



Drone Guidelines

Risks and Guidelines Related to Unmanned Aerial Systems (UAS)/Drones

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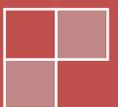


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Drone Guidelines

BACKGROUND

An unmanned aircraft system (UAS) includes the unmanned aircraft (UA or drone) and all of the associated support equipment, control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft. The UA is the flying portion of the system flown by a pilot or operator via a ground control system or autonomously through use of an on-board computer, communication links, and any additional equipment that is necessary for the UA to operate safely.¹

In general, with respect to model aircraft weighing less than 0.55 pounds and for recreation or hobby use in the United States, Federal Aviation Administration (FAA) registration is not necessary. Registration is required for recreational small UASs weighing between 0.55 and 55 pounds.² FAA guidelines state that model aircraft flights should:

1. Be operated in accordance with community-based safety guidelines such as Academy of Model Aeronautics (AMA). See [Know Before You Fly](#) website for more information.
2. Fly no higher than 400 feet and remain below any surrounding obstacles when possible.
3. Be kept within eyesight at all times and use an observer to assist if needed.
4. Remain thoroughly clear of and not interfere with manned aircraft operations and must avoid other aircraft and obstacles at all times.
5. Not intentionally fly over unprotected persons or moving vehicles and remain at least 25 feet away from individuals and vulnerable property.
6. Contact the airport and control tower before flying within five miles of an airport

¹ The airworthiness certification of a UAS applies to the entire system, not just the flying portion of the system.

² See the [Know Before You Fly](#) website for more information and a link to the [on-line registration site](#).

or heliport.

7. Not fly in adverse weather conditions such as in high winds or reduced visibility.
8. Not fly under the influence of alcohol or drugs.
9. Ensure the operating environment is safe and that the operator is competent and proficient in the operation of the UAS.
10. Not fly near or over sensitive infrastructure or property such as power stations, water treatment facilities, correctional facilities, heavily traveled roadways, government facilities, etc.
11. Check and follow all local laws and ordinances before flying over private property.
12. Not conduct surveillance or photograph persons in areas where there is an expectation of privacy without the individual's permission.

Public (governmental) operations of UASs are presently permitted by petitioning for exemption with a civil **Certificate of Waiver or Authorization**³ (COA) for civil aircraft to perform commercial operations in low-risk, controlled environments. If the UAS is for a civil (non-governmental) purpose, an exemption⁴ from the FAA to operate commercially can be sought or an FAA airworthiness certificate for the UAS to operate pursuant to FAA rules can be sought.

DISTRICTS AND DRONE USE

Unmanned aircraft systems are everywhere, and they are being used for a variety of purposes. Airspace and aircraft historically have been the domain of the federal government. As a result, the doctrine of "field preemption" comes into play. Field preemption prohibits state or local governmental regulation in an area if the federal government's regulatory scheme is sufficiently comprehensive that it evidences the intent for federal law to occupy the entire field. As a result, it is important to consider the current federal regulatory system governing UASs (largely, the FAA)

³ A district can operate a UAS by going through the Public COA process. More information is available at the FAA's [Public Operations](#) page.

⁴ For more information, instructions for petitioning for exemption are available at <http://knowbeforeyoufly.org/for-business-users/> or please visit the FAA's Section 333, How to File a Petition page.

to determine what rights a district may have to regulate UAS usage.

UAS regulation within certain airspace is probably not solely within the authority of the federal government and may also be controlled by property owners and regulated by other governmental entities with specific limitations in accordance with the 1946 United States Supreme Court decision that held that landowners have property rights in the portion of the airspace above the ground that is not within the navigable airspace.⁵ The height of the ownership right has not been precisely defined, but case law supports ownership rights in airspace up to at least 500 and perhaps up to 1,000 feet above ground. While the ownership right belongs to all property owners per the Causby decision, a district, as a governmental entity, is uniquely situated to implement policy to regulate its airspace.⁶

ASCIP recommends that districts implement board policies to either ban or allow UAS to be flown on district grounds or sites. ASCIP has prepared sample policies that can be customized. If a district chooses to ban UAS use on district grounds to the fullest extent allowable by law, then refer to **Exhibit A**. If a district wishes to allow the use of a UAS on district grounds, then refer to **Exhibit B**.

Educational Use of UASs

The FAA permits students to use UASs, with restrictions, for educational purposes. The FAA issued a memorandum on May 4, 2016⁷ explaining that it will now consider certain educational operations as "hobby or recreational" use that will not require FAA authorization.

Student Use

In Section 336 of the FAA Modernization and Reform Act of 2012, "strictly for hobby or recreational use" exception to regulation applies to UAS operations at educational institutions and community-sponsored events. A student may operate a UAS under this provision to further his or her aviation-related education at an accredited educational institution, provided that the student is (1) not compensated,

⁵ U.S. v. Causby, 328 U.S. 256 (1946).

⁶ The issue of whether a governmental entity other than the federal government may regulate UAS usage has not been tested. It does not appear to be subject to a direct challenge in other jurisdictions either.

⁷ See http://www.faa.gov/uas/regulations_policies/media/Interpretation-Educational-Use-of-UAS.pdf

or (2) any compensation received is neither directly nor incidentally related to that person's operation of the aircraft at such events.

Faculty Use

The FAA allows "de minimis" UAS use by faculty during student coursework, but only when the faculty member's hands-on use of the drone would be "secondary" to the lessons taught.

The FAA provided the following example of when a faculty member can operate a UAS in class:

This limited circumstance would apply to courses at accredited institutions where the operation of the unmanned aircraft is secondary to the design and construction of the aircraft, such that the primary purpose of the course is not operating an unmanned aircraft. For example, an instructor teaching an engineering course in which construction and operation of UAS are one part of the curriculum would be able to conduct limited UAS operations. In that case, students would fly a UAS to test the validity of design or construction methods to show mastery of the principles of the course. The faculty member's UAS operation would be secondary to the purpose of instructing engineering courses.

The FAA provided the following example of when a faculty member cannot operate a UAS:

This limited circumstance would not apply to a course related to UAS flight instruction. For example, the student's primary purpose for taking the course is to learn to fly a UAS and flight would be expected to be demonstrated on a regular basis. In that case, the faculty member's UAS operation is closely tied to his or her purpose of instructing how to fly a UAS.

Enforcement

Enforcement is a problematic issue. Communicating with local law enforcement and the pertinent municipality or county is critical to determine whether there are any supporting laws that may also control drone use and provide assistance from

local law enforcement. Also, the district's drone policy should mandate compliance with the policy by students, employees, and visitors, which will allow enforcement of appropriate disciplinary action for any violation by such a person under the district's normal disciplinary processes.

Any board policy should be carefully crafted to address the district's specific needs and intentions after consultation with the district's attorney.

ASCIP COVERAGE

District owned or operated UAS (that are not transporting persons or property) from one place to another are generally covered under the ASCIP General and Automobile Liability Memorandum of Coverage (MOC) subject to all coverage terms and conditions.

Exhibit A: Sample Board Policy

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UAS (DRONE) USE PROHIBITED ON DISTRICT GROUNDS

Except to the extent allowed under Section 336 of the FAA Modernization and Reform Act of 2012, as amended, and to the maximum extent otherwise allowed by federal and state law, the use of unmanned aerial systems (UASs)/drones for any purpose is prohibited on District grounds.

For purposes of this Board Policy, “District grounds” is defined as “on or inside District buildings and facilities, on District fields, parking lots, or landscaping, or in the air above District buildings, facilities, fields, parking lots, or landscaping up to an elevation 500 feet above local ground level.”

District security or others so designated shall refuse admission to any individual or group attempting or intending to use a UAS on District grounds. District security or others so designated may suspend play of athletic or other competitions, if necessary, to remove and confiscate any use of a UAS in prohibited areas.

Compliance with this policy is mandatory for District students, employees, and visitors. Appropriate disciplinary action for any violation of this policy by such a person shall be undertaken in accordance with the District's normal disciplinary processes. In addition, failure to follow this policy may result in local, state, and federal penalties as applicable.

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Exhibit B: Sample Board Policy

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USE OF UASs (DRONES) ON DISTRICT GROUNDS

The use of unmanned aerial systems (UASs)/drones for any purpose is prohibited without the written permission of the District. Use of UASs may be permitted, provided the following conditions and requirements are satisfied, at the sole discretion of the District's risk manager or designee:

- A. UAS operation requires Certificate of Authorization (COA) or a Section 333 Exemption as issued by the FAA and/or full registration and compliance with the most current FAA regulations in effect at the date of permit issuance as required by law.
- B. If a person wishes to operate a drone in or over District property, UAS operation requires written consent from and issuance of a permit by the District risk manager or designee at least 24 hours in advance of said operation.
- C. UAS operation on or over District property requires a minimum operator age of 18 (this may be modified for supervised student usage, if noted in the permit to operate) and a maximum UAS weight of 55 pounds.
- D. UAS operation on or over District property is limited to UASs which are incapable of flying over 500 feet (this may be modified for longer ranges if noted in the permit to operate) and to operation during daylight hours.
- E. A signed permit to operate holding the District harmless from any claims of harm to individuals (including, but not limited to, the operator and third parties) or damage to property (including, but not limited to, the UAS or other property of the operator and the property of others). In addition, UAS operators must provide proof of liability insurance covering the UAS's flight and operations with limits of not less than \$1 million that names the District as a designated additional insured as a condition of the permit.
- F. UAS operators must maintain line of sight at all times during operation and are prohibited from flying UASs over playing surfaces, seating, spectator areas, or any other area where and when people are present, as well as parking areas where and when people or vehicles are present.
- G. UAS controllers and their employers are responsible for ensuring operators are trained in the use of the specific drone that they operate. UAS operators must be aware of the risks that include, but are not limited to, personal injury and property damage caused by the UAS as a result of weather, operator error or judgment, and failure of device systems and equipment.

H. Image or audio capturing capabilities on the UAS are prohibited unless specific permission for specific purposes is authorized in the permit to operate. Any unauthorized use of any transmission, internet stream, photographic image, film, video, audio, play-by-play depiction or description of any competition and/or game action is prohibited and may be a violation of Civil Code Section 1708.8. With written permission of the District as part of the permit, real-time or tape-delayed audio, video, or textual transmission of play-by-play is allowable, but it remains the exclusive property of the District. Any account/transmission of real-time video, audio, or textual play-by-play is prohibited on-site without the written permission of the District. When recording or transmitting permitted visual images, UAS controllers must avoid areas considered private in accordance with social norms such that an invasion of privacy would be considered offensive to a reasonable person and Civil Code Section 17808.8. These areas include, but are not limited to, restrooms, locker rooms, individual residences, and health treatment rooms.

The District risk manager or designee shall refuse admission to any individual or group attempting or intending to use a UAS without authorization. The District risk manager or designee may suspend play of athletic or other competitions, if necessary, to remove and confiscate any authorized or unauthorized use of a UAS in prohibited areas.

Compliance with this policy is mandatory for District students, employees, and visitors. Appropriate disciplinary action for any violation of this policy by such a person shall be undertaken in accordance with the District's normal disciplinary processes. In addition, failure to follow this policy may result in local, state, and federal penalties as applicable.

UAS Requirements Checklist:

- FAA approval with Certificate of Authorization or necessary Section 333 Exemption and/or registration.
- FAA approval with special airworthiness certificate (FAA Form 8130-7) and/or registration.
- District Administrator approval and issuance of permit to operate.
- Proof of insurance as required by this policy.
- Statement that the operators are trained in the use of the UAS.

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