

Unmanned Aircraft Vehicle/System (Drones) Privacy Protection Ordinance

Definitions:

1. “Unmanned Aircraft Vehicle” (“UAV”) means an unmanned aircraft that is operated without the possibility of direct human intervention from within or on the aircraft. This definition excludes remotely-controlled model aircraft flown for recreational or sports purposes.
2. “Unmanned Aircraft System” (“UAS”) means an unmanned aircraft vehicle and associated elements (including communication links and the components that control the UAV) that are required for the pilot in command to operate safely and efficiently in the national airspace system.
3. “Image” means a record of thermal, infrared, ultraviolet, visible light or other electromagnetic waves; sound waves; odors; or other physical phenomena which captures conditions existing on or about real property or an individual located on that property.
4. “Imaging Device” means a mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing or transmitting an image.

Prohibited Use:

1. A person commits an offense if the person uses an UAV/UAS to intentionally or surreptitiously film, audiotape, record, or intrude, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, if the intrusion would be highly offensive to a reasonable person and is without consent.
 - a. An offense under this section is a Class 1 misdemeanor
2. A person commits an offense if the person uses an UAV/UAS to appropriate the commercial value of a person’s identity by displaying, distributing, selling, or otherwise using, without consent, the person’s image, recording, or other indicia of identity for commercial purposes.
 - a. An offense under this section is a Class 1 misdemeanor.
 - b. Each image a person discloses, displays, distributes, or sells under this section is a separate offense.
 - c. Use of an individual’s image, recording, or other indicia of identity for news or reporting purposes is not an offense under this section.
3. A person commits an offense if the person outfits an UAV/UAS with a weapon and flies that UAV/UAS over the private property of another individual or entity without express permission if such flight is conducted with the intent to threaten or intimidate the other individual(s).
 - a. An offense under this section is a Class 1 misdemeanor.

Prohibited Use by City of Phoenix Personnel:

1. No City of Phoenix official, officer, agent, or employee shall use an UAV/UAS to search or investigate any area where an individual has a reasonable expectation of privacy without the individual’s consent and in the absence of a valid search warrant.

- a. Any city official who violates this section shall be subject to disciplinary action pursuant to departmental policy and regulations or as the City Manager directs.

Exceptions and Non Applicability:

1. It is lawful to use an UAV/UAS within the City of Phoenix to photograph, film, audiotape, or otherwise record an individual or individuals acting on private property
 - a. If the image is captured by the City of Phoenix or an individual or entity under contract with the City of Phoenix for the purposes of resource management;
 - b. If the image is made for the monitoring, operation and maintenance of utilities, telecommunication, or transportation infrastructure for the purpose of maintaining the reliability and integrity of the utility, telecommunication, or transportation system or to determine if repairs to the system are necessary;
 - c. If law enforcement is using the UAV/UAS to execute a valid search warrant;
 - d. If law enforcement is in hot pursuit of a suspect;
 - e. If law enforcement is acting under exigent circumstances, such that a search warrant would not be required;
 - f. If the UAV/UAS is being used to document a crime scene where a felony offense has been committed;
 - g. If the UAV/UAS is being used to document an accident scene as part of an investigation;
 - h. If the UAV/UAS is being used to conduct a search for a lost, missing or abducted person;
 - i. If the image is made for an artistic or journalistic purpose;
 - j. If the image is made over a public or private event with the expressed written consent of the event organizer and attendees are notified that a recording may occur;
 - k. If the UAV/UAS is being used by the fire department in response to an emergency or for search and rescue;
 - l. If the UAV/UAS is being used by a person or an entity engaged in a business or profession licensed by the state, or by an agent, employee or contractor thereof to perform reasonable tasks within the scope of practice or activities permitted under such person's or entity's license. However, this exception does not apply to a profession in which the licensee's authorized scope of practice includes obtaining information about the identity, habits, conduct, movements whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.
 - m. If the UAV/UAS is being used for aerial mapping in compliance with Federal Aviation Administration regulations
 - n. If the UAV/UAS is being used to deliver cargo in compliance with Federal Aviation Administration regulations

Privacy:

1. Collection and Use: The City of Phoenix shall only collect information using UAV/UAS to the extent that such collection or use is consistent with and relevant to an authorized purpose of the City of Phoenix.
2. Retention: Information collected using UAV/UAS that may contain personally identifiable Information (PII) shall not be retained for more than 90 days from recording unless retention of the information is determined to be necessary to an authorized mission of the City of Phoenix, is maintained in a system of records covered by the Privacy Act, or is required to be retained for a longer period by any other applicable law or regulation.
3. Dissemination: UAV/UAS collected information that is not maintained in a system of records covered by the Privacy Act shall not be disseminated outside of the City of Phoenix unless dissemination is required by law, or fulfills an authorized purpose and complies with City of Phoenix requirements.

Civil Rights and Civil Liberties Protections:

1. Ensure that policies are in place to prohibit the collection, use, retention or dissemination of data in any manner that would violate the First Amendment or in any manner that would discriminate against persons based on race, color, sex, age, national origin, religion, genetic information, marital status, sexual orientation, disability or gender identity or expression.
2. Ensure that UAV/UAS activities are performed in a manner consistent with the United States Constitution, the Constitution of the State of Arizona, Arizona state law and all City of Phoenix policies and ordinances.
3. Ensure that adequate procedures are in place to receive, investigate and address, as appropriate, privacy, civil rights and civil liberties complaints.

Accountability:

1. Ensure that oversight procedures for City of Phoenix UAV/UAS use, including audits or assessments, comply with existing city policies and ordinances.
2. Verify the existence of rules of conduct and training for City of Phoenix personnel and contractors who work on UAV/UAS programs, and procedures for reporting suspected cases of misuse or abuse of UAV/UAS technologies.
3. Establish policies and procedures, or confirm that policies and procedures are in place, that provides meaningful oversight of individuals who have access to sensitive information (including personally identifiable information) collected using UAV/UAS.
4. Ensure that any data-sharing agreements or policies, data use policies, and record management policies applicable to UAV/UAS conform to applicable laws, regulations and policies.
5. Establish policies and procedures, or confirm that policies and procedures are in place, to authorize the use of UAV/UAS in response to a request for UAV/UAS assistance in support of federal, state, local, tribal government operations.

Transparency:

1. Keep the public informed about the City of Phoenix's UAV/UAS program as well as changes that would significantly affect privacy, civil rights, or civil liberties. Information will be provided via the public request process.
2. Make available to the public, on an annual basis, a general summary of the City of Phoenix's UAV/UAS operations during the previous fiscal year, to include a brief description of types or categories of missions flown, and the number of times the City of Phoenix provided assistance to other entities.

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