheld the Commission’s order, applying the 1990 decision of the Québec Court of Appeal in *St-Louis* described above which dealt with almost the exact same issue.

COPA had not been involved in the *St-Louis* case which involved an order to shut down an aerodrome and parachuting operation, also located in a designated agricultural zone. In *St-Louis*, the Québec Court of Appeal held there was no actionable conflict between the Commissions’s enabling statute and the federal aviation legislation.

Having lost before the Administrative Tribunal, Laferrière and Gervais took their case before the Court of Québec and then to the Québec Superior Court. Both courts upheld the Commission’s order based, in part, on the *St-Louis* decision.

COPA’s Freedom to Fly Fund financed the effort by our then Legal Counsel, Mr. Dan Cornell (now the Honourable Justice Cornell) along with Québec lawyer, Messr. Pierre Beauchamp, to appeal the matter to the Québec Court of Appeal. Mr. Cornell had extensive experience with the federal jurisdiction issues on behalf of COPA. Messr. Beauchamp added his expertise to Mr. Cornell’s and also dealt with Québec civil law procedures.

The Québec Court of Appeal agreed with the position asserted by COPA, overturned the lower court decisions and found that the doctrine of inter jurisdictional immunity precluded the Commission from ordering the removal of the aerodrome. In so doing, the Court of Appeal concluded that its own decision in *St-Louis* should be overturned.

The Attorney General of Québec appealed that decision to the SCC, thus setting the stage for the highest court in the country to clarify which level of government ultimately had jurisdiction over aerodromes.

## Lacombe

In 2002, Anabelle Lacombe and Jacques Picard commenced an air excursion business out of Long Lake, Québec. In 2005 they moved their operations to Gobeil Lake, which was also used by cottagers. Lacombe and Picard obtained a Transport Canada license to operate the air service out of Gobeil Lake. They also registered their water aerodrome pursuant to the *Canadian Aviation Regulations*.

In response to complaints from cottagers, the municipal by-laws were amended to effectively prohibit aviation on Gobeil Lake. In the belief that federal jurisdiction alone applied, Lacombe and Picard continued their operations. In 2006, the municipality sought and obtained an injunction from the Québec Superior Court ordering Lacombe and Picard to cease their aviation activities on Gobeil Lake.

COPA again got involved and the Superior Court ruling was appealed to the Québec Court of Appeal along with the *Laferrière* case. As in *Laferrière*, the Court of Appeal ruled that the municipal by-laws could not apply to the aerodrome because of the doctrine of interjurisdictional immunity. Again, the Attorney General of Québec appealed to the SCC. COPA now had a second case to make its point to the highest court in the land.

These cases were of concern to many levels of government, including several provinces, a municipality and the federal government, each of which retained lawyers to make submissions to the SCC. COPA's position was supported by the federal government as well as lawyers on behalf of the Greater Toronto Airports Authority ("GTAA").

It should be noted that in 2000, the GTAA, successfully argued that municipal development charges and building code guidelines sought to be imposed by the City of Mississauga did not apply to the redevelopment project at Pearson International Airport. The Ontario Court of Appeal accepted GTAA's argument (which in part was based upon some of the arguments and precedents developed over the years by COPA and its counsel, Mr. Dan Cornell) that the entire redevelopment project fell under the federal aeronautics power (the "GTAA" decision). The GTAA was keenly interested in the *Laferrière* and *Lacombe* cases as it did not want to see its hard-fought case before the Ontario Court of Appeal effectively overturned by the SCC.

Accordingly, the SCC had to deal with conflicting decisions from the Courts of Appeal of British Columbia, Ontario and Quebec which had come to different conclusions in considering the same basic question. In Canada, one of the functions of the SCC is to resolve such conflicting decisions, particularly when they have national importance.

It should also be noted during the course of the appeal to the SCC, Messr. Laferrière was killed in a tragic, unrelated aircraft accident on April 27, 2009. As a result, COPA replaced Laferrière and Gervais as respondents in the proceedings. It is for this reason that the case, while known as *Laferrière* at the lower levels, is now cited as *Québec (Attorney General) v. COPA* or simply *COPA* at the SCC level.

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## The Decisions of the SCC

The paragraphs below explain the aerodrome situation prior to January 1, 2017 amendment to the CARs and before omnibus Bill C-43 Amendment to the Aeronautics Act received Royal Assent on December 16th, 2014 and are now law.

Although Federal Jurisdiction on aerodromes remains, a notification, consultation and mitigation is now be required for new aerodromes and for existing aerodromes wanting to extend or add a runway. To learn How to proceed see [Advisory Circular AC 301-002](#) in this Guide.

Both majority decisions in favour of COPA's position were written by the Chief Justice of Canada herself, the Honourable Justice McLachlin. Some of the more important aspects of the cases are described below.

### **Laferrière/COPA**

The Chief Justice stated that "Air transportation is an indispensable part of modern life" and that the question to be answered in both *COPA* and *Lacombe* was: "...which level of government has the final say on where airfields and aerodromes may be located." The SCC ruled that the final say rested with the federal government.

While the SCC acknowledged that its decision in *COPA* would limit the ability of provincial and municipal authorities to unilaterally address the challenges aviation poses to agricultural land use regulation, it stated that Parliament's exclusive power to decide the location of aircraft landing facilities was vital to the viability of aviation in Canada and endorsed earlier rulings that the transportation needs of the country could not be allowed to be hobbled by local interests.

Of particular importance to COPA and its members is the fact that the SCC refused to provide any less protection to small private aerodromes under the federal aeronautics power than it did to larger commercial or public airports. The Chief Justice acknowledged that high levels of regulation are applied to airports and commercial aviation, but that Parliament had adopted a different, permissive approach to private aviation. Thus, except for built-up areas, private citizens are permitted to construct aerodromes without applying for permission from the federal government. The SCC held that provincial and municipal laws and regulations could not be permitted to impair the permissive scheme Parliament had adopted in dealing with small, private aerodromes.

The Attorney General of Québec argued that the APA did not impair Parliament's power because if a restriction on a particular aerodrome within the APA occurred with which Parliament did not agree, Parliament could step in and pass legislation designating where that specific aerodrome could be constructed within the agricultural zone, overriding the provincial legislation. The SCC rejected this argument.

The Chief Justice stated that "If s. 26 [of the APA] applied, it would force the federal Parliament to choose between accepting that the province can forbid the placement of aerodromes on the one hand,

and specifically legislating to override the provincial law on the other hand. This would seriously impair the federal power over aviation, effectively forcing the federal Parliament to adopt a different and more burdensome scheme for establishing aerodromes than it has in fact chosen to do.”

Since Parliament has chosen to adopt a permissive “hands off” attitude towards the establishment of aerodromes without prior permission (subject to the restriction that it cannot be done in a “built-up” areas under CAR 302.01(1)) the *COPA* decision affirms that citizens have the freedom to build aerodromes as they choose and that freedom will be protected by the courts against encroachment by provincial (and municipal) attempts to intervene.

The SCC also expressly rejected the argument of the Attorney General of British Columbia who asserted that a distinction should be drawn between international and national “airports”, which he conceded were protected under the federal aeronautics power as nationally important, and “aerodromes”, which he argued were not of national importance and thus were not so protected.

The Chief Justice stated that even local aspects of aviation come under federal jurisdiction because the subject matter of aerial navigation is ‘non-severable’”. The Chief Justice noted that in *Johannesson*, Justice Kellock had stated “just as it is impossible to separate intra-provincial flying from inter-provincial flying, the location and regulation of airports cannot be identified with either or separated from aerial navigation as a whole.” After citing this passage, the Chief Justice stated:

“This view reflects the reality that Canada’s airports and aerodromes constitute a network of landing places that together facilitate air transportation and ensure safety.”

In summary and of note to COPA and its members, the decision in *COPA* means:

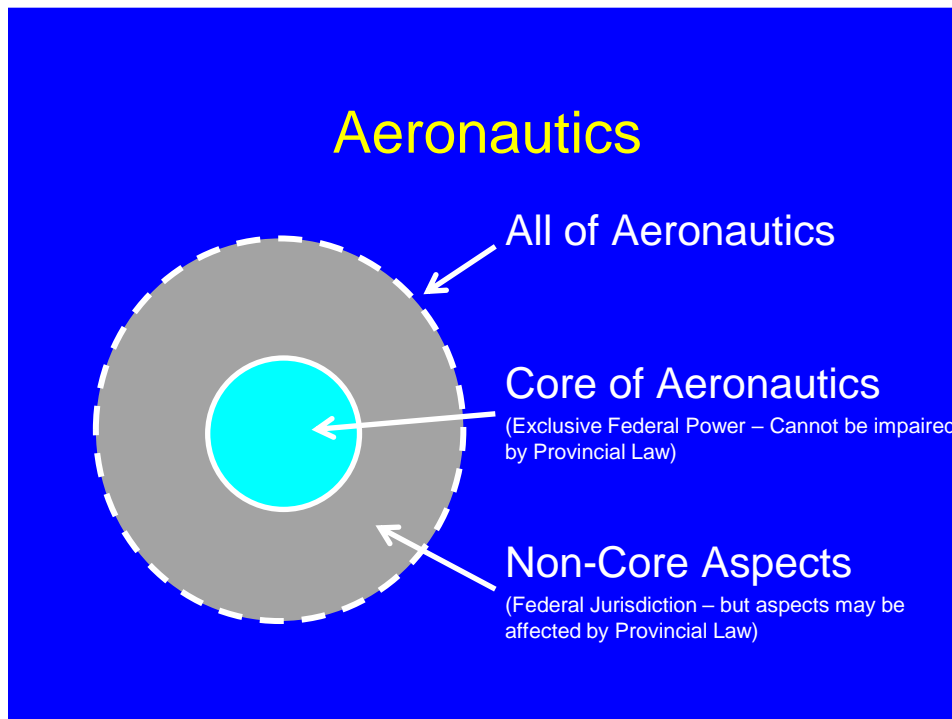
- a) the current permissive federal scheme for the establishment of aerodromes is protected, free from interference by provincial and municipal laws and by-laws; and
- b) both large “airports” and small “aerodromes” are equally protected under the exclusive federal power over aeronautics.

The legal basis for the decision in *COPA* is the constitutional doctrine of *interjurisdictional immunity*. The *Constitution Act, 1982* sets out the division of powers between the federal and provincial governments in broad terms. There is, inevitably, overlap between federal and provincial powers. Over the last 143 years, the courts have developed various constitutional doctrines to assist in sorting out the division of powers and how to deal with the overlap. One of these doctrines is interjurisdictional immunity.

The theory behind the doctrine of interjurisdictional immunity is that at the heart of a given federal power lies a core of essential elements that should not be impaired by provincial law. This is so even if the provincial laws are otherwise within the legitimate constitutional jurisdiction of the provinces. The exercise carried out by the SCC in *COPA* was an examination of what lay within the core of the federal aviation power (i.e. what is essential or the “basic, minimum and unassailable content”). The SCC then

looked at whether the provincial legislation in question unacceptably interfered with that core. For the interference to be unacceptable, it must do more than “effect” that federal power. To be unacceptable, it must reach the level of “impairing” the federal power. If so, then the provincial legislation will be held not to apply to the subject matter of the core of the federal power.

The following diagram may help to explain how there can sometimes be uncertainty or conflicts over who has jurisdiction over aspects of aeronautics.



At its simplest, flying an aircraft is part of that exclusive federal core. Part of flying is taking off and landing. Thus, where one can take off and land (i.e. the location of aerodromes and airports) is part of that exclusive federal core. The SCC held in *COPA* that a provincial law which effectively prohibits aerodromes unacceptably impairs the federal core power and thus, that provincial law, which is otherwise valid, cannot apply to aerodromes.

To give an example of where that line around the core is drawn, one can review a 1979 SCC case known as *Construction Montcalm*. At issue was whether provincial minimum wage laws applied to workers building runways at Mirabel airport. The SCC held that the decision to build the airport, the design of the airport, its dimensions and the materials incorporated into the various buildings, runways and structures were within the exclusive federal power over aeronautics (i.e. were within the core). However, how much was paid to the workers paving the runways was held not to be an essential element of aeronautics and thus, the provincial law could (and did) apply. The SCC went on to state that the items that would be permanently reflected in the finished product of the airport and thus have a direct effect upon its operational qualities and therefore upon its suitability for the purposes of aeronautics remained under the federal power.



In the diagram above, the dimensions of the runway and even the type of the concrete used is within the “core”. How much one pays the workers to lay that concrete falls outside the core and can be affected by provincial law.

The decision in *COPA* certainly gives guidance in laying out the landscape of the aeronautics power and affirming the principal that there is an unassailable core to that power. It also unequivocally determines that the question of whether and where to locate aerodromes falls within the protected core. The decision does not and cannot, however, provide a comprehensive list of what lies within, and what lies just outside, that core. That will be the subject of future cases trying to apply the decision in *COPA*. Examples of such unknowns include shorelines, provincial parks, wind farms, neighbours, taxation etc where other levels of government believe that they may have at least a shared jurisdiction with the federal government or some right to regulate or restrict non-core aeronautical activity. Aerodromes associated with water are a particular issue because there is a shared responsibility between the federal and provincial governments for the management of water resources and the environment associated with water, which is why; for example, there are restrictions on aircraft activities in some provincial parks. And in some cases, federal departments other than Transport Canada have control over aviation (for example the Department of Fisheries control of shorelines) and Acts other than the *Aeronautics Act* apply (for example the *Canada Shipping Act* and its rules concerning vessels can apply to aircraft, once they land on the water).

### **The Lacombe Decision**

The SCC found that the effect of the by-laws in question was to prohibit certain aviation activities, and only those aviation activities, in certain parts of the municipality. The SCC concluded that the real purpose of the by-laws was to regulate water aerodromes within its territory and thus, the “pith and substance” of the by-law was the regulation of aeronautics.

The regulation of aeronautics is beyond the competence of municipal and provincial governments and therefore the by-laws were deemed to be *ultra vires*.

In essence, the municipality took a “potshot” at aviation and was not subtle in so doing. The SCC did not accept that this was an attempt at zoning (a valid municipal function) as the by-laws were found to have breached the first principle of zoning in that it treated similar parcels differently and different parcels the same.

But this naturally raises the question of what would have happened if the municipality had not blundered carelessly beyond its jurisdiction but had done a better job of implementing its anti-aviation by-laws in the guise of proper zoning and land use planning, being a normally valid exercise of municipal power (which derives such power from the province which constitutionally has this power). The answer lies in the Chief Justice’s statement that: “A prohibition on aerodromes, even as part of a broad class of land uses, would result in an unacceptable narrowing of Parliament’s legislative options. As in *COPA*, this would have the effect of impairing the core of the federal power over aeronautics. Under the doctrine of interjurisdictional immunity, the prohibition in by-law 210 would be inapplicable to Lacombe and Picard’s aerodrome.”

However crafted and justified on zoning/planning principles, any such by-law which impairs a core federal power, namely determining whether and where to locate an aerodrome, would be determined to be inapplicable.

### What We Achieved

There should be no doubt that these two decisions are victories for Personal Aviation as well as other sectors of aviation. The 1951 SCC decision in *Johannesson* established the exclusive federal jurisdiction over aviation and in particular, the location of aerodromes. These two new decisions, and particularly *COPA*, unequivocally reaffirm *Johannesson* 59 years after it was decided. As noted above, the decisions are sprinkled with a number of assertions concerning aviation, including Personal Aviation in particular, that express its importance and the value of protecting same. The decision in *COPA* expands upon and clarifies *Johannesson* in that it is clear that the protection afforded the exclusive federal power over aviation includes private aerodromes and that the permissive manner in which the federal government has chosen to deal with privately owned aerodromes is to be protected from provincial and municipal interference.

These two decisions also apply, adopt and/or reaffirm earlier decisions that are helpful to the aviation community (i.e. *Montcalm, Hansen, Longhurst,*) but whose usefulness had been overshadowed by the decisions in *Van Gool* and *St-Louis*. The SCC's express rejection of *St-Louis* and *Van Gool* is a result COPA has been working towards since those adverse decisions were handed down many years ago.

### What the Transport Minister Achieved

"The amendment of the Act to give the Minister power to prohibit development and operation at any aerodrome without similar power to prohibit development or operations near aerodromes that would be detrimental to aviation is also very unfair. So, in that sense the Act amendment is very germane and as a minimum should have been brought to stakeholders' attention before it had progressed this far."  
Kevin Psutka

"COPA is not opposed to strengthening the Minister's ability, if not already available through other means, to prevent abuse of federal jurisdiction when people, for example, flaunt federal jurisdiction in order to use an aerodrome for a land fill operation. However, in the spirit of protecting and promoting aviation, the Minister should also have the ability to step in when activities near an aerodrome, such as residential development, cell towers and wind farms may have a negative impact on an aerodrome, which we believe is very much safety and public interest issues. Proceeding with a one-sided Act amendment to prohibit aviation and one-sided regulatory amendments to require aerodrome proponents to consult is simply unfair." Kevin Psutka

Aeronautics Act amendment 144. Section 4.9 (December 16th, 2014)

Consultations must be carried out by the proponent of an aerodrome before its development or by the operator of an aerodrome before its expansion or any change to its operation.

Transport Canada has the power to determine the location of aerodromes, by “Prohibiting” or “Remaining Silent”. Meaning aerodrome owners will always have a sword over their heads, in the event of any future expansion of the aerodrome or encroachment of residential developments. These developers or any group of people can complain, argue and sway the Minister to unilaterally “Prohibit” the aerodrome without any rights to appeal this decision.

Before you establish an aerodrome, it is wise to inform those who could be affected. Although the SCC decisions make it clear that you have the right to establish an aerodrome, many who are not familiar with these cases or involved in aviation will not understand the concept of interjurisdictional immunity or your rights. It is better to inform them early rather than face a stop work order or other legal action. In the past, we found that by providing the opposition with a copy of this Guide, which includes the many legal cases involved with this issue, it will head off a possible legal challenge, which can be costly even if one is ultimately found to have been acting within his or her rights.

If you have tried to educate the opposition using this Guide and they wish to pursue legal action, that is the time to bring your issue to our attention. We do not have the resources to take every case to the Supreme Court of Canada, but we may be able to assist you, depending on the circumstances. It is much better to bring issues to our attention early instead of having us deal with them when a court date has been set or indeed, a decision has already been rendered and the jurisdictional issues described above have not been initially raised or properly argued by counsel knowledgeable in this area of law. In such cases, COPA may choose to not intervene.

Cases referred in this section as well as others involving this issue:

- [\*Johannesson v. West St Paul \(1951\)\*](#)
- [\*Orangeville Airport Ltd V. Town of Caledon et al \(1975\)\*](#)
- [\*Vencharutti v. Longhurst and Longhurst \(1992\)\*](#)
- [\*Greater Toronto Airports Authority V. The City of Mississauga \(1998\)\*](#)
- [\*Greater Toronto Airports Authority V. The City of Mississauga Appeal \(2000\)\*](#)
- [\*Mullaney V. Red Deer County \(1999\)\*](#)
- [\*Regional District of Comox-Strathcona V Hansen \(2005\) \[The Cortez Island Case\]\*](#)
- [\*Bernard Laferrière et Silvie Gervais vs Procureur Général du Québec\*](#)
- [\*Annabelle Lacombe et Jacques Picard et 3845443 Canada Inc v. Municipalité de Sacré-Cœur \(Air Mauricie\)\*](#)
- [\*Quebec \(Attorney General\) v. Lacombe, 2010 SCC 38\*](#)
- [\*Quebec \(Attorney General\) v. Canadian Owners and Pilots Association, 2010 SCC 39\*](#)

These cases have established that provinces and municipalities cannot enact laws or bylaws regarding private or federally-owned land that:

- create zoning prohibiting airports or aerodromes
- require building or development permits for any construction projects that are in the field of “Aeronautics”, including hangars, runways, taxiways, fuelling facilities, windsocks or any other aerodrome facilities.

- regulate aerodrome or airport building dimensions, structures, building codes or other matters.
- prohibit any aviation activities at an aerodrome including hours of operation, types of aircraft using the facility, presence of maintenance facilities, storage of aviation materials or anything similar or
- any other laws whose “pith and substance” pertains to regulating “Aeronautics”.

These proscriptions apply to aeronautical facilities that are located on privately-owned or federally-owned land. Provinces or municipalities can regulate these activities only where the municipality or province itself owns the airport. In all cases municipalities retain the right to levy property taxes on aeronautical facilities within their boundaries.

Perhaps the best exchange on this subject I have heard was a conversation with a municipal official recently. She had called our office to ask about a private aerodrome being built in her municipality. Neighbours had complained about it and wanted the municipality to prohibit its construction. When I confirmed that it was federal jurisdiction she said, “That’s great!” This was an unusual, but not unwelcome, reaction. I said “Really?” and she replied “Absolutely – now I can do something more useful with my time today!” It was nice that federal jurisdiction made at least one person happy.

**References:**

Canadian Constitution Act 1867 Section 91 and 92: <http://www.canlii.org/en/ca/const/const1867.html>

## Water Aerodromes are a Special Case

Water aerodromes are more complex than land aerodromes, since waterways and the environment are a shared federal/provincial responsibility. In general COPA has taken the position with water aerodromes that aircraft should not be treated in a more restricted manner than powered boats. If powered boats have unrestricted access to a particular body of water, then seaplanes should have the same access. If a body of water is restricted to non-motorized boats, as in the case of many drinking water reservoirs, then it is understandable that aircraft should also be restricted. In some cases, it may make sense to give aircraft access because they will be the least disruptive, compared with, for example, cutting road access to a lake.

It is COPA's position that while municipal bylaws, licenses, planning documents and building permits have no applicability to water aerodromes as is the case for land aerodromes, any alteration of the shoreline, installation of docks, piers and other waterline construction are subject to environmental oversight from the Federal Department of Fisheries and Oceans (DFO). DFO typically consults with Provincial bodies on these matters. For example, in Ontario DFO will consult with the Ministry of Natural Resources (MNR).

COPA advises that in any planned alteration of shorelines, installation of docks and building near the shore or below the high-water mark, you should:

- a) Obtain DFO permission beforehand;
- b) Consider obtaining legal assistance; and
- c) Consult with other people who have successfully and legally carried out similar construction.

Some suggested reading from the DFO:

“The Dock Primer – Prairies Edition” : <http://www.dfo-mpo.gc.ca/Library/337921.pdf>

“The Shore Primer – Prairies Edition” : <http://www.dfo-mpo.gc.ca/Library/337927.pdf>

Water management publications from the DFO are listed at: <http://www.dfo-mpo.gc.ca/index-eng.htm>

In the case of water aerodromes seaplane owners should expect no special privileges as compared with power boats. If by-laws restrict lots to one dock then you should not expect install two docks for your floatplane. Certainly, you cannot claim that federal jurisdiction gives you the right to install an additional dock.

## Federal Jurisdiction and “Mixed Uses”

To qualify as “Aeronautics” and therefore fall under federal jurisdiction it is imperative that the facility be strictly “Aeronautics” and not “mixed use”.

A hangar will not necessarily get the protection of federal jurisdiction if it is also used as a residence or used for storing non-aeronautical equipment such as boats, RVs or ATVs. Likewise a fueling facility that is used for fueling aircraft and also other vehicles will not necessarily be protected under federal jurisdiction. To ensure that federal jurisdiction is effective the facility must be clearly “Aeronautics” and nothing else.

Facilities can even lose their federal jurisdiction protection years later. This can happen if a hangar is built legally without a municipal building permit, and is used solely for storing aircraft and other aeronautical equipment, but years later non-aeronautical equipment is stored there, even if it is by a later owner of the same property. If discovered as storing non-aeronautical equipment the municipality can require permit and if the design would not qualify for a permit, the municipality may insist that it be torn down. Since the structure is not being used for aeronautics, the municipality would be within their jurisdiction.

Development of combinations of aeronautical and non-aeronautical facilities can cause confusion as to the jurisdiction. For instance when developing a “fly-in residential community” fully detached hangars, fueling facilities, windsocks, runways and taxiways would be considered “aeronautics” and would not require building permits. Houses, roads and other non-aeronautical uses on the same property would require building permits as these are not aeronautics and do not come under federal jurisdiction. Confusing “mixed uses” of aeronautical and non-aeronautical facilities should be avoided, such as hangars physically attached to houses. These will not be clearly “aeronautics” and may require municipal building permits.

## Federal Jurisdiction and the Development of Residential Airparks

An “airpark” or a “fly-in residential community” has houses with attached or nearby hangars. These are very common in the USA and there are several in Canada as well. Developers have been interested in developing more airparks in Canada in recent years.

Development of residential airparks on private land provides some interesting challenges, especially when the local municipal officials do not understand the limitations of their powers under the [Constitution Act 1867](#).

Caveat Emptor: Transport Canada has the power to determine the location of aerodromes, by “Prohibiting” or “Remaining Silent”. Meaning aerodrome owners will always have a sword over their heads, in the event of any future expansion of the aerodrome or encroachment of residential developments. These developers or any group of people can complain, argue and sway the Minister to unilaterally “Prohibit” the aerodrome without any rights to appeal this decision.

Airparks inevitably involve the construction of federal jurisdiction facilities (runways, windsocks, fueling facilities) and municipal jurisdiction facilities (houses, driveways). Some installations are not very clear as to whose jurisdiction they come under - a house with an integral hangar built into the house structure, for instance. Often the parcel of land will need individual building lots severed from the main property by the municipality.

In some cases municipal officials have fought and lost the battle over airport zoning and the requirement for building permits for aeronautical facilities at the airpark, only to try to obstruct the parts of the airpark that are under their jurisdiction – the housing and other non-aeronautical facilities. There have been recent cases of municipalities refusing to sever lots or issue house building permits until permits are purchased for the aeronautical facilities already finished. This is unlawful and can slow down construction and add more costs to the project.

If you are considering developing a residential airpark and anticipate that the local municipality does not understand the limitations of their jurisdiction, contact a lawyer who specializes in aviation and federal jurisdiction issues. You will need legal assistance to make sure the development of the airpark runs smoothly.

## **Federal Jurisdiction and Existing Building Permits**

If you are going to start construction of any aeronautical facility, ensure beforehand that there are no outstanding building permits for the property, even from a previous owner of the property. Existing building permits can greatly confuse matters if the case ever goes to court. You want to make sure that the hangar you have built is not confused with a previous building permit for a barn, shed or other structure that is still in force, but was never built on the property.

Make sure all existing building permits for the property are either completed and signed off or turned back in to the municipality before starting construction of any aeronautical facility. If you do not do that, the municipal lawyers may argue that the facility they see on your property is the one in the outstanding building permit and in violation of that permit.

Your hangar should be built according to the National Building Code of Canada.

[http://www.nrc-cnrc.gc.ca/eng/publications/codes\\_centre/2010\\_national\\_building\\_code.html](http://www.nrc-cnrc.gc.ca/eng/publications/codes_centre/2010_national_building_code.html)

## **Getting Along With Your Neighbours**

Many legal problems can be avoided by taking the time at the beginning of a project to educate people. Most complaints about new and existing aerodromes don't start with municipal officials – they start with neighbours.

Aeronautics Act amendment 144. Section 4.9 (December 16th, 2014)

Consultations must be carried out by the proponent of an aerodrome before its development or by the operator of an aerodrome before its expansion or any change to its operation.

Transport Canada has the power to determine the location of aerodromes, by “Prohibiting” or “Remaining Silent”. Meaning aerodrome owners will always have a sword over their heads, in the event of any future expansion of the aerodrome or encroachment of residential developments. These developers or any group of people can complain, argue and sway the Minister to unilaterally “Prohibit” the aerodrome without any rights to appeal this decision.

The definition and extent of consultation is described in detail [go to this link](#)

In many cases where a neighbour is surprised by work beginning on an airfield they jump to a “not in my backyard” attitude and phone the local building inspector to report the construction. The building inspector discovers that work is proceeding without a building permit and the legal challenge ensues. COPA cannot be expected to financially get involved in every case that may come up, especially ones where members ignored their neighbours or waited until too late to try to resolve misunderstanding. We have used a great deal of our resources clarifying the federal jurisdiction issue and we may not be willing to spend even more on the same issue when aerodrome owners do not try to resolve issues before they escalate.

Here are some suggestions for dealing with neighbours:

- You are not going to be able to complete an aerodrome and fly from it without your neighbours noticing, so get them involved early.
- Invite your neighbours over to talk about your planned aerodrome before you start construction.
- Keep in mind that you are not asking their permission to construct an aerodrome, just letting them know that federal jurisdiction over Aeronautics gives you the right to establish an aerodrome and construct supporting facilities, such as a hangar.
- They will be concerned that you will be flying at 0600 on Sunday mornings and at other times that will disturb people. Assure them that any noise will be infrequent and of short duration, similar to a vehicle coming and going. Try to establish some voluntary guidelines but make it clear that you are doing this to be friendly and sensitive to their right to enjoyment of their property, just as you have the right to do so on you property by establishing an aerodrome.
- They will be concerned that your flying operations will cause them safety concerns, scare livestock or reduce the value of their property. There is no evidence of private aerodromes devaluating neighbouring properties and most livestock, especially after an aerodrome has been in place for a short time, ignore the activity.



- They will be concerned that your flying operations will be just the beginning and that the aerodrome will get as busy as a major international airport. Remind them that large airports to serve airlines require certification and the certification process always involves consultation with local people. Reassure them that the size of your aerodrome can in no way meet the certification requirements necessary for larger aircraft.
- Let them know that you will listen if they have concerns over noise and safety, and that you are willing to accommodate their concerns. Explain circuit procedures and the need for occasion circuits for practice, which will help ensure your and their safety.
- Let them know that your aerodrome and aircraft can represent a safety lifeline in your community – connecting them to air ambulance services, hospitals, search and rescue, disaster response and many more important resources.
- Your aerodrome could provide an educational facility on aviation for school field trips.
- Once your airfield is complete invite your neighbours over - perhaps hold a BBQ. Take them up flying if possible and show them their homes from the air – make flying something that they participate in and accept in your community.
- Avoid flying repetitive training circuits if you live in a noise sensitive area.

## Getting Along With Municipal Officials

Here are some suggestions for dealing with Municipal Officials (municipal manager, building inspector):

- Contact them before you start construction of your aerodrome and facilities and talk to them about what you are planning to do, letting them know that it comes under federal jurisdiction and that you will abide by the national building code. Tell them that you are willing to keep them informed but that you are not seeking their permission.
- Many municipal officials do not understand federal jurisdiction over “Aeronautics”, so be prepared to educate them. Giving them a copy of this Guide can help, and where they indicate that they will give the Guide to their legal counsel, point them at the following web address where they can download the various court decisions, especially the two Supreme Court of Canada decisions (Lacombe, COPA) : <https://copanational.org/en/aviation-guides/>
- Under no circumstances agree to get a building permit. Case law has shown that getting a building permit for aerodrome or hangar construction may result in you losing your protection under federal jurisdiction because in agreeing to a permit you have accepted municipal regulation of your activities.

- If you get a building permit, even to be “cooperative” and “a nice neighbour” you may be subject to municipal by-laws, which may prohibit your aerodrome or hangar, and COPA will not be able to undo this error on your part.
- Ensure that there are no existing building permits for the property that could confuse municipal officials or the court as to whether you are building to an existing permit or without one under federal jurisdiction.
- Keep in mind that only those matters that are “at the core of Aeronautics” are protected under federal jurisdiction. A hangar built solely to house aircraft does not require a building permit; a house on the same land definitely will require one. “Mixed use” buildings (e.g. a storage building that will house an aircraft, a boat and a tractor) should be avoided if you want to keep the protection of federal jurisdiction.

Aeronautics Act amendment 144, Section 4.9 (December 16th, 2014) : Consultations must be carried out by the proponent of an aerodrome before its development or by the operator of an aerodrome before its expansion or any change to its operation.

Transport Canada has the power to determine the location of aerodromes, by “Prohibiting” or “Remaining Silent”. Meaning aerodrome owners will always have a sword over their heads, in the event of any future expansion of the aerodrome or encroachment of residential developments. These developers or any group of people can complain, argue and sway the Minister to unilaterally “Prohibit” the aerodrome without any rights to appeal this decision.

The definition and extent of consultation is described in detail [go to this link](#)

## Construction of Towers, Windfarms and Other Obstacles Near Private Aerodromes

The issue of the construction of obstacles has become more common with the demand for communication services and the drive for green energy. In general, the issue is pretty straightforward. Unless your aerodrome is protected by and specifically called up in the federal zoning regulations you have no protection in law from anyone building towers or powerlines near your aerodrome. Zoning protection is relatively rare and certainly not available for smaller aerodromes.

Federal jurisdiction and Transport Canada are generally of little help in these situations. If your aerodrome is registered and TC thinks the tower or powerline is a hazard to the safe operation of the aerodrome they could just refuse to register your aerodrome, place restrictions on your aerodrome or prohibit any flying there. They have no power to dictate tower location except at federally zoned airports.

Under Canadian law you also have very little power to compel people to build their towers or powerlines elsewhere. In Canada, we don't have *Charter of Rights and Freedoms* property rights, just

common law rights and they don't give much protection in these sorts of situations.

The key to protecting your aerodrome from obstacles is to get involved early in the planning process and make your safety concerns known. Do not confuse safety with nuisance.

You can do a few things to help protect your aerodrome:

1. All antenna and wind energy proponents are required to consult to some extent, including a public consultation period in which you can express your concerns. Keep your eye on the press for announcements and be proactive in notifying the proponents of your concerns, in writing. Use this Guide to illustrate the setbacks and slopes that should be considered in order to maintain safety and avoid a risk of collision and the liability that they will assume should they choose not to accommodate your concerns.
2. **Register your aerodrome in the CFS.** The CFS is the only document available and known to these companies for planning purposes and knowing you are there may help the companies plan their developments around you.
3. Work with your municipal planning office to ensure they register your aerodrome in a list of municipal aviation infrastructure. Make them aware of this Guide and use it or Transport Canada's TP312 to demonstrate the importance of approach path obstacle management.
4. Encourage municipalities to pass planning regulations (see an example in Appendix 1 to this Guide) that require advance notice be given to existing aerodrome owners of proposed "tall structure" development within a 5 km radius of aerodromes.

Since private aerodromes do not have protection from infringement by these obstacles, your only option is to negotiate with the people proposing to construct them. In some cases, the tower owner has re-located the tower out of concerns for the potential liability of locating near a private aerodrome. This can be a very compelling argument.

Banding together with local non-aviation neighbours who also oppose the tower obstacle to provide a common voice may also help. But, be careful of this tactic. Many people will simply complain about the nuisance. The not-in-my-backyard approach can backfire, especially when there is a "greater public good" reason for the development.

COPA is actively working to encourage the wind energy industry to voluntarily adopt planning and construction practices that minimize the effect on aviation infrastructure including private aerodromes.

## Dealing with Noise Complaints

Noise complaints frequently start with a neighbour of the aerodrome who doesn't like airplanes. Typically, noise is not the real issue; it is the visual intrusion.

The best way to deal with noise complaints is to listen to the person making the complaint and try to make sure he/she understands why you have to intrude for brief periods of time. While you have the right to build your aerodrome, your right to intrude on others privacy is not so clear. See if you can voluntarily limit operations to keep neighbours happier. Do you really need to fly circuits first thing on a Sunday morning, for example? Perhaps practice circuits can be flown at a local municipal airport instead.

Some neighbours aren't interested in being reasonable - they just want the airplanes to go away. They quickly discover that complaining to the municipality doesn't work because the municipality has no jurisdiction over aeronautics. When the complainant discovers this, he may appeal to the Minister of Transport as the responsible authority for aviation in Canada.

TC has a formal process to address noise complaints. The process starts with [CAR 601.18](#) which allows the Minister of Transport to make orders restricting aircraft. There are steps to determine what, if any, restrictions will be placed on the aerodrome and it frequently becomes a political issue rather than a technical one, so be very wary of invoking this process as a solution to your problem.

When the Minister is asked to intervene, there is usually a ten-step process that is followed.

Transport Canada recognizes the need for proper consultation and has instituted a procedure that will allow aircraft operators to challenge all checklist, which requires consultation with all concerned parties before new noise restrictions can be published in the CAP or CFS. When the following checklist has been completed for proposed noise restrictions at an aerodrome, and has been reviewed and approved by Transport Canada and the Canadian Aviation Regulation Advisory Council (CARAC), the noise restriction will be published in the appropriate aeronautical publication(s).

The appropriate Regional Manager, Aerodrome Safety is the focal point for the coordination of the Transport Canada and CARAC review and approval.

### CHECKLIST

1. The noise issue is clearly identified by the proponent. Supporting documentation shall consider (where applicable) but not be limited to the following, where applicable:

- Description of the problem;
- Proposed solution (including possible exceptions);
- Alternatives (such as alternative procedures or land uses in the community);
- Costs (such as revenue impact, direct and indirect costs to the community, airport operator and airport users);
- Noise impacts of the proposed solution;

- Effects on aircraft emissions;
- Effect on current and future airport capacity;
- Implications of not proceeding with the proposal;
- Implementation issues (e.g. aircraft technology; availability of replacement aircraft; ground facilities);
- Impact on the Aviation System;
- Safety implications;
- Air traffic management;
- Fleet impact.

2. The proponent conducts consultation on the proposal with all affected parties to include the following:

- Airport management/operator;
- Noise management committee (where applicable);
- Community representatives;
- NAVCANADA;
- Air Transport Association of Canada (secretarially or by delegate);
- Canadian Business Aircraft Association (secretarially or by delegate);
- Canadian Owners and Pilots Association (secretarially or by delegate);
- All scheduled Operators who operate at the airport;
- Transport Canada;
- All Fixed Base Operators on the airport.

3. The proponent:

- a. Fully and clearly explains the impacts to all parties, documenting this consultation and the information produced by this process such that it is clear what has been transmitted to whom and any reactions received.
- b. Where all parties agree with the proposal, the airport operator shall submit a description of the proposal and of the consultation process. Included in the package will be a signoff indicating agreement of the participants.
  - i. The consultation process will include descriptions of what information was considered and an explicit indication of agreement to not consider particular items.
- c. Where there is no consensus, the proponent shall document the consultation in the same manner as b) above, include any dissenting views, and will forward this information to the airport operator for onward transmission to Transport Canada. Dissents should contain all reasons for the position taken.

4. Regional Aerodrome Safety reviews the documentation and the proposal to ensure that the consultation process has been followed and that the report is complete and accurate, and then refers it to the Director Aerodrome Safety with its recommendation. This report shall include the Regional concurrence or disagreement with the proposal along with supporting rationale.

5. The Director Aerodrome Safety reviews the submission and obtains headquarters Office of Technical Interest signoff to ensure that the proposal meets the national policy and verifies the national airport system effects, if applicable.
6. Where there is consensus the proposal will be sent for publication.
7. If there is no agreement, the Director Aerodrome Safety prepares briefing explanatory notes for forwarding to the Aircraft Noise and Emissions Committee (ANEC) members.
8. The Director Aerodrome Safety will call a meeting of the ANEC to schedule a proposal review.
9. Where dissents have been forwarded, the Director Aerodrome Safety prepares notes and forwards an issue paper to the Secretariat of the Civil Aviation Regulatory Committee (CARC) meeting agenda.
10. If no dissents or CARC has rendered a decision, the Director Aerodrome Safety arranges with region to publish procedure or restriction.

## Steps For Dealing With Challenges From Non-federal Agencies

Even though COPA won a considerable victory at the Supreme Court of Canada (SCC) when federal jurisdiction was clarified and re-enforced, challenges from non-federal levels of government may continue because either they have not taken the time to study the issue or they refuse to accept that they do not have jurisdiction. Here are some steps that aerodrome owners can take to help governments understand and accept that they do not have jurisdiction.

An important step whenever there is a challenge is to determine if the aerodrome is in the built-up area of a city or town. This is not clearly defined, but it is intended to be applied in determining if there are approach and departure paths from an aerodrome where, in the event of an emergency, the aircraft can be landed with minimum risk to persons and structures on the ground. If the aerodrome is within a built-up area of a city or town, the municipality has some control over whether or not the aerodrome can be there because it must be certified in order to be in that area and part of the certification process is seeking approval from the municipality.

If there is any doubt regarding the location of your aerodrome, you should contact the regional office of Transport Canada and ask their Aerodromes staff for a determination. If it is determined that the aerodrome is not within a built-up area of a city or town, you have the right, as confirmed by the SCC, to establish an aerodrome and build a hangar and other aviation support facilities on your property without other government interference provided that you do not give them ammunition for claiming jurisdiction, such as using your hangar for non-aviation storage or connecting it in any way with your home, installing a fueling facility that includes environmentally unsafe features, etc.

As a next step, you should provide the challenger with this Guide and ask that they study the SCC

decisions and the other cases that have confirmed federal jurisdiction over the years. You should avoid being “in their face” about your right, but politely inform them that you will comply with the federal building code with respect to structures, and that you will not combine uses, will keep the hangar separate, etc. These are important considerations for avoiding situations where they may have some jurisdiction. It would be good to offer to keep them informed of your plans and progress but make it clear that you do not need their permission. If they suggest that a way out of this would be to apply for a permit, you should politely refuse. Our legal counsel advises that such an application may be construed by the courts as your concession or recognition that the municipal or provincial agency has some jurisdiction when, in fact, they do not. Thus, if the permit you have applied for is denied or has unacceptable conditions attached to it, you will have a more difficult time asserting want of jurisdiction in any subsequent enforcement proceedings.

In most cases, the municipality should back off when they study our Guide and the referenced cases. If they do not, and especially if they threaten to take legal action, the next step should be to contact COPA HQ, Bernard Gervais for assistance. After explaining your situation to COPA staff, we will determine if your case is either simply an example of the federal jurisdiction issue that we won at the SCC, in which case you may be advised to seek aviation legal counsel, or there is something unique, beyond the federal jurisdiction precedent that we have achieved, and of national concern that COPA’s Freedom to Fly Fund should take on.

For liability reasons, COPA does not publish a list of aviation lawyers. Some lawyers advertise in our newspaper but COPA makes no guarantees regarding their aviation expertise. COPA’s aviation legal counsel, Glenn Grenier [Glenn.Grenier@mcmillan.ca](mailto:Glenn.Grenier@mcmillan.ca) (416) 307-4005, has the aviation background and can assist, including handling the case himself or recommending a lawyer in your area. Normally, the next level if the municipality threatens legal action or serves a stop work order could be an exchange of letters between lawyers and/or a teleconference.

COPA has set the precedent through the expenditure of considerable effort and money from the Freedom to Fly Fund over the years. Our work provides you with some important tools that you can use to defend your freedom. The SCC decisions have erased two opposing decisions (Van Gool and St Louis) and there are some very powerful statements in the decisions that make it clear that only the federal government can control aviation, including aerodromes.

## The New Regulations, January 2017

### Applicability of this Regulation

-Do you intend building a new aerodrome? Are you adding a new runway or adding an extension to your runway more than 100 meters or 10%?

If you answered **NO**, then this Regulation **does not** apply to you.

-Is your aerodrome Military, water aerodromes, primary used agriculture or heliport (primarily used helicopter aerodromes), temporary aerodromes for the purpose of providing emergency services?

If you answered **YES**, then this Regulation **does not** apply to you.

-Has your aerodrome been in existence before this Regulation came into effect Jan 1, 2017 or for a number of years? If you answered **YES**, then this Regulation **does not** apply to you. However you may need to prove its existence in case of a complaint.

New aerodrome proponents or major changes to an existing aerodrome

Keep in mind protection of aerodromes under Federal Jurisdiction will still exist as long as proponents Notify, Consult and Mitigate concerns with their municipality and neighbours, also a notification to all aerodromes/airports within 30 nm, NavCanada and protected areas under federal legislation.

According to the new regulations described at this link

<http://gazette.gc.ca/rp-pr/p2/2016/2016-10-19/html/sor-dors261-eng.php> in force since January 1, 2017.

Obviously some Municipalities & neighbours will do everything in their power to prevent an aerodrome from being developed and this can become prohibitively costly to defend oneself.

### How to proceed? (Within 4,000 meters of a built up area or away from a built up area)

Send a registered notification letter (and email) and place a sign, in plain view of the public, at the location where the proposed aerodrome work is to be carried out. (This action will start the 75 days countdown before you can start work on your aerodrome).

Send your letter to:

-Transport Minister

-Nav Canada (providers of air navigation services)

-All airports and registered aerodromes within a radius of 30 nm

-The authority for a protected area within the radius of 4,000 meters (Federal only) measured from the outer perimeter of the site.

Link to protected area: <https://www.ec.gc.ca/ap-pa/default.asp?lang=En&n=989C474A-1>

-Any local land use authority (Municipality)

-Public within the radius of 4,000 meters of the installation, measured from the outer perimeter of the site.



The notification letter and the sign must contain the following information

- (a) a drawing showing the location of the proposed aerodrome work;
- (b) a description of the proposed aerodrome work and its purpose;
- (c) the expected start date and completion date of the proposed aerodrome work;
- (d) a statement that the interested parties may provide their comments or objections to the proponent with respect to the proposed aerodrome work;
- (e) contact information, including the mailing address, phone number and email address, for the contact persons to whom the interested parties may provide their comments or objections; and
- (f) the period, which shall be at least 45 days, during which the interested parties may provide their comments or objections.

### **In any other case, (4,000 meters away from a built up area)**

Send a registered notification letter (and email) and place a sign, in plain view of the public, at the location where the proposed aerodrome work is to be carried out. (This action will start the 75 days countdown before you can start work on your aerodrome).

Send your letter to:

- Transport Minister
- Nav Canada (providers of air navigation services)
- All airports and registered aerodromes within a radius of 30 nm
- The authority for a protected area within the radius of 4,000 meters (Federal only) measured from the outer perimeter of the site.

Link to protected area:

<https://www.ec.gc.ca/ap-pa/default.asp?lang=En&n=989C474A-1>

- Any local land use authority (Municipality)
- The owner(s) of any land bordering the land on which the proposed aerodrome work is to be carried out.

The notification letter and the sign must contain the following information:

- (a) a drawing showing the location of the proposed aerodrome work;
- (b) a description of the proposed aerodrome work and its purpose;
- (c) the expected start date and completion date of the proposed aerodrome work;
- (d) a statement that the interested parties may provide their comments or objections to the proponent with respect to the proposed aerodrome work;
- (e) contact information, including the mailing address, phone number and email address, for the contact persons to whom the interested parties may provide their comments or objections; and
- (f) the period, which shall be at least 45 days, during which the interested parties may provide their comments or objections.

## Summary report

This summary report must be sent to the Minister and must be available to all interested parties for five years. At the end of the 45 day comment or objection period, (30 days before you can start work on your aerodrome), the proponent shall prepare a summary report that includes the following:

- (a) a description of the proposed aerodrome work;
- (b) a description of the measures taken by the proponent to comply with the requirements of this Subpart;
- (c) the interested parties who were notified of the proposed aerodrome work; and
- (d) a summary of the comments and objections received, the actions that the proponent proposes to take to address those comments and objections, and any objections that were not addressed, if applicable.

## Start Aerodrome Work

30 days after submitting your Summary report to the Minister, you may start work on your aerodrome.

## Caveat

Although you may have done everything to be compliant, this does not protect you against being harassed by NIMBYs and you may be required to defend yourself in Court. However the steps you will have followed will act in your favour in front of a Judge!

## Transport Canada and COPA Aerodrome Repository

### Unregistered Aerodrome Repository (Responsible Aerodrome Development)

#### Introduction

This document serves as background information and guidance material for unregistered aerodrome proponents in Canada.

Purpose Changes to the Canadian Aviation Regulations (CARs) on January 1 2017 have made consultation mandatory when building a new aerodrome or when putting in a new runway or extending existing runway by the greater of 100m or 10% (CARs 307.01 a) and b)). It is not applicable to the following aerodromes: military, water (frozen or not), those used primarily for agricultural purposes, those used primarily for helicopter operations and those used temporarily for providing emergency services. These exclusions are spelled out in CARs 307.02.

All existing aerodromes prior to January 1 2017 are not considered “new” and thus do not require consultation to continue operating. It is in the interest of COPA members to gather information proving that their (affected) aerodrome existed and was in operation prior to the new regulations coming into force.

#### What to do?

Take pictures, keep receipts, show a previous entry in the Canada Flight Supplement (CFS), Google Earth, newspaper clippings, anything of that nature that can be linked to an existence before to January 1 2017.

You can also send in your aerodrome information (see a template on the last page of this Guide) to Transport Canada (TC) at any time if you wish, so they have a record of it. Remember that this information is NOT proof of existence of your aerodrome and should you be asked, you will need to substantiate with dated proof.

Sending in your aerodrome information to TC is not part of any regulation and is not mandatory. This is strictly on a voluntary basis and would only serve to save time in the future, should someone in your area believe your aerodrome falls under the post-January 1 2017 regulations.

#### Important note

This user-submitted information has not and will not be verified for accuracy by COPA or anyone else. COPA does not accept any responsibility nor will we support anyone making a false declaration. Should you wish to send basic information to TC, we also invite you to copy COPA in the correspondence. In both cases, an email suffices.

**Transport Canada**

michel.beland@tc.gc.ca  
Michel Béland  
Director Policy and Regulatory Services  
Transport Canada  
330 Sparks Street  
Ottawa, Ontario K1A 0N5

**COPA**

aerodrome@copanational.org  
COPA Aerodrome  
75 Albert, suite 903  
Ottawa, ON  
K1P 5E7

## COPA's Freedom to Fly Fund

In the 1978 the Board of Directors at COPA saw the need to raise funds to combat individuals and organizations that were out to unlawfully restrict or eliminate aviation, intentionally or otherwise. In a few years over \$1,000,000 was raised from COPA member donations for the COPA Special Action Fund. It has been renamed the [Freedom to Fly Fund](#) (FFF) to better describe its purpose.

Each year a portion of the funds available from the investments of the fund are used to protect personal aviation in Canada. In 2005 the COPA Board of Directors decided to raise the amount of capital in the SAF to \$2,000,000 to allow the FFF to address the low interest rates that reduced interest income.

The work to bring the federal jurisdiction issue to the SCC has depleted the reserve. Although the federal jurisdiction work is essentially complete, we need your continuing support to keep the war chest in good shape and provide a reserve in order to address continuing challenges to your freedom to fly, where we have to perform research on a matter of national concern or develop positions that involve hiring consultants. Challenges continue, including intrusion of wind turbines on aerodromes where a formal risk assessment process is required to establish mitigation measures and remind the wind generation industry and government officials of their responsibilities and liabilities.

You can [contribute on an individual basis at any time](#) or when [renewing your membership](#), or call the COPA office (613-247-1036) to contribute using your credit card. We also encourage our Flights to organize fund raising events to help replenish the reserve.

We have achieved this success with the member-supported Freedom to Fly Fund. Let's all do our part to ensure that it remains in place for future challenges.

## Part III How Transport Canada Regulates Aerodromes

The federal Minister of Transport through his/her department, Transport Canada, is the regulatory authority for all matters involving “Aeronautics” in Canada. The power to do this derives from the *Aeronautics Act*.

Under the *Aeronautics Act* the Minister may make regulations to control “Aeronautics” where he or she chooses to do so.

The *Canadian Aviation Regulations* are the rules that govern all civil aviation in Canada. Part III of the CARs deals with Airports and Aerodromes. CAR 301 is the section that regulates aerodromes and is the “law of the land” in Canada for owners and operators of private aerodromes.

CAR 301 is reprinted below and is current as of the date of this document but you should check Transport Canada’s web site for the most current version

<http://laws-lois.justice.gc.ca/eng/regulations/SOR-96-433/page-35.html#h-134>

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## Canadian Aviation Regulations

### **Application**

**301.01** *This Subpart applies in respect of all aerodromes except airports, heliports and military aerodromes.*

### **Inspection**

**301.02** *The operator of an aerodrome shall, without charge, at the request of a Department of Transport inspector, allow the inspector access to aerodrome facilities and provide the equipment necessary to conduct an inspection of the aerodrome.*

### **Registration**

**301.03 (1)** *Subject to subsection (2), where the operator of an aerodrome provides the Minister with information respecting the location, markings, lighting, use and operation of the aerodrome, the Minister shall register the aerodrome and publish the information in the Canada Flight Supplement or the Water Aerodrome Supplement, as applicable.*

**(2)** *The Minister may refuse to register an aerodrome where the operator of the aerodrome does not meet the requirements of [Sections 301.05](#) to 301.09 or where using the aerodrome is likely to be hazardous to aviation safety and, in such a case, shall not publish information with respect to that aerodrome.*

**(3)** *The operator of an aerodrome registered pursuant to subsection (1) shall notify the Minister immediately after any change is made to the location, marking, lighting, use or operation of the aerodrome that affects the information published by the Minister pursuant to subsection (1).*

**(4)** *An aerodrome that is listed in the Canada Flight Supplement or the Water Aerodrome Supplement on the coming into force of this Subpart is deemed to be registered pursuant to subsection (1).*

### **Markers and Markings**

- 301.04 (1)** When an aerodrome is closed permanently, the operator of the aerodrome shall remove all of the markers and markings installed at the aerodrome.
- (2)** The operator of an aerodrome, other than a water aerodrome, shall install red flags or red cones along the boundary of an unserviceable movement area.
- (3)** Subsections (4) to (8) do not apply in respect of any manoeuvring area or part thereof that is closed for 24 hours or less.
- (4)** Where a runway or part of a runway is closed, the operator of the aerodrome shall place closed markings, as set out in [Schedule I](#) to this Subpart, on the runway as follows:
- (a) where the runway is greater than 1 220 m (4,000 feet) in length, a closed marking shall be located at each end of the closed runway or part thereof and additional closed markings shall be located on the closed runway or part thereof at intervals not exceeding 300 m (1,000 feet);
- (b) where the runway is greater than 450 m (1,500 feet) but not greater than 1 220 m (4,000 feet) in length, a closed marking of not less than one-half the dimensions set out in that Schedule shall be located at each end of the closed runway or part thereof and an additional closed marking of the same dimensions shall be located on the closed runway or part thereof at a point equidistant from the two markings; or
- (c) where the runway is 450 m (1,500 feet) or less in length, a closed marking of not less than one-half the dimensions set out in that Schedule shall be located at each end of the closed runway or part thereof.
- (5)** Where a taxiway or part of a taxiway is closed, the operator of the aerodrome shall place on each end of the closed taxiway, or part thereof, a closed marking with the dimensions set out in [Schedule I](#) to this Subpart.
- (6)** Where a helicopter take-off and landing area at an aerodrome is closed, the operator of the aerodrome shall
- (a) place a closed marking over the letter "H", where the letter "H" identifies the helicopter take-off and landing area, or, where no letter identifies the helicopter take-off and landing area, over the centre of the area; or
- (b) comply with subsection (4), where the helicopter take-off and landing area is a runway.
- (7)** Where a manoeuvring area or part thereof is closed permanently, the operator of the aerodrome shall
- (a) obliterate all of the markings that indicate that the manoeuvring area or part thereof is open; and
- (b) subject to subsection (8), paint on the manoeuvring area or part thereof the markings required pursuant to subsections (4) to (6).
- (8)** Where the surface of a manoeuvring area or part thereof is snow-covered or otherwise unsuitable for painting or where the closure is not permanent, closed markings may be applied by means of a conspicuously coloured dye or may be constructed from a suitable conspicuously coloured material or product.

#### **Warning Notices**

- 301.05** Where low-flying or taxiing aircraft at or in the vicinity of an aerodrome are likely to be hazardous to pedestrian or vehicular traffic, the operator of the aerodrome shall immediately
- (a) post notices warning of the hazard on any public way that is adjacent to the manoeuvring area; or
- (b) where such a public way is not owned or controlled by the operator, inform the authorities responsible for placing markings on the public way that there is a hazard.

#### **Wind Direction Indicator**

**301.06 (1)** Except where the direction of the wind at an aerodrome can be determined by radio or other means such as smoke movement in the air or wind lines on water, the operator of the aerodrome shall install and maintain at the aerodrome a wind direction indicator that is

- (a) of a conspicuous colour or colours;
- (b) in the shape of a truncated cone;
- (c) visible from an aircraft flying at an altitude of 300 m (1,000 feet) above the wind direction indicator; and
- (d) illuminated when the aerodrome is used at night.

**(2)** When an aerodrome is closed permanently, the operator of the aerodrome shall immediately remove all of the wind direction indicators installed at the aerodrome.

### **Lighting**

**301.07 (1)** Subject to subsection (2), where a runway is used at night, the operator of the aerodrome shall indicate each side of the runway along its length with a line of fixed white lights that is visible in all directions from an aircraft in flight at a distance of not less than two nautical miles.

**(2)** Where it is not practical to provide at an aerodrome the fixed white lights referred to in subsection (1) for reasons such as the lack of an available electrical power source or insufficient air traffic, the operator of the aerodrome may, if a fixed white light is displayed at each end of the runway to indicate runway alignment, use white retro-reflective markers that are capable of reflecting aircraft lights and that are visible at a distance of not less than two nautical miles from an aircraft in flight that is aligned with the centre line of the runway.

**(3)** The lines of lights or retro-reflective markers required by subsection (1) or (2) shall be arranged so that

- (a) the lines of lights or markers are parallel and of equal length and the transverse distance between the lines is equal to the runway width in use during the day;
- (b) the distance between adjacent lights or markers in each line is the same and is not more than 60 m (200 feet);
- (c) each line of lights or markers is not less than 420 m (1,377 feet) in length and contains no fewer than eight lights or markers; and
- (d) each light or marker in a line of lights or markers is situated opposite to a light or marker in the line of lights or markers on the other side of the runway, so that a line connecting them forms a right angle to the centre line of the runway.

**(4)** Fixed white lights displayed at each end of a runway pursuant to subsection (2) shall be placed so that they are not likely to cause a hazard that could endanger persons or property.

**(5)** Where a taxiway is used at night, the operator of the aerodrome shall indicate each side of the taxiway with a line of fixed blue lights or blue retro-reflective markers placed so that the two lines of lights or markers are parallel and the distance between adjacent lights or markers in each line is not more than 60 m (200 feet).

**(6)** Where a manoeuvring area or part thereof or a heliport is closed, the operator of the aerodrome shall not operate the lights or keep the retro-reflective markers thereon, except as required for maintenance of the lights and markers.

**(7)** Where an aerodrome is used at night, the operator of the aerodrome shall indicate an unserviceable portion of the movement area with fixed red lights, red retro-reflective markers or floodlighting.



**(8)** Where an aircraft parking area at an aerodrome is used at night, the operator of the aerodrome shall indicate the boundary of the area with fixed blue lights or blue retro-reflective markers, placed at intervals not exceeding 60 m (200 feet), or with floodlighting.

**(9)** Subject to subsection (10), where a heliport is used at night for the take-off or landing of helicopters, the operator of the heliport shall illuminate the entire take-off and landing area with floodlights or

(a) where the take-off and landing area is rectangular, shall indicate the boundary with no fewer than eight fixed yellow lights, including one light at each corner, placed so that adjacent lights are not more than 13 m (42.5 feet) apart; or

(b) where the take-off and landing area is circular, shall indicate the boundary with no fewer than five fixed yellow lights placed so that adjacent lights are not more than 13 m (42.5 feet) apart.

**(10)** Where it is not practical to provide at a heliport the fixed yellow lights referred to in subsection (9) for reasons such as lack of an available electrical power source or insufficient air traffic, the operator of the heliport may use yellow retro-reflective markers that are capable of reflecting aircraft lights and that are visible at a distance of not less than two nautical miles from an aircraft in flight that is aligned with the approach path, if

(a) a light source is provided to show the location of the heliport; or

(b) where there is only one path for approach and departure, two lights are used to show the approach orientation.

**(11)** Where the lighting required by subsections (1), (2), (5) and (7) to (10) is operated by a radio-controlled system capable of activation from an aircraft, the system shall meet the requirements set out in [Schedule II](#) to this Subpart.

**(12)** The operator of an aerodrome may display flare pots to provide temporary lighting for the landing or take-off of aircraft.

### **Prohibitions**

**301.08** No person shall

(a) walk, stand, drive a vehicle, park a vehicle or aircraft or cause an obstruction on the movement area of an aerodrome, except in accordance with permission given

(i) by the operator of the aerodrome, and

(ii) where applicable, by the appropriate air traffic control unit or flight service station;

(b) tow an aircraft on an active movement area at night unless the aircraft displays operating wingtip, tail and anti-collision lights or is illuminated by lights mounted on the towing vehicle and directed at the aircraft;

(c) park or otherwise leave an aircraft on an active manoeuvring area at night unless the aircraft displays operating wingtip, tail and anti-collision lights or is illuminated by lanterns suspended from the wingtips, tail and nose of the aircraft;

(d) operate any vessel, or cause any obstruction, on the surface of any part of a water area of an aerodrome that is to be kept clear of obstructions in the interest of aviation safety, when ordered, by signal or otherwise, to leave or not to approach that area by the appropriate air traffic control unit or flight service station or by the operator of the aerodrome;

(e) knowingly remove, deface, extinguish or interfere with a marker, marking, light or signal that is used at an aerodrome for the purpose of air navigation, except in accordance with permission given

(i) by the operator of the aerodrome, and

(ii) where applicable, by the appropriate air traffic control unit or flight service station;



- (f) at a place other than an aerodrome, knowingly display a marker, marking, light or signal that is likely to cause a person to believe that the place is an aerodrome;
- (g) knowingly display at or in the vicinity of an aerodrome a marker, marking, sign, light or signal that is likely to be hazardous to aviation safety by causing glare or by causing confusion with or preventing clear visual perception of a marker, marking, sign, light or signal that is required under this Subpart;
- (h) allow a bird or other animal that is owned by the person or that is in the person's custody or control to be unrestrained within the boundaries of an aerodrome except for the purpose of controlling other birds or animals at the aerodrome as permitted by the operator; or
- (i) discharge a firearm within or into an aerodrome without the permission of the operator of the aerodrome.

#### **Fire Prevention**

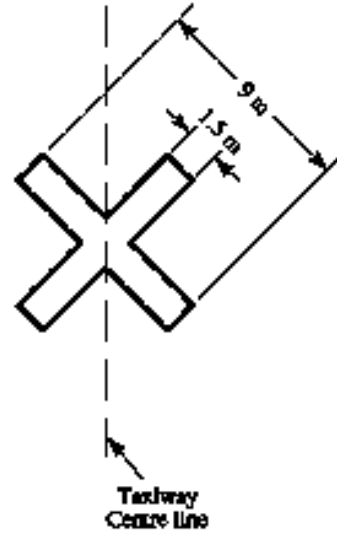
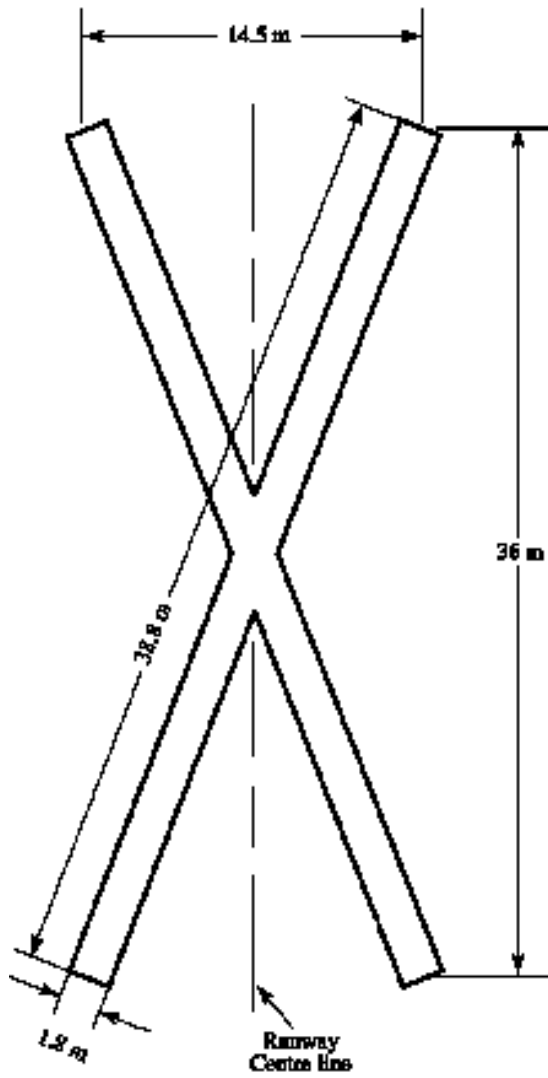
**301.09 (1)** Subject to subsection [301.07](#) and subsections (2) and (3), no person shall, while at an aerodrome, smoke or display an open flame

- (a) on an apron;
- (b) on an aircraft loading bridge or on a gallery or balcony that is contiguous to or that overhangs an apron; or
- (c) in an area where smoking or the presence of an open flame is likely to create a fire hazard that could endanger persons or property.

**(2)** The operator of an aerodrome may, in writing, authorize maintenance or servicing operations on an apron that involve the use, production or potential development of an open flame or that involve the production or potential development of a spark where the operations are conducted in a manner that is not likely to create a fire hazard that could endanger persons or property.

**(3)** The operator of an aerodrome may permit smoking in an enclosed building or shelter located on an apron where such smoking is not likely to create a fire hazard that could endanger persons or property.

## Schedule I – Closed Markings



## Schedule II - Intensity Settings for Lighting Systems Activated by Radio Control from Aircraft

Visual Aid System	Number of Intensity Settings	Selected Level of Intensity (percentage of rated output of fixture)			
		System Providing 3 Sections (type K)			Single Selection Systems (type J)
		3 Clicks	5 Clicks	7 Clicks	
Medium Intensity Approach Lighting:	3	4%	20%	100%	Note 1
▪ Fixed Lights					
▪ Capacitor Discharge Lights	3	OFF	OFF or 10%	100%	Note 1
Omni Directional Approach Lighting Systems (ODALS)	3	6%	30%	100%	30%
Low Intensity Approach Lighting	1	100%	100%	100%	100%
Runway Edge, Threshold and End Lighting:	3	10%	30%	100%	Note 2
▪ Medium Intensity					
▪ Low Intensity	1	100%	100%	100%	100%
Runway Identification Lights (RILS)	1	OFF	OFF or 30%	100%	Note 3
	1	OFF	OFF or 100%	100%	
Wind Direction Indicator	1	100%	100%	100%	100%
Aerodrome Beacon	1	100%	100%	100%	100%

Note 1: Medium intensity approach lighting shall not be controlled by a system employing only one intensity selection except for Omni Directional Approach Lighting Systems (ODALS).

Note 2: These systems shall not be controlled by a system employing only one intensity selection.

Note 3: These fixtures may be set at 10%, 100% or OFF.

# Transport Canada Advisory Circular

<b>Subject:</b>		<b>Aerodrome Registration</b>	
Issuing Office:		Standards	
PAA Sub Activity	Aviation Safety	Document No.:	AC 301-002
Area:	Regulatory Framework		
Classification File	Z 5000-34	Issue No.:	01
No.:			
RDIMS No.:	4124928 v22	Effective Date:	2010-12-10

## 1.0 INTRODUCTION

This Advisory Circular (AC) is provided for information and guidance purposes. It may describe an example of an acceptable means, but not the only means, of demonstrating compliance with regulations and standards. This AC on its own does not change, create, amend or permit deviations from regulatory requirements, nor does it establish minimum standards.

### 1.1 Purpose

The purpose of this document is to provide guidance and clarification for the registration of aerodromes, in accordance with *Canadian Aviation Regulations (CARs)*.

### 1.2 Applicability

This document applies to owners and operators of non-certified aerodromes, NAV CANADA – Aeronautical Information Service (AIS), Transport Canada Civil Aviation (TCCA) personnel. This information is also available to the aviation industry for information purposes.

### 1.3 Description of Changes

Not applicable.

## 2.0 REFERENCES AND REQUIREMENTS

### 2.1 Reference Documents

It is intended that the following reference materials be used in conjunction with this document:

- a. *Aeronautics Act*;
- b. *Civil Air Navigation Services Commercialization Act (CANSCA)*;
- c. Part III, Subpart 01 of the *Canadian Aviation Regulations (CARs)—Aerodromes*;
- d. Part VIII, Subpart 03 of the *CARs—Aeronautical Information Services*;
- e. Annex 4 to the Convention on International Civil Aviation – *Aeronautical Charts*;
- f. Annex 15 to the Convention on International Civil Aviation – *Aeronautical Information Services*;
- g. NAV CANADA Publication – *Aeronautical Information Products – AIP Canada (ICAO)*;
- h. Transport Canada Publication, TP 14371. *Aeronautical Information Manual (TC-AIM)*.

### 2.2 Cancelled Documents

Not applicable.

*Note: By default, it is understood that the publication of a new issue of a document automatically renders any earlier issues of the same document null and void.*

## 2.3 Definitions and Abbreviations

The following definitions and abbreviations are used in this document:

- a. **AIS:** Aeronautical Information Services – the services necessary to meet the requirements of Annexes 4 and 15 of the International Civil Aviation Organization (ICAO) standards that relate to aeronautical information.
- b. **ANS:** the air navigation services provided by and under the authority of NAV CANADA in accordance with Part II, of CANSCA.
- c. **NPA:** Notice of Proposed Amendment;
- d. **Registered aerodrome:** an aerodrome on record with TCCA as meeting the requirements of subpart 301 of the CARs - *Aerodromes*.

## 3.0 BACKGROUND

1. It is estimated that there are over 6000 aerodromes in Canada; however, reliable aerodrome information is only available for approximately one third of this total (recently estimated at roughly 1200 registered and 600 certified aerodromes). Where reliable information is available, that information may be published in the *Canada Flight Supplement (CFS)* or the *Water Aerodrome Supplement (WAS)*, in accordance with aeronautical information criteria specified by NAV CANADA, the AIS provider, and in accordance with international standards (ICAO Annexes 4 and 15) for publishing aeronautical information.
2. In consultation with the TCCA Regional – Aerodromes and Air Navigation Office, in which the aerodrome is physically located, an owner or operator of an aerodrome in Canada can voluntarily initiate the aerodrome registration process.
3. Registration of an aerodrome is a two-part process conducted under the authority, direction, and guidance of the appropriate TCCA Regional Office:
  - a. The first part in the registration process requires the aerodrome owner or operator to:
    - i. Voluntarily initiate with TCCA a request for registration; and
    - ii. Meet all of the basic requirements of Subpart 301 of the CARs – *Aerodromes*.
  - b. The second part is the provision of the aerodrome’s verified aeronautical information to the TCCA Regional Office and subsequently to NAV CANADA, AIS Data Collection for initial publication within the Integrated Aeronautical Information Publication (AIP) Package, examples of which would be the CFS, WAS, and applicable Charts.
  - c. Ultimately, the authority and responsibility for aviation in Canada rests solely with the Minister hence, no other requirements or conditions should be imposed on operators regarding the aerodrome registration process. If the operator of an aerodrome wishes to voluntarily register their aerodrome with TCCA by meeting the basic requirements of Subpart 301 of the CARs, TCCA will register the aerodrome and have the required aerodrome aeronautical information included in the appropriate publications within the Integrated AIP Package produced by NAV CANADA.

## 4.0 INITIAL REGISTRATION PROCESS

### 4.1 Request for Registration

The operator of an aerodrome submits, to the TCCA Regional Office, a written request for the registration of the aerodrome. At this time, the operator should also provide site pictures, site survey, as well as all information respecting the location, markings, lighting, use and operation of the

aerodrome, in accordance with current requirements of Subpart 301 of the CARs. Subsequently, a regional Civil Aviation Safety Inspector (CASI) will make contact with the operator to discuss any issues, necessary actions, or further guidance and advice regarding the registration process and subsequent publication of the aerodrome's aeronautical information.

#### 4.2 Refusal for Registration

In accordance with subsection 301.03(2) of the CARs, the Minister may refuse to register an aerodrome where the operator does not meet the requirements in Subpart 301 of the CARs or where using the aerodrome is likely to be hazardous to aviation safety.

#### 4.3 Required Aerodrome Information

1. NAV CANADA AIS Data Collection will require the following basic administrative and physical information for initial registration and subsequent CFS/WAS publication purposes. This listing is not intended to be all encompassing, as further information may be necessary from the operator prior to the completion of the registration process.
2. The following is a sample of the type of operator-verified information submitted to or requested by the appropriate TCCA Regional Office in order to complete the registration process. Further guidance and coordination with the responsible CASI will be required throughout the process.

### Part I – Administrative Documentation

(a) AERODROME NAME:

(b) OPERATOR:

- (i) Name;
- (ii) Address;
- (iii) City/Town;
- (iv) Province;
- (v) Postal Code.

(c) CONTACT NAME (if different from above);

- (i) Telephone;
- (ii) FAX;
- (iii) E-mail address.

(d) SEASONAL USE:

- (i) Dates: From: YYYY-MM-DD T o: YYYY-MM-DD (if applicable);
- (ii) Address;
- (iii) City/Town;
- (iv) Province;
- (v) Postal Code.
- (vi) Contact Name (if different from above);

A) Telephone;

(B) FAX.

### Part II – Aerodrome Physical Documentation

(a) REF (reference)

(i) Geographic Coordinates:

- (A) North Latitude (deg/min/sec – indicate seconds or decimals);
- (B) West Longitude (deg/min/sec – indicate seconds or decimals); and
- (C) GPS Location (if available).

- (ii) Nearest Community (charted) (distance in NM and relative bearing);
  - (A) Magnetic Variation;
  - (B) Time Zone Factor;
  - (C) Elevation (highest point on the useable landing surface);
  - (D) Charts.
- (b) OPERATOR (OPR)
  - (A) Name;
  - (B) Telephone;
  - (C) Registered (y or n);
  - (D) PPR (prior permission required); or PNR (prior notification required).
- (c) PUBLIC FACILITIES (PF) in accordance with CFS/WAS A - GENERAL SECTION (as appropriate); such as availability or existence of:
  - (A) Telephone;
  - (B) Food;
  - (C) Taxi;
  - (D) Medical facilities;
  - (E) Accommodation (rental);
  - (F) Car rental.
- (d) SERVICES (S) (day of week and time when available, as applicable)
  - (A) Storage;
  - (B) Servicing/minor repairs;
  - (C) Major repairs;
  - (D) Parking (extended term);
  - (E) Tie-down facilities;
  - (F) Plug-in facilities;
  - (G) Pick-up/drop-off only (no extended term parking);
- (e) PHYSICAL AERODROME DATA (AD) (as applicable)
  - (A) Runway characteristics;
  - (B) Taxiway characteristics;
  - (C) Apron characteristics;
  - (D) Runway condition reporting;
  - (E) Helicopter pad characteristics;
  - (F) Lighting.

## 5.0 COMPLIANCE REQUIREMENTS

### 5.1 Obligations

Subpart 301 of the CARs puts into regulation the registration process that is used to publish and maintain information on an aerodrome listed in the CFS or WAS and specifies the respective obligations such as:

**“301.03 (1)** *Subject to subsection (2), where the operator of an aerodrome provides the Minister with information respecting the location, markings, lighting, use and operation of the aerodrome, the*

Minister shall register the aerodrome and publish the information in the Canada Flight Supplement or the Water Aerodrome Supplement, as applicable.

“(2) The Minister may refuse to register an aerodrome where the operator of the aerodrome does not meet the requirements of Sections 301.05 to 301.09 or where using the aerodrome is likely to be hazardous to aviation safety and, in such a case, shall not publish information with respect to that aerodrome.

“(3) The operator of an aerodrome registered pursuant to subsection (1) shall notify the Minister immediately after any change is made to the location, marking, lighting, use or operation of the aerodrome that affects the information published by the Minister pursuant to subsection (1).”

#### 5.2 Application

1. Subpart 301 of the CARs applies to all aerodromes in Canada except airports, certified heliports, and military aerodromes; and is the source for the *registration* process used to publish and maintain site information in the CFS or the WAS.
2. *No aerodrome operator is required by these regulations to have aerodrome information published in the CFS or WAS however, the Minister may choose not to publish information for a site that is considered to be hazardous to aviation safety.*
3. It is generally viewed by the aviation industry that there exists a positive effect on safety of having information regarding an aerodrome available to the users hence, benefit for the registration of an aerodrome, culminating in the publication of its aeronautical information in the appropriate *AIP Canada* (ICAO) such as CFS and WAS, may enhance aviation safety.

#### 5.3 Standards and Guidelines

1. Although there are no regulatory standards directly related to Subpart 301 of the CARs, all aerodrome operators are encouraged, in the interest of safety and efficiency, to develop their sites by taking into consideration the latest edition of the *Aerodrome Standards and Recommended Practices – TP 312* publication or Subpart 325 of the Standard – *Heliports*, as guidance material.

TP 312 is available in PDF format from the Transport Canada web site at <https://www.tc.gc.ca/eng/civilaviation/publications/tp312-menu-4765.htm>  
Subpart 325 of the Standard at:

2. <http://www.tc.gc.ca/eng/civilaviation/opssvs/managementservices-referencecentre-acs-300-menu-121.htm>
3. Improvements made to the physical characteristics of an aerodrome, in voluntary compliance with standards and recommended practices documents, do not require approval from Transport Canada, and will not be inspected.
4. Industry guidelines or “best practices” may be available from various representative groups and used by operators wishing to develop and register their aerodromes in accordance with requirements in Subpart 301 of the CARs, in an effort to enhance their individual level of aviation safety.

#### 5.4 Regional TCCA actions

1. Upon receipt of a written request (includes e-mail or fax) for aerodrome “registration”, by the appropriate TCCA regional office, a regional CASI should be appointed to conduct an assessment of the site based on the information submitted by the aerodrome operator or as additional information may be required. Upon completion of the assessment a preliminary



report should be provided to the operator explaining any identified deficiencies and/or concerns.

2. Subject to the satisfactory review of all the relevant information, the CASI would normally conduct a site visit to verify that the submitted information is accurate and that the aerodrome is not hazardous and once satisfied, submit all applicable site aeronautical information to NAV CANADA for publication in the CFS or WAS.

#### 5.5 On-going regulatory site inspections

1. Any subsequent regulatory safety inspections will be conducted only when there is cause to believe that there exists adverse safety issues or concerns (risks) associated with the continued operation of the aerodrome.
2. In addition to subsection 301.03 (3) of the CARs, operator obligation of immediately advising the Minister of any change made to the aerodrome's published information, Transport Canada will request that the operator verify all published aerodrome information, through an annual written request. If no response is received within 40 days, follow-up contact by telephone will be taken to determine if amendment action will be instituted to delete the aerodrome from these publications.

## 6.0 AERONAUTICAL INFORMATION PUBLICATIONS

1. An aeronautical information publication is any publication required by ICAO states, and which provides aeronautical information to the aviation public. Aeronautical information publications include information such as that found in *AIP Canada (ICAO)*, *Canada Air Pilot/ Restricted Canada Air Pilot (CAP/RCAP)*, *CFS/WAS*, and applicable aeronautical charts, along with various other publications collectively referred to as State aeronautical information.
2. In Canada, NAV CANADA has a clear mandate to publish state aeronautical information publications in accordance with the *Civil Air Navigation Services Commercialization Act (CANSCA)*, Part II – *Provision of Civil Air Navigation Services*, in accordance with Part VIII of the CARs to which NAV CANADA holds responsibility, and in accordance with ICAO Annex 4 and 15.
3. Section 300.01 of the CARs' definition of "aeronautical information publications" means the following documents:
  - a. *Canada Air Pilot (CAP)*,
  - b. *Canada Flight Supplement (CFS)*,
  - c. *Water Aerodrome Supplement (WAS)*, and
  - d. *AIP, Canada ICAO*.
4. The documents listed above are only the four most significant documents, published by Transport Canada's AIS service provider, NAV CANADA AIS Data Collection, that relate directly to regulations pertaining to aerodromes, airports and heliports.
5. Consequently, all aerodrome aeronautical information provided to NAV CANADA Data Collection office either initially by TCCA or subsequently by aerodrome operators directly will not be administratively restricted as such publication in the state AIP is clearly a regulatory requirement, conducted in accordance with subsection 301.03(1) of the CARs.

6. ACs can be viewed at the following Transport Canada Documentation Framework website:  
<http://www.tc.gc.ca/eng/civilaviation/opssvs/management-services-reference-centre-menu-113.htm>

## 7.0 CONTACT OFFICE

For more information, please contact the appropriate TCCA Regional Office – Aerodrome and Air Navigation at:

Website: <http://www.tc.gc.ca/eng/regions.htm>

Suggestions for amendment to this document are invited, and should be submitted via the Transport Canada Civil Aviation Issues Reporting System (CAIRS) at the following Internet address:

[www.tc.gc.ca/CAIRS](http://www.tc.gc.ca/CAIRS)

or by e-mail at: [CAIRS\\_NCR@tc.gc.ca](mailto:CAIRS_NCR@tc.gc.ca)

[original signed by Don Sherritt]

Don Sherritt

Director, Standards

Civil Aviation

Transport Canada

## Appendix 1 – Example of Municipal Plan to Protect an Aerodrome

### BLUE RIVER OFFICIAL COMMUNITY PLAN

Thompson-Nicola Regional District  
300 – 465 Victoria Street  
Kamloops, BC V2C 2A9  
Telephone: 1-250-377-8673  
1-877-377-8673 (toll free in BC)  
Facsimile: 1-250-372-5048

**CONSOLIDATED FOR CONVENIENCE ONLY**

Revised: August 19, 2010

Please check with the TNRD (1-250-377-8673)  
for current information on this Bylaw



## 7. TRANSPORTATION

### Objective:

7.0 IT IS THE OBJECTIVE OF THE BOARD OF DIRECTORS TO ENCOURAGE THE MAINTENANCE OF SAFE AND EFFICIENT TRANSPORTATION NETWORKS WITHIN THE PLAN AREA.

### Policies:

- 7.1 In order to maintain the functional integrity of Highway #5, the Yellowhead Highway, as a Controlled Access Highway, the use and extension of frontage roads is encouraged.
- 7.2 Any roadways developed within the Plan Area, with the exception of those constructed or authorized by the Ministry of Forests and Range, shall adhere to the standards of the Ministry of Transportation and Infrastructure.
- 7.3 When designing new roads, the Ministry of Transportation and Infrastructure and developers shall be encouraged to consider the need for snow storage.
- 7.4 When designing new roads, the Ministry of Transportation and Infrastructure and developers shall be encouraged to consider the need for emergency, solid waste and recycling service vehicle access.
- 7.5 In order to maintain the functional integrity of the main line of the Canadian National Railway, and the transmission lines of BC Hydro, Telus (fiber-optics cable) and the Kinder Morgan Canada Company, compatible land uses will be designated along and adjacent to these corridors in order to minimize future conflicts.
- 7.6 In order to protect the operational integrity of the Blue River airport the Board of Directors will work cooperatively with Transport Canada to establish appropriate zoning, with required obstacle height limits, for the lands surrounding the airport. In addition, property owners within the boundaries of the Airport Flight Path Protection Area as shown on Map 1, and especially within the limits of the take-off/approach flight paths, will be encouraged to consider the potential impacts and hazards of aircraft flight operations on their property and its intended use.
- 7.7 The Board of Directors will work with the Ministry of Transportation and Infrastructure to increase traffic safety along the Yellowhead Highway within the Plan Area.

## Unregistered Aerodrome Repository (Responsible Aerodrome Development)

### Introduction

This document serves as background information and guidance material for unregistered aerodrome proponents in Canada.

Purpose Changes to the Canadian Aviation Regulations (CARs) on January 1 2017 have made consultation mandatory when building a new aerodrome or when putting in a new runway or extending existing runway by the greater of 100m or 10% (CARs 307.01 a) and b)). It is not applicable to the following aerodromes: military, water (frozen or not), those used primarily for agricultural purposes, those used primarily for helicopter operations and those used temporarily for providing emergency services. These exclusions are spelled out in CARs 307.02.

All existing aerodromes prior to January 1 2017 are not considered “new” and thus do not require consultation to continue operating. It is in the interest of COPA members to gather information proving that their (affected) aerodrome existed and was in operation prior to the new regulations coming into force.

### What to do?

Take pictures, keep receipts, show a previous entry in the Canada Flight Supplement (CFS), Google Earth, newspaper clippings, anything of that nature that can be linked to an existence before to January 1 2017.

You can also send in your aerodrome information (see template on other page) to Transport Canada (TC) at any time if you wish, so they have a record of it. Remember that this information is NOT proof of existence of your aerodrome and should you be asked, you will need to substantiate with dated proof.

Sending in your aerodrome information to TC is not part of any regulation and is not mandatory. This is strictly on a voluntary basis and would only serve to save time in the future, should someone in your area believe your aerodrome falls under the post-January 1 2017 regulations.

### Important note

This user-submitted information has not and will not be verified for accuracy by COPA or anyone else. COPA does not accept any responsibility nor will we support anyone making a false declaration. Should you wish to send basic information to TC, we also invite you to copy COPA in the correspondence. In both cases, an email suffices.

#### Transport Canada

michel.beland@tc.gc.ca  
Michel Béland  
Director Policy and Regulatory Services  
Transport Canada  
330 Sparks Street  
Ottawa, Ontario K1A 0N5

#### COPA

aerodrome@copanational.org  
COPA Aerodrome  
75 Albert, Suite 903  
Ottawa, ON  
K1P 5E7

*This information is user-submitted and has not been verified for accuracy by COPA or anyone else. COPA does not accept any responsibility for this user-submitted information.*

1. This aerodrome has been in existence since: Year _____ Month _____
2. Owner Name: _____ Address: _____ City/Municipality/County _____ Province: _____ Postal Code _____ Email: _____ Telephone Number: _____ Cell Phone: _____
3. The purpose of the aerodrome is: Recreational <input type="checkbox"/> Private Business <input type="checkbox"/> Aerial Spraying <input type="checkbox"/> Gliders <input type="checkbox"/> Ultra-lights <input type="checkbox"/> Other (pls specify): _____
The details relating to this aerodrome are:
4. Name or identification of aerodrome (if available): _____
5. Location of aerodrome (city/municipality/county): _____
6. GPS coordinates (NAD84): Longitude _____ Latitude _____
7. Elevation (ft ASL): _____
8. Operator name (if different from owner or same): _____
9. Services: _____
10. Aerodrome data (runway lengths, circuit remarks): _____ _____
11. Winter maintenance: Yes <input type="checkbox"/> No winter maintenance <input type="checkbox"/>
12. Lighting: _____
13. Communications (frequency used): _____
14. Comments: _____

PLEASE Include some photographs (preferably with dates) to substantiate its year of existence

## List of abbreviations

AC	Advisory Circular
AIP Canada	Aeronautical Information Publication
AIS	Aeronautical Information Service
ALR	Agricultural Land Reserve
ANEC	Aircraft Noise and Emissions Committee
ATV	All-Terrain Vehicle
CAIRS	Civil Aviation Issues Reporting System
CANSCA	Civil Air Navigation Services Commercialization Act
CAP	Canada Air Pilot
CARs	Canadian Air Regulations
CARC	Civil Aviation Regulatory Committee
CARAC	Canadian Aviation Regulation Advisory Council
CASI	Civil Aviation Safety Inspector
COPA	Canadian Owners and Pilots Association
CFS	Canada Flight Supplement
DFO	Department of Fisheries and Oceans
FBO	Fixed Base Operators
FFF	Freedom to Fly Fund
GPS	Global Positioning System
ICAO	International Civil Aviation Organization
MNR	Ministry of Natural Resources
NIMBY	Not in my backyard
NM	Nautical Mile
ODALS	Omni Directional Approach Lighting Systems
OPR	Operator
RCAP	Restricted Canada Air Pilot
REF	Reference
RILS	Runway Identification Lights
RNWX	Runway
RV	Recreational Vehicle
SCC	Supreme Court of Canada
TC	Transport Canada
TCCA	Transport Canada Civil Aviation
TP	Transport Canada Publication
WAS	Water Aerodrome Supplement