Drones and Municipal Services

Alberta Municipal Supervisors’ Association (AMSA)

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INTRODUCTION

• Unprecedented advancement in last decade for cost-effective access aircraft by both private and public bodies

• Technological advancement paralleled by legal developments
  • Possibility of liability relating to use
  • Regulatory restrictions and privacy concerns
Drones/UAVs

What is a drone?

- Remotely piloted aerial vehicles
- Small and inexpensive models used by hobbyists
- Large, expensive and technologically sophisticated models used by police and military
- Commonly used as a video and surveillance platform
Drones/UAVs

http://www.af.mil/shared/media/photodb/photos/081131-F-7734Q-001.jpg

https://www.flickr.com/photos/walterpro/14636089191
Drones/UAVs

**Fire Fighting**
- Aerial spotting and monitoring
- Hotspot detection
  - FLIR (Forward Looking Infrared)

**Municipal Infrastructure**
- Use of UAVs to monitor and inspect remote roads and infrastructure
- Monitor construction and repair

**Municipal Enforcement**
- Potential use for inspections
  - Safety Codes
  - Land Use Bylaw
  - Unsightly Premises

**Mapping and GPS**
- Floodplain mapping
REGULATORY AND PRACTICAL CONSIDERATIONS AND LIMITATIONS ON THE USE OF DRONES
Is Permission Required?

START
I use my aircraft for work or research (anything beyond the fun of flying)

No Yes

It weighs more than 36 kg

No Yes

You don’t need permission, but you do have to fly safely

Tips to fly safely

• Fly during daylight and in good weather
• Always keep your aircraft in sight
• Respect the privacy of others
• Don’t fly close to airports, in populated areas, near moving vehicles, or higher than 90 metres

Read the Do’s and Don’ts

You must apply for a Special Flight Operations Certificate

Learn more

You don’t need permission, but you must meet the exemption conditions

I have read and can meet the exemption conditions for UAVs that weigh 2 kg or less

No Yes

You don’t need permission, but you must meet the exemption conditions

I have read and can meet the exemption conditions for UAVs above 2 kg, up to and including 25 kg

No Yes

You don’t need permission, but you must meet the exemption conditions

AND

1. Contact information
2. UAV model
3. Description of operation
4. Geographical boundaries of operation

Notify Transport Canada
## Regulation of UAVs

### Transport Canada Jurisdiction

Prior approval required unless:
- UAV is less than 35kg **and**
- Use is purely recreational

Special Flight Operations Certificate (SFOC)
- Subject to detailed set of guidelines (Staff Instruction #: 623-001)
- 20 day processing time
- Pilot requirements
- UAV air worthiness

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Regulation of UAVs

SFOC Exemptions

Two categories of exemptions

- UAVs less than 2kg
- UAVs more than 2kg but less than 25kg

Onerous conditions still apply
SFOC Exemption Conditions

Conditions include but are not limited to:

1) General Conditions
   • 18 years of age
   • $100K liability insurance
   • Possess documents when operating
   • Landowner permissions

2) Flight Conditions
   • Requirements concerning maintaining visual contact and control
   • Time of day, location, weather and height restrictions on operation
   • Restriction of operation within 5 miles of built up areas

3) Pilot Training Condition
   • Pilot appropriately trained & qualified in the area and type of operation (as referred to in Transport Canada guidance materials)

4) UAV System Condition
   • UAV system in “fit and safe” state for flight prior to launch/take-off
Regulation of UAVs

Operation in Built up Areas

- Exemptions from SFOC requirement do not apply to operations within 5 nautical miles (9.3 km) of a “built up area”
- Term “built up area” not defined
- Likely includes any urban area
Regulation of UAVs

- Proposed regulations to be posted to Canada Gazette, Part I in Spring of 2017 for consultation
- May result in even further regulation
Proposed Amendments Include:

- Remove distinction between recreational & non-recreational users;
- Introduce an “unregulated” exclusion category for modelling associations with robust safety guidelines;
- Reduce the “very small” weight threshold to 1 kg;
- Change marking & registration for categories (beyond “small complex”);
- Pilot permit requirement for “small complex” UAVs and knowledge requirements for “very small” and “small limited” UAVs;
- Adjust minimum age requirements to mirror manned aviation licensing ones;
- Regulate some tethered UAVs;
- Not regulate indoor operations of UAVs;
- Require liability insurance for all categories of UAVs.
Effect of Regulation on Municipal Application

- **UAV use for Fire Fighting**
  - SFOC exemptions unavailable for forest fire area operation

- **UAV use by Public Works**
  - SFOC required in majority of circumstances
Use of UAVs for Inspections

Practical Considerations
- Regulatory delay
- Regulatory limitations

Privacy and Unreasonable Searches
- Section 542 – “reasonable notice”
- Off-site inspections
Enforcement and Noncompliance

**Without SFOC**
- Fine of up to $5,000 for individual
- Fine of up to $25,000 for corporation

**Noncompliance of SFOC**
- Fine of up to $3,000 for individual
- Fine of up to $15,000 for corporation

**Reckless or Negligent Under Exemption**
- Fine of up to $5,000 for individual
- Fine of up to $25,000 for corporation
Potential Criminal and Civil Liability

Criminal Offences

Liability for Property Damage or Personal Injury
Cost Considerations

**Upfront Costs**
- Acquisition and installation
- Initial training
- Implementation of policies

**Ongoing Costs**
- Data processing
- Data storage
- Ongoing training
- Maintenance and replacement
Municipalities may only collect personal information:

- Where an enactment authorizes collection
- For the purposes of law enforcement
- Relates directly to, and is necessary for, a program carried out by the municipality
Authorization and Consent to Collect and Use

Requirements for Collection

• Reasonable basis
• Necessary and relevant
• Collection minimized
• Notification that information is being collected
Authorization and Consent to Collect and Use

Notification Requirements

(FOIP Act, s. 34(2))

- Purpose for collecting information
- Specific Legal Authority for Collecting
- Title, business address and business telephone number of public body’s contact person
Authorization and Consent to Collect and Use

Notification Requirements—Practical Considerations

- How do you provide notification with use of UAVs?
Records Retention and Security

Information Management Practices

Retention of personal information relating to a decision made

- 1 year (FOIP Act, s. 35)

Duty to Protect Personal Information

- “reasonable security arrangements” (FOIP Act, s. 38)
Records Retention and Security

Cloud Storage Considerations

• What is Cloud Storage?
• What are a municipality’s obligations?
• How can these obligations be met?
A Privacy Impact Assessment (PIA) is a proactive evaluation and assessment of a new program, administrative process or practice, information system or legislation to ensure it is technically in compliance with the FOIP Act, and consider the broader implications on personal privacy.
Privacy Impact Assessments

Consider, in advance, issues such as:

• Is a less intrusive means of collecting the information available?
• How will information be stored?
• How will access to the collected information be controlled?
• How long will the information be retained for?
QUESTIONS?

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