



**VILLAGE OF WAUCONDA
VILLAGE SERVICES COMMITTEE MEETING**

Tuesday, July 5, 2016

5:30 pm

Village Hall – Board Room

101 N. Main Street

AGENDA

Committee Members: Chairman Ken Arnswald, Deputy Chair Barbini, Trustee Black
Staff: Administrator Maxeiner, Police Chief Wermes, Director of Public Works Fink,

1. Call to Order
2. Approval of Minutes:
 - a. February 2, 2016 Village Services Committee Meeting
 - b. June 7, 2016 Village Services Committee Meeting
3. Old Business
4. New Business
 - a. Discussion on Regulating the Operation of Drones in the Village of Wauconda
 - b. Request to Consider Waivers for Building Permit Fees for Civic Organizations
5. Public Comment
6. Adjournment

COMMITTEE MEMORANDUM

TO: Mayor Bart and Village Board

FROM: Douglas K. Maxeiner, Village Administrator

FOR: July 5, 2016 Regular Village Board Meeting

RE: Discussion on the Regulation of Drones in the Village of Wauconda

Background. It was recently reported that a drone was being operated over Bangs Lake and in close proximity to watercraft. Concern was expressed that the drones may interfere with the operation of the watercraft, may distract operators, and could invade someone's reasonable expectation of privacy. As such, staff has been researching various strategies for regulation of drones and under what authority.

Analysis. Attached are two examples of ordinances regulating drone activity. The ordinance from Arizona is particularly attractive but local governments have certain powers that are a little broader than Illinois. There is also a one page synopsis on the Federal Aviation Administration guidelines for the regulation of drones.

The purpose of this discussion should be to determine the parameters that the committee would like to see in our local regulations so that the Village Attorney can begin working on crafting the appropriate ordinance.

Recommendation. Staff recommends discussing potential drone regulations for the Village of Wauconda.

ORDINANCE NO. _____

AN ORDINANCE REGULATING UNMANNED AIRCRAFT SYSTEMS IN THE VILLAGE
OF MANHATTAN, WILL COUNTY, ILLINOIS

WHEREAS, the implementation of unmanned aircraft system technology in the United States is becoming increasingly popular and affordable; and

WHEREAS, the Federal Government through the Federal Aviation Administration regulate airspace; and

WHEREAS, the Federal Aviation Administration has regulations for the flight of non-recreational unmanned aircraft; and

WHEREAS, the Federal Aviation Administration has only safety guidelines for the flight of recreational or hobby unmanned aircraft; and

WHEREAS, some unmanned aircraft systems are capable of carrying cargo including firearms.

WHEREAS, the Village President and Board of Trustees have deemed that unregulated unmanned aircraft systems jeopardize the safety of the public.

WHEREAS, The Village President and Board of Trustees wish to enact regulations for the flight of unmanned aircraft within the corporate limits of the Village of Manhattan.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MANHATTAN, WILL COUNTY, ILLINOIS PURSUANT TO ITS STATUTORY AND HOME RULE AUTHORITY AS FOLLOWS:

SECTION 1: The Corporate Authorities hereby find that the recitals contained in the preamble are true and correct, and incorporate them into this ordinance by this reference.

SECTION 2: That the Village of Manhattan Code of Ordinances be and the same is hereby amended to include the following:

A. Definitions:

1. Unmanned Aircraft System (UAS) is an unmanned aircraft and all of the associated support equipment, control station, data links, telemetry, communications and navigation equipment, etc., necessary to operate the unmanned aircraft. The unmanned aircraft is the flying portion of the system,

flown by a pilot 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 unmanned aircraft to operate safely. Unmanned aircraft include but are not limited to planes, helicopters, quadcopters, and drones.

2. Recreational or Hobby use is the flight of an aircraft personal enjoyment and not for business, commercial, or government purposes.
3. Advanced Recreational use is the flight of an aircraft for personal enjoyment where the aircraft may have the ability to carry cargo, operate at faster speeds, and is higher in weight than recreational or hobby aircraft. Aircraft in this use weighs more than three (3) pounds.
4. Non-Recreational Use is the flight of aircraft for business, commercial, or government purposes.
5. Operator is the individual who is responsible for the operation and safety of the UAS when it is in flight.
6. Public Property means property owned by a government or one of its agencies, divisions, or entities. Public Property includes playgrounds, streets, railroads, sidewalks, schools, libraries, fire station, village hall, and other property regularly used by the general public.
7. Private Property is land and/or buildings owned by a person, persons, or entity.

B: Flight Regulations for Recreational/Hobby Use

Recreational or Hobby use of Unmanned Aircraft Systems within the Village of Manhattan is subject to the following:

1. The unmanned aircraft must weight three (3) pounds or less
2. Flight shall be restricted over private property with consent of the property owner
3. Flight is prohibited over public property, unless explicit permission is given
4. The attachment of anti-personnel devices (projectile, chemical, electrical, directed-energy, explosive, and firearm) is prohibited
5. Flights must be below fifty (50) feet and remain clear of surrounding obstacles
6. The operator must maintain a visual line of sight of the UAS at all times with vision unaided by any device other than corrective lenses.
7. Flight is prohibited near or over gatherings of people
8. Daylight (official sunrise to official sunset) operations only
9. Careless or reckless operation is prohibited

C: Flight Regulations for Advanced Recreational Use

Advanced Recreational use of Unmanned Aircraft Systems weighing more than three (3) but less than fifty-five (55) pounds within the Village of Manhattan is subject to the following:

1. Flights are prohibited over property zoned R-1, R-2, and R-3.
2. Flights are limited over private or public property no less than two (2) acres in size with consent of the owner.

3. Flights over roads, streets, sidewalks, railroads, and bike paths are prohibited
4. Flights must be below one hundred (100) feet
5. The operator must maintain a visual line of sight of the UAS at all times with vision unaided by any device other than corrective lenses.
6. The attachment of anti-personnel devices (projectile, chemical, electrical, directed-energy, explosive, and firearm) is prohibited
7. Flight is prohibited near or over gatherings of people
8. Daylight (official sunrise to official sunset) operations only
9. Careless or reckless operation is prohibited

D: Flight Regulations for Non-Recreation Use

Non-Recreational use of Unmanned Aircraft Systems weighing less than fifty (55) pounds within the Village of Manhattan is subject to the following:

1. The operator must receive Federal Aviation Authority to fly the UAS
2. Proof of the Federal Aviation Administration Certificate of Authorization shall be recorded with the Village Clerk prior to flight

E: Parental Responsibility

Pursuant to 740 Illinois Compiled Statutes 115/1 et seq., the parent or legal guardian of a minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by a court upon a minor for actual damages for wilful or malicious acts of such minor which cause injury to a person or property, provided, that such minor has not paid such fine or made such restitution or reparation within the time ordered by the court, and further provided that such parent or legal guardian has been served with a summons or notice to appear in the original cause and all proceedings thereafter as provided by law

E: Penalty

Any person who violates any provision of this Ordinance shall be charged pursuant to section 9-3-1 of the Village of Manhattan Code of Ordinances.

SECTION 3: Each section and part hereof of this Ordinance is deemed to be severable and should any section or part hereof be held invalid or unconstitutional by any court of competent jurisdiction, such ruling shall not affect the validity of constitutionality of the remaining portion(s) of this Ordinance.

SECTION 4: All ordinances or parts thereof in conflict with the terms of this Ordinance are hereby repealed and of no further force and effect to the extent of any such conflict.

SECTION 5: That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 6. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PRESENTED and passed by the Board of Trustees on a roll call vote on the _____ day of _____, 2015 with _____ Trustees voting AYE, _____ voting NAY, _____ ABSTAINING and _____ ABSENT, President Doyle voting _____; said vote being: Beemsterboer _____, Adrieansen _____, Reeves _____, Biscan _____, Doyle _____, and Naughton _____.

Mattie Becker, Village Clerk

APPROVED this _____ day of _____, 2015.

James M. Doyle, President of the Board of Trustees of the Village of Manhattan

ATTEST:

Mattie Becker, Village Clerk

ORDINANCE NUMBER 691

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, CHAPTER 10, BY ADDING ARTICLE 10-12, REGULATIONS RELATED TO THE OPERATION OF UNMANNED AERIAL VEHICLES; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Chapter 10, Offenses, is hereby amended (with Article 10-12 added and shown in bold type):

Article 10-12 **RESTRICTIONS AND EXCEPTIONS TO UNMANNED AERIAL VEHICLE OPERATIONS**

- 10-12-1 Purpose
- 10-12-2 Definitions
- 10-12-3 Restrictions; Exceptions
- 10-12-4 Penalty

Section 10-12-1 **Purpose; Harmony with Other Governmental Regulations**

The Town Council hereby recognizes that unmanned aerial vehicles, also known as drones, can pose unique safety, nuisance, and privacy invasion risks; thus regulating the operation of unmanned aerial vehicles within the Town is needed to promote the public safety and welfare of the Town and its residents. These regulations are to be read in harmony with all other regulations regarding the use of unmanned aerial vehicles, specifically including any rules promulgated by the Federal Aviation Administration. Further, compliance with these regulations should not be interpreted as express, implied or tacit approval to operate an unmanned aerial vehicle in violation of any other governmental regulations or in a manner that jeopardizes the health, safety, or welfare of the general public. Nothing in this article shall be construed to authorize the operation of any UAV in Town airspace in violation of any Federal statute or rules promulgated thereunder. Operators of unmanned aerial vehicles should familiarize themselves with all applicable regulations relating to the use of an unmanned aerial vehicle,

including the Federal Aviation Administration requirements regarding notification of an airport operator and control tower, where applicable, prior to operating an unmanned aerial vehicle within five miles of an airport.

Section 10-12-2 Definitions

A. The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Commercial Use" means the use of an Unmanned Aerial Vehicle within the Town for a commercial purpose, including aerial photography, aerial mapping, or geospatial imaging.
2. "Commercial User" means any company, entity or person who is in the business of flying an Unmanned Aerial Vehicle for a Commercial Use.
3. "FAA" means the Federal Aviation Administration.
4. "Law Enforcement Agency" means a lawfully established federal, state, or local public law enforcement agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.
5. "Private Property" means all parcels of land within the Town of Paradise Valley limits that are not Public Property, including, but not limited to, residences, schools, churches, resorts, utility substations, golf course, or canals.
6. "Public Property" means streets, rights of way, parks, mountain preserves, and other parcels of land owned by the Town of Paradise Valley or the Mummy Mountain Preserve Trust.
7. "PVPD" means the Town of Paradise Valley Police Department.
8. "Unmanned Aerial Vehicle" or "UAV" (aka "Drone") means an aircraft that may be flown without a pilot or operator in or touching the aircraft.

Section 10-12-3 Restrictions; Exceptions

A. Private Property. It is unlawful for a person to use an UAV over Private Property at a level between zero feet and five hundred feet above the ground level of the Private Property without the express permission of the owner of the Private Property over which the UAV is flying. An

offense under this section will be considered a criminal trespass and subject to civil and criminal penalties pursuant to subsection 10-12-4 below and Article 1-9 of the Town Code.

- B. Public Property.** The use of an UAV over Public Property within the Town is unlawful unless the use has been authorized by the issuance of a Special Event Permit pursuant to Section 8-8-3 of the Paradise Valley Town Code.
- C. Commercial Use on Private or Public Property.** The Commercial Use of an UAV within the Town is unlawful unless the Commercial User has met the requirements provided in subsection A and B above with respect to operation of a UAV on either Private Property or Public Property and the following additional requirements:
1. Registered as a Commercial User with the PVPD, said registration to include proof of having obtained the appropriate certifications or registrations required from the FAA for the type of Commercial Use(s) to be conducted within the Town by the Commercial User;
 2. Provided a list of the types and number of UAVs that the Commercial User plans to use within the Town limits, as well as: the brand and model of each UAV; any registration number, license number or other identifying information for each such UAV, specifically including registration numbers supplied by the FAA; and photos of each UAV, at least one such photo to show the particular registration or license number for each UAV; and
 3. At least four hours prior to each Commercial Use of a UAV, the Commercial User will first have provided notification to the PVPD of the planned date, time, location of the Commercial Use, contact information for the Commercial User, and other information required by the Police Department through its online UAV Commercial User web portal.
- D. Exceptions.** In addition to the uses allowed above, the use of a UAV is allowed within the Town for:
1. Recreational use of an UAV within one's own property so long as such use is at a height of less than five hundred feet (500') and not in violation of the additional violations set forth in subsection E below; or
 2. By a Law Enforcement Agency in response to an emergency situation or after obtaining a warrant based upon probable cause that criminal activity is occurring.

E. Additional Violations. In addition to those violations enumerated above, the following are violations of this Article, even under an otherwise authorized use or exception. No person or entity shall operate a UAV within the Town:

- 1. In a careless or reckless manner that poses an apparent or actual threat of harm, or actual harm to persons or property; or**
- 2. Without the express permission of a person, owner, or authorized representative, to capture, view, record or transmit any visual image or audio recording of such person or their private real property, located in the Town, under circumstances in which the subject person or owner of the private property has a reasonable expectation of privacy (including, but not limited to, inside a private residence, school room, resort room, office, or inside an enclosed yard);**
- 3. Or in such a manner as to intentionally harass, annoy, or assault a person or persons or to cause a public nuisance.**

Section 10-12-4 Penalties/Seizure of Evidence.

For a first violation of this ordinance (except those violations which are accompanied by intentional or reckless acts), the penalty shall be a civil violation with a fine not to exceed \$500. For a second violation or any violation accompanied by intentional or reckless acts, the charge or violation shall be as provided for in Article 1-9 of the Town Code, with a maximum penalty to include a criminal misdemeanor charge, which, upon conviction thereof shall be a fine not to exceed two thousand five hundred dollars (\$2,500.00) or imprisonment for a period not to exceed six months or both fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described.

If the PVPD police chief or a Town code enforcement officer, or any of their duly authorized enforcement officers or designees, have a reasonable basis to believe that any UAV is or has been operating in violation of this section, said UAV may be seized by such duly authorized enforcement official, followed by an opportunity for an administrative hearing, with notice to the owner within seven calendar days of such seizure, for the purpose of reviewing the appropriateness of the seizure, and shall be held by the Town until such time that the owner of such UAV reimburses the Town for the actual costs incurred in connection with the seizure and storage of the UAV. If criminal charges involving the use, condition or operation of the UAV are pending, the UAV shall be held until disposition of the criminal charges. If it is determined at an administrative hearing, by a preponderance of the evidence, that the UAV was not being operated in violation of this article, such UAV shall be returned to its owner without charge.

Section 2. Due to the uncertainty regarding future regulation of UAVs by other governmental agencies, including the Federal Aviation Administration and the State of Arizona, and potential unforeseen issues related to the rapidly evolving technology improvements in UAVs, this ordinance shall be brought back to the Council for review within one year after its adoption for the Council to consider whether any changes or modifications should be made to the provisions provided for in this ordinance.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. Whereas the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage by the council.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this 3rd day of December 2015.



Michael Collins, Mayor

ATTEST:



Duncan Miller, Town Clerk

APPROVED AS TO FORM:



Andrew M. Miller, Town Attorney

News, Media, Blogs

FAA Releases Guidelines For Local Regulation Of Drones

Posted on March 21, 2016 | This entry was posted in [Blog](#), [Municipal & School](#), [Technology](#). Bookmark the [permalink](#).



Contributed by David J. Mongillo

In the past few years unmanned aircraft systems, commonly known as drones, have grown in popularity and availability. With the proliferation of drones comes some difficult privacy and public safety questions for school districts. For example, how can a school district respond to a student or community member who is using a drone to photograph public school students? Can a school district restrict residents from flying drones over sensitive structures, such as school buildings or athletic fields? The Federal Aviation Administration (FAA) has taken the position that its regulations pre-empt local regulation and that it has the exclusive authority to regulate “navigable airspace,” which extends to ground level. In December, 2015 the FAA released a set of guidelines directed to state and local authorities. While the FAA continues to contend that it has the exclusive right to regulate drone use in United States airspace, it does acknowledge that local bodies retain some authority to regulate drone use.

The FAA’s guidelines list examples of the types of regulations that local authorities are free to enact. These examples include local laws involving “land use, zoning, privacy, trespass and law enforcement operations.”

Consequently, the FAA acknowledges that it is within a local authority’s police power to enact regulations prohibiting the use of drones in ways that raise public safety or privacy concerns. Section 510 of the Pennsylvania School Code gives school districts broad authority to adopt these types of policies in order to manage school affairs. Accordingly, a school district may rely on its existing policies, such as its student code of conduct, and apply those policies to drone use where appropriate. A school district also may consider new policies that specifically address the use of drones in ways that threaten the privacy or safety of students, staff and visitors on school grounds. While

a school district does not have the power to criminalize this type of conduct, school districts may want to work with local law enforcement or municipal authorities to assist in the enforcement of such restrictions as unlawful trespass.

On the other hand, the FAA guidelines list examples of local regulations which are not authorized, but “for which Consultation with the FAA is Recommended.” These include “Operational [drone] restrictions on flight altitude, flight paths; operational bans; any regulation of the navigable airspace. For example - a city ordinance banning anyone from operating [drones] within the city limits, within the airspace of the city, or within certain distances of landmarks.” Consequently, a complete ban on drones above school district property will be subject to possible challenge, unless it has been pre-approved by the FAA. It should be noted that while the FAA asserts that it pre-empts any local regulation of drone operation (including flight paths, flight operation, etc.), there are no federal regulations in this area that apply to recreational drones under 55 pounds. The FAA also does not regulate model aircraft use. This puts school districts in a difficult position because the FAA asserts that local authorities cannot regulate in this area, but the FAA does not have its own regulations to fill the gap. In light of this regulatory gap, some local authorities have enacted regulations restricting drone operation over public property, and sensitive areas such as schools and athletic stadiums. It is unclear at this point whether the FAA will take an active role in challenging these types of local regulations, or to what extent the FAA will approve specific types of local operational regulations.

These guidelines represent the position of the FAA in this area, but are not binding law. The law surrounding drones is an evolving and emerging area and the FAA’s exclusive power to regulate drones may be challenged in the courts. For example, some have argued that the FAA’s power extends only to a certain altitude, and does not impact local ordinances regulating low-altitude drone use. Therefore, the FAA’s guidelines may become outdated as the law develops. However, these guidelines do represent the current boundaries under which the federal government will allow local regulation of drones. Before enacting drone regulations, we suggest that a school district consult with its solicitor in light of the FAA’s recent guidelines.

For additional information contact [David J. Mongillo, Esq.](#)

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COMMITTEE MEMORANDUM

TO: Mayor Bart and Village Board

FROM: Douglas K. Maxeiner, Village Administrator

FOR: July 5, 2016 Regular Village Board Meeting

RE: Mayor Bart's Request to Consider Reducing or Waiving Building Permit Fees for Civic Organizations

A local civic organization recently experienced some water damage in their facility and was required to obtain a building permit prior to repairing the damage. A request was made from the organization to Mayor Bart to reduce or eliminate the fee associated with the permit since the organization is operating with limited resources.

There is currently no provision in the code for relief to civic organizations. Likewise, staff is not aware of any historical practice of providing reduced or eliminated fees. With no legislative authority to address this request, staff felt it best to have the Village Services Committee discuss the matter and to provide direction.