

Alaska's Drone Operator Safety and Privacy Guidelines

Prepared by the UAS Legislative Task Force
29th Alaska State Legislature
November 5, 2015



Incident Reporting: FAA Aviation Safety Hotline 907-271-2000 or contact your local law enforcement agency

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Unmanned Aircraft Systems (UAS) Legislative Task Force

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DISCLAIMER: The purpose of this publication, "Drone/UAS Operator Safety Guidelines and FAQ's About Privacy" is to provide informational aid and overview of certain federal and state laws that may apply to drone/UAS operation. This publication is not intended to provide legal advice or a comprehensive review of all federal and state laws relating to drone/UAS operation. Laws will almost certainly change, particularly in the rapidly developing areas of the law at the federal and state level regarding drone/UAS operation. Before a person operates a drone/UAS, or pursues a legal claim related to drone/UAS operation, it is the sole responsibility of that person to review applicable laws, and seek legal advice if necessary, regarding the person's rights and liabilities. The publishers of this publication disclaim all liability and are not responsible for damages related to the contents of this publication.

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SAFETY: FAA AND THE ROLE OF LAW ENFORCEMENT

The FAA promotes voluntary compliance by educating individual UAS operators about how they can operate safely under current regulations and laws. The FAA also has a number of enforcement tools available including warning notices, letters of correction, and civil penalties. The FAA may take enforcement action against anyone who conducts an unauthorized UAS operation or operates a UAS in a way that endangers the safety of the national airspace system. This authority is designed to protect users of the airspace as well as people and property on the ground.

However, State and local Law Enforcement Agencies (LEA) are often in the best position to deter, detect, immediately investigate, and, as appropriate, pursue enforcement actions to stop unauthorized UAS operations. Although the FAA retains the responsibility for enforcing FAA's regulations, FAA aviation safety inspectors, who are the agency's principal field elements responsible for following up on these unauthorized and/or unsafe activities, will often be unable to immediately travel to the location of an incident.



While the FAA must exercise caution not to mix criminal law enforcement with the FAA's administrative safety enforcement function, the public interest is best served by coordination and fostering mutual understanding and cooperation between governmental entities with law enforcement responsibilities. Although there are Federal criminal statutes that may be implicated by some UAS operations (see 49 U.S.C. § 44711), most violations of the FAA's regulations may be addressed through administrative enforcement measures. As with any other civil or criminal adjudication, successful enforcement will depend on development of a complete and accurate factual report contemporaneous with the event.

Although not an exhaustive list, law enforcement officials, first responders and others can provide invaluable assistance to the FAA by taking the following actions:

1. Witness identification and interviews
2. Identification of the drone operator
3. Viewing and recording the location of the event
4. Identifying sensitive locations, events, or activities
5. Notification to FAA Regional Operation Center
6. Evidence collection

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ALASKA'S KNOW-BEFORE-YOU-FLY DRONE SAFETY GUIDELINES

What is recreational use of a sUAS (Drones)? Recreational use is the operation of a sUAS for personal interests and enjoyment, and not for compensation or hire. For example, using a sUAS to take photographs for your own personal use would be considered recreational; using the same device to take photographs or videos for compensation or sale to another individual would be considered commercial. You should check with the [FAA](#) for further determination as to what constitutes commercial sUAS operation.

SAFETY GUIDELINES FOR RECREATIONAL USERS OF sUAS (DRONES)

- Users should follow community-based safety guidelines, as developed by organizations such as the Academy of Model Aeronautics (AMA)
- Users should fly no higher than 400 feet and remain below surrounding obstacles when possible
- Users must be able to see their sUAS at all times, and use an observer to assist them if needed
- Users should remain well clear and must not interfere with manned aircraft operations, must see and avoid other aircraft and obstacles at all times, must avoid any activity that would cause a manned aircraft pilot to divert from planned operations, and must give way to all other aircraft at all times.
- Users must not intentionally fly over unprotected persons or moving vehicles, and should remain at least 25 feet away from individuals and vulnerable property
- Users must contact the airport or control tower before flying within five miles of an airport
- Users should be aware that in addition to public airports, Alaska has many private airstrips as well as bodies of waters used for take-off and landing by float planes and should not fly a UAS in the vicinity of these locations
- Users should not fly a UAS weighing more than 55 lbs unless it's certified by an aeromodeling community-based organization.
- Users should not fly in adverse weather conditions such as in high winds or reduced visibility
- Users must not fly under the influence of alcohol or drugs
- Users should ensure the operating environment is safe and that the operator is competent and proficient in the operation of the sUAS
- Users should not operate on or fly over private property without first obtaining permission from the property owner and/or tenant
- Users should not fly near or over sensitive infrastructure or property such as power stations, water treatment facilities, correctional facilities, heavily traveled roadways, government facilities, etc.
- Users should not conduct surveillance or photograph persons in areas where there is an expectation of privacy without the individual's permission (See AMA's privacy policy at <http://www.modelaircraft.org/privacy.aspx>).

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Frequently Asked Questions: Privacy

FAQ 1 WHEN DOES A FLYING DRONE BREACH PRIVACY?

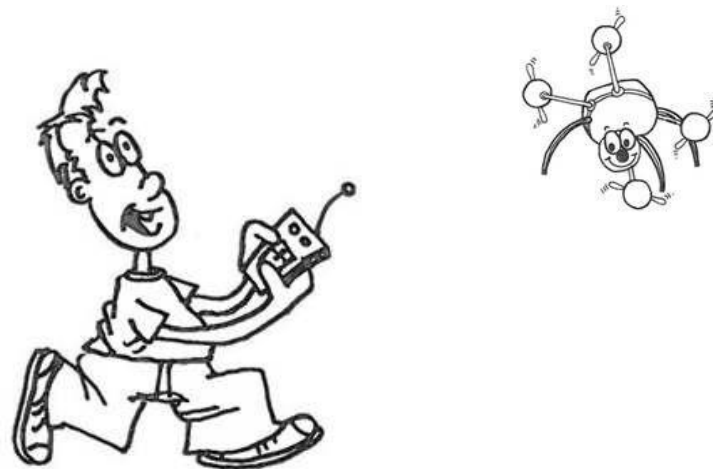
All Alaskans have a reasonable expectation of privacy to live without fear of unwarranted personal invasion. With equal importance, Alaskans enjoy the right to be left alone. The definition for **Reasonable Expectation of Privacy** directly relates to law enforcement requirements to obtain a warrant before actions of search and seizure.

The **United States Constitution Fourth Amendment** forbids the government from performing warrantless and unreasonable searches of any area in which a person maintains a reasonable expectation of privacy. **Alaska's Constitution** guarantees Alaskans the right to privacy. Article 1, Section 22 states, "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." The legislature has a long-standing history of protecting Alaskans' privacy by instituting **statutes** regarding stalking, harassment, indecent viewing, sending explicit images, and misusing confidential information. The UAS Legislative Task Force (UASLTF) continues to review these protections particularly as they relate to unmanned aircraft systems.

The UASLTF has prepared this document to address privacy guidelines with respect to drones and to educate UAS operators and citizens. We will look at privacy as it pertains to the specific act of intrusion into another's privacy, the prevention of intrusion into one's own privacy, and/or the act of exposing elements of one's privacy against an individual's will. This concept is recognized as **"the right to be left alone."**

Private Citizen: Please recognize that individuals experience different levels of sensitivity to interruption of privacy. Was the drone flight intentionally directed at you or just passing through? Do you believe the operator of the drone was flying in an inappropriate way? Be as specific as possible so that you can report the incident to local law enforcement.

Drone Operator: Will you be perceived as intruding on someone's privacy? Would you act in-person as you do with your drone? Be courteous and respectful to others.



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FAQ 2 MY NEIGHBOR IS SUNBATHING ON HER DECK AND MY SON IS FLYING HIS DRONE...



Although the FAA governs the airspace from the ground up, help your son understand courteous flying so he doesn't disturb the neighbors or fly somewhere he shouldn't. He should never hover over your neighbor's yard.

Know Before You Fly provides recreational flying rules for hobby pilots: the complete rules can be found at www.alaskadrones.org.

Private Citizen: The FAA governs the airspace from the ground up regardless of whether the property owner is private, public, corporate, or government. While we enjoy a sense of privacy on our property, we may not control what occurs above our heads.

Drone Operator: Fly with respect. Don't fly your drone where people typically expect privacy. Don't use your drone to harass people. In public areas, don't invade people's personal space and their solitude.

Example: Someone is flying their drone and interrupting my relaxing evening barbequing in my backyard. They won't stop even when I "shoo" it away...

What Can I Do? Try to identify where the drone operator is located. Provide as much information as possible to local law enforcement. This might be a situation of harassment.



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FAQ 3 CAN I SHOOT IT DOWN IF IT'S FLYING OVER MY HOUSE?

Remember that a drone is someone else's personal property. It's best to know:

- Why is a drone flying over your property?
- Is it violating the law?
- Who and where is the drone operator?

If you shoot it down or damage it, you may be liable for:

- Destruction of property
- Discharging a weapon in a restricted area

If you think a drone operator is in violation of the law, immediately contact your local law enforcement agency, and provide as much detail as you can about the encounter.



Private Citizen: The value associated with a recreational drone could be \$25 to much more than \$1,000. The FAA is rapidly authorizing commercial use, so that a small drone could be carrying specialized equipment and cost more than \$100,000. Both the hobby drone and the commercial drone may look very similar as you view it from the ground.

Drone Operator: Before you fly over private property, consider the impact of your flight on someone's privacy. Obtain the owner's permission if you plan to hover and take photos or video. If you do not have permission, data you capture should not exceed what a smart phone could capture from a public viewpoint or area nearby. Avoid flying over populated areas.

What Does Federal Law Say?

18 U.S.C. § 32: Federal law governing the National Air Space states that it is a Federal Offense to discharge a firearm at or in the direction of an aircraft. In effect, anyone purposefully shooting at a UAS, is breaking Federal Law, not just State Law or Local Ordinance. 18 USC 32 states that a person shooting down a government or commercial drone would constitute a violation of 18 U.S.C. § 32, that anyone who damages or destroys any aircraft in flight in the United States has committed a crime punishable by up to twenty years in prison or a fine of up to \$250,000.

Federal law states in part: "Whoever willfully...sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce...shall be fined under this title or imprisoned not more than twenty years or both."

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FAQ 4 WHAT IF A DRONE IS PHOTOGRAPHING THROUGH MY WINDOW OR HOVERING AROUND MY HOUSE?

If you feel threatened or concerned, contact local law enforcement. Alaska has laws that address stalking and “peeping Tom” activities.

Private Citizen: A camera mounted on a drone may be treated in the same way as another camera. If an individual is flying a drone in such a way that you feel violated, local law enforcement should be contacted.

Drone Operator: Enjoy your drone with your family and friends who welcome its presence. When you don't have permission, don't hover and capture images that you couldn't capture on your smart phone while walking down the street, or from a nearby building, or from a manned aircraft overhead.



Welcomed Drone: The family drone hovering and taking a portrait when grandma comes to visit.



Unwelcomed Drone: It wasn't a bad dream and the buzzing sound was not your alarm clock. The drone was spying through the bedroom window. Who knows where the pilot is and how those pictures might be used?

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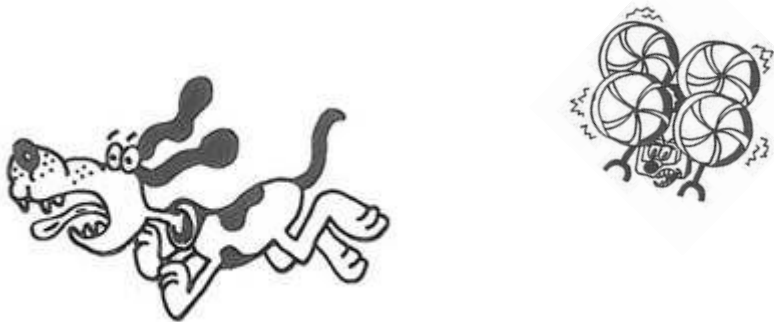
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FAQ 5 THE NEIGHBOR IS CHASING MY DOG WITH HIS DRONE!

Although the pet's owner may have introduced his dog to a flying toy, the noise and unfamiliarity of the neighbor's drone buzzing around could frighten Fido and could be considered harassment. If the dog swats the drone out of the sky and chews it up, would it be considered damaging another's personal property or self-defense by the dog? Who is harassing who? Did the incident occur on the dog owner's property or in a public place? There are many factors to consider.

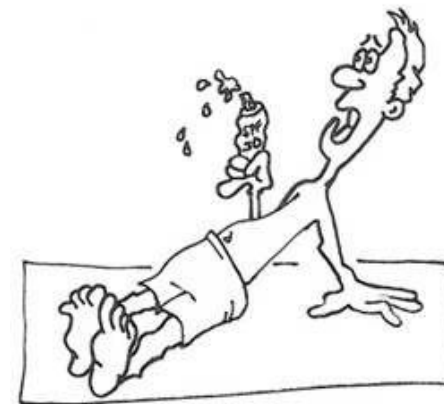
Private Citizen: Know and follow your local animal control laws. If you are in a public area such as a local park, keep your pet away from people flying model aircraft.

Drone Operator: Harassing an animal may come with criminal penalties. Be smart and protect your expensive piece of technology from animals that might view your drone as a threat and attack it.



FAQ 6 WHAT CAN I DO IF THE DRONE'S "BUZZING" IS ANNOYING ME?

A drone typically makes less noise than a standard lawn mower, so fortunately you probably won't find the noise overbearing. But if the noise is annoying, likely the drone is too "near ears" and should be redirected away from people. If the drone is flown during locally recognized waking hours, a drone is probably not in violation of a noise ordinance. If the drone operator is flying too close to people he should be reported to the FAA or local law enforcement for unsafe operations or a situation of harassment.



Private Citizen: Many annoying noises are allowable in both public and private areas. The decibel limit separating acceptable noise level is generally compared to the noise of a standard lawn mower or small engine.

Drone Operator: The drone's buzzing may not be the only problem. The proximity of the aircraft to another person and the length of time in that proximity may be the real issue. **This could be a situation of harassment.** Be courteous to others, don't hover your UAS "near ears," and stay away unless invited.

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FAQ 7 I UNDERSTAND WHY IT'S NOT SAFE TO FLY A DRONE NEAR HEAVY TRAFFIC BUT WHAT ABOUT PRIVACY?

A drone flying near traffic could distract drivers and create unsafe driving conditions including accidents. Drivers should keep their eyes on the road, and drone operators should keep their UAS away from traffic.

Private Citizen: If you see one, keep your eyes on the road. Pull over to report it to local law enforcement if you think it's creating unsafe conditions or collecting data inappropriately.

Drone Operator: Flying over roads can cause distraction and potential automobile accidents on a road system. Not only are drones dangerous over busy traffic but most drivers don't want to be GPS tracked and photographed. Don't fly your drone near high traffic roadways.



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FAQ 8 WHAT PRIVACY CONCERNS CAN THERE BE WHEN YOU'RE IN A CROWD?

Sometimes photographing a crowd could result in the capture of inadvertent images. If the drone photographs Captain Blowhole with a catch beyond his limit, that image could be provided to the authorities for legal review.

Private Citizen: Typically, if you're in a crowd, privacy is limited. Although the safety concerns are paramount when a drone is flying above a crowd, the photography could identify something that a citizen would not want shared, such as the map to Clyde's secret fishing hole.

Drone Operator: During the fishing season, don't photograph Clyde's map to his secret fishing hole! Even if something is visible in a public area, realize a person might not want a camera zooming in on him. Clyde would like his fishing hole to remain a secret.



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FAQ 9 WHAT SAFETY CONCERNS ARE MOST PREVALENT AROUND CROWDS?

"No Drone Zone" announcements have been made at public events to insure the safety of participants and the public. Drone operators have been asked to leave their drones at home during many major events such as: the Super Bowl, forest fires, Olympic qualifying meets, and many other crowd-gathering events.

If you want to find restrictions that may have been posted, check with the nearest FAA airport tower or look at <https://pilotweb.nas.faa.gov/PilotWeb/> for notices to airmen (NOTAMs) for information regarding manned and unmanned flight events occurring in a designated area.

Private Citizen: Safety concerns are paramount when a drone is flying above a crowd. Many unforeseen circumstances can occur that might result in injury. If you see a drone, stay at least 25 feet away from it.

Drone Operator: If the drone was to fall out of the sky it could injure a bystander. The drone could also compromise the safety of the crowd by interfering with the activity or distracting people, thus rendering them unaware of happenings nearby. Keep your drone a minimum of 25 feet from a person. If a crowd is in the general vicinity of your flight, make sure your drone is far enough away that if the battery dies or you lose control of your UAS that it won't fall on anyone. Never fly your drone over or near a crowd intentionally.



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FAQ 10 HOW WILL THE PHOTOS OR VIDEO BE STORED OR USED?

Inappropriate use of images or data captured by technological devices understandably concern Alaskans. If you believe someone has obtained images or data illegally or plans to use them illegally, contact local law enforcement. Be able to answer the following questions: Is the drone operator taking inappropriate images? Are images being used in an inappropriate way? Are the images being used for personal gain? Was personal information stolen?

Examples of inappropriate image gathering could include:

- A drone records your PIN over your shoulder while you are at the ATM.
- A drone records images through your office window of a newly signed contract.
- A drone peers through the window while your child is napping.

Private Citizen: Many recreational drone operators have posted video and pictures on social media sites. Enjoy this new interesting form of photography. If you come across footage that you believe may be a violation of privacy, contact local law enforcement.

Drone Operator: If you are photographing something with your drone in a place where you would not be welcomed if you were taking pictures in-person, your drone should not be there. Make sure you don't save or post footage that breaches someone's privacy.

FAQ 11 WHAT HAPPENS IF A DRONE CAPTURES INADVERTENT IMAGES?

Private Citizen: What happens if a drone captures inadvertent images and those images are posted on social media or reveal something questionable? Photographing in a public area could result in capturing an image that may not have been planned. The image of a person not wanting to be photographed may not be a breach of privacy since it occurred in public.

Drone Operator: Be aware of and be sensitive to what you are photographing. Are you capturing proprietary information? If you capture an image of someone appearing to break the law, you may want to surrender images to local authorities. Some people may not want to be photographed and their expectation of privacy could result in an angry situation. Again, if you are photographing something in a place where you would not be welcomed in-person, redirect your drone elsewhere.



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CAN I USE A DRONE FOR MY BUSINESS?

Aircraft continue to advance technologically and many people are waiting for the opportunity to use drones as part of business. Today, the FAA prohibits commercial use of Unmanned Aircraft Systems (UAS) unless the business has been granted a waiver to use the aircraft for specific purposes in the business. Businesses are beginning to receive authorization to use UAS for commercial use.

You must obtain authorization from the FAA if you want to use your drone for commercial purposes. The time will come when safety concerns have been well-vetted and business use will become commonplace, but at this time, you must have prior FAA approval.

**Thank you for reviewing these guidelines!
Know your rights and your responsibilities.**

Now go enjoy life in a world
where UAS technology is changing daily
and where the UASLTF continues to look out for you!

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CONTACT INFORMATION AND ALASKA STATUTES

Please visit the following web sites for additional information:

Federal Aviation Administration, www.faa.gov/uas

Academy of Model Aeronautics, www.modelaircraft.org

Alaska State Legislature, www.alaskadrones.org

University of Alaska Fairbanks, www.acuasi.alaska.edu

FAA UAS Test Range, www.acuasi.alaska.edu/pputrc

To report suspicious behavior of a drone and its operator, please contact your local law enforcement authority.

Alaska statutes that could be applied to inappropriate drone use:

AS 11.61.116 Sending an explicit image of a minor

AS 11.61.120(a)(6) Harassment, publishing or distributing certain images

AS 11.61.123 Indecent viewing or photography

AS 11.41.270 Stalking, nonconsensual conduct prohibits monitoring by technical means

AS 45 Personal Information Protection Act

AS 11.76.113 and AS 11.76.115 Misconduct involving confidential information in the first and second degree

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Alaskans guard their personal privacy very seriously. How do we define privacy when it comes to Unmanned Aircraft Systems (UAS) commonly known as drones? Because of the rapid development of UAS technology, this question is being contemplated worldwide, and new boundaries must be identified. A threat to safety can be pinpointed more easily because a person can see the aircraft, operator and its effects; on the other hand, a threat to privacy is not so easily pinpointed because it involves thought, sentiment, emotion and perception. It is important operators and citizens understand drone guidelines. This publication was created by the State of Alaska Unmanned Aircraft Systems Legislative Task Force for this purpose.

Read. Share. Enjoy your drone!