

Drone/UAS Operator Guidelines

FAQ about Privacy



Prepared by the UAS Legislative Task Force

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.

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 to 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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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: 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 the 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...

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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3. Can I shoot it down if it's flying over my house?

Remember that 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.

"Looks like a moving target to me!"



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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.

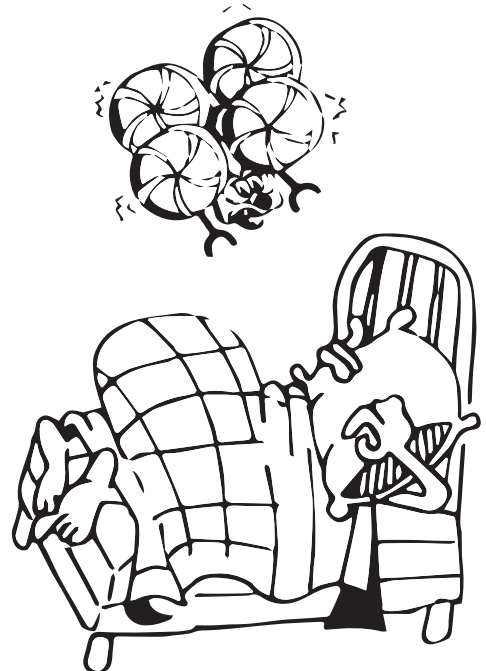
Drone Operator: Enjoy your drone with your family and friends who welcome its presence. When you don't have permission, don't hover and capture images that you couldn't capture on your smart phone while walking down the street, or from a nearby building, or from a manned aircraft overhead.

Welcomed Drone

The family drone hovering and taking a portrait when grandma came to visit.

Unwelcomed Drone

You weren't dreaming 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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5. The neighbor is chasing my dog with his drone!

Although the pet's owner may have introduced the 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 it 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're in a public area such as a local park, keep your pet away from people flying model aircraft and drones.

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.



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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. Because drones are relatively quiet, any noise you hear might instead be an alert to the bystander that the drone operator is flying too close to people and should be reported to the FAA for unsafe operations. This might be 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. Be courteous to others, don't hover your UAS "near ears," and stay away unless invited.



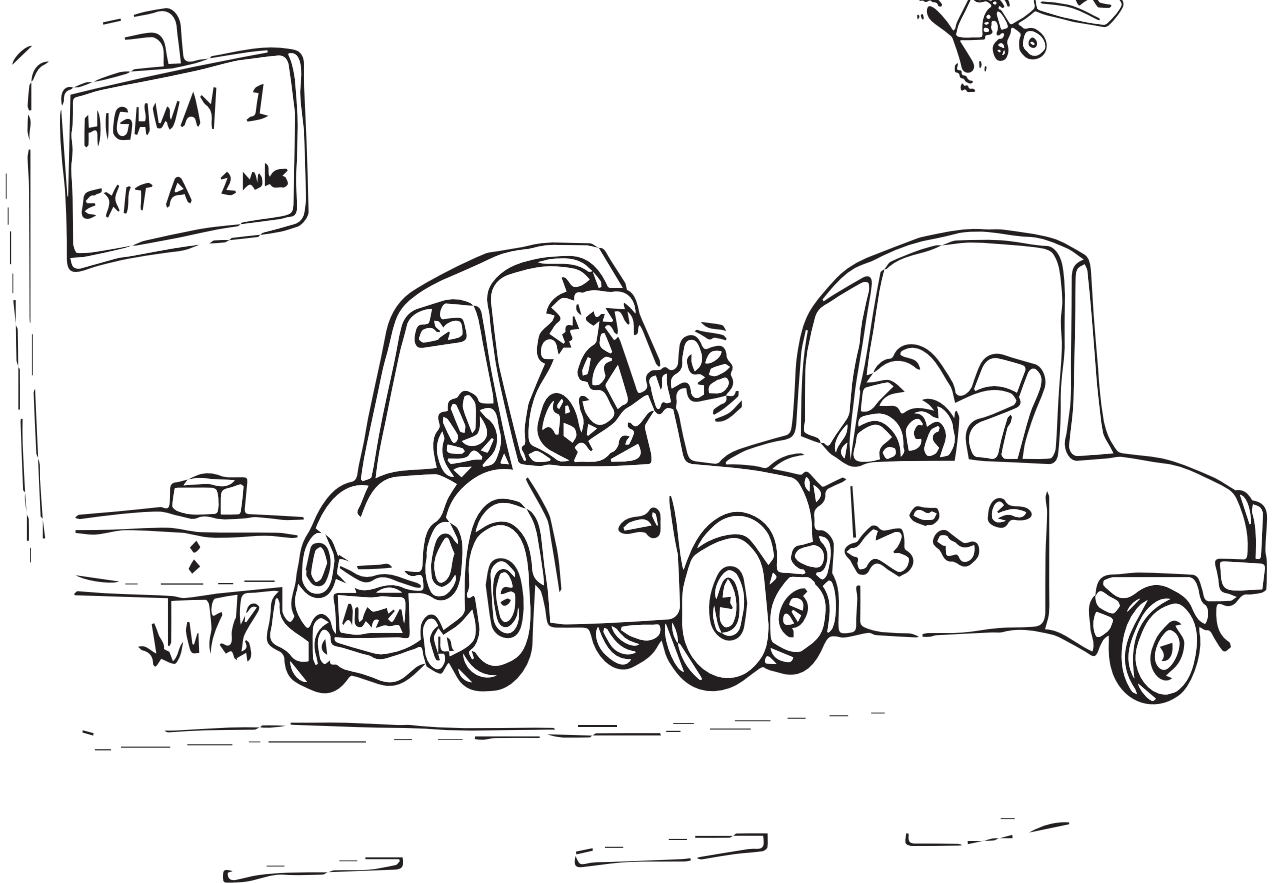
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7. I understand why it's not safe to fly a drone near heavy traffic but what about privacy?

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: Not only are drones dangerous over busy traffic but most drivers don't want to be GPS tracked and photographed. 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. Don't fly your drone near high traffic roadways.



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9. How will the photos/video be stored or used?

Inappropriate use of images or data captured by technological devices 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 using the images for inappropriate purposes? Are images being posted in an inappropriate way? Are the images being used for personal gain? Was personal identification stolen?

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, you shouldn't be there. Make sure you don't save a post footage that breaches someone's privacy. If you don't want someone else posting similar footage of you or your property, destroy the footage. Don't post it.



EXAMPLE

A drone is used to record 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.

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10. 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 could be of a person not wanting to be photographed but may not be a breach of privacy since it occurred in a public place.

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 with your drone, in a place where you would not be welcomed if you were taking pictures in person, redirect your drone elsewhere.



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Not about privacy, but another common question...

11. Can I use a drone for my business?

Today, the FAA prohibits commercial use of unmanned aircraft systems 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 Unmanned Aircraft Systems for commercial use. Thus far, the most common authorizations have been awarded for specific movie production and specific agriculture tasks.

Aircraft continue to advance technologically and many people are waiting for the opportunity to use drones as part of business.

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, any commercial use of your drone must be authorized by the FAA at the Aviation Safety Hotline 866-835-5322 option 4 for unmanned aircraft reporting and information or online at [FAA.gov/contact/safety](https://www.faa.gov/contact/safety).



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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!

Please visit the following web sites for additional information regarding flying your drone:

Federal Aviation Administration, unmanned aircraft section 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 11.16.120(a)(6)
AS 11.41.270 Stalking, nonconsensual conduct prohibits monitoring by technical means
AS 11.61.120(a)(6) Harassment, publishing or distributing certain images
AS 11.61.123 indecent viewing or photography
AS 11.16.120(a)(6)
AS 45 Personal Information Protection Act
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 11.76.113 and AS 11.76.115 Misconduct involving confidential information in the first and second degree

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