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# 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



# 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

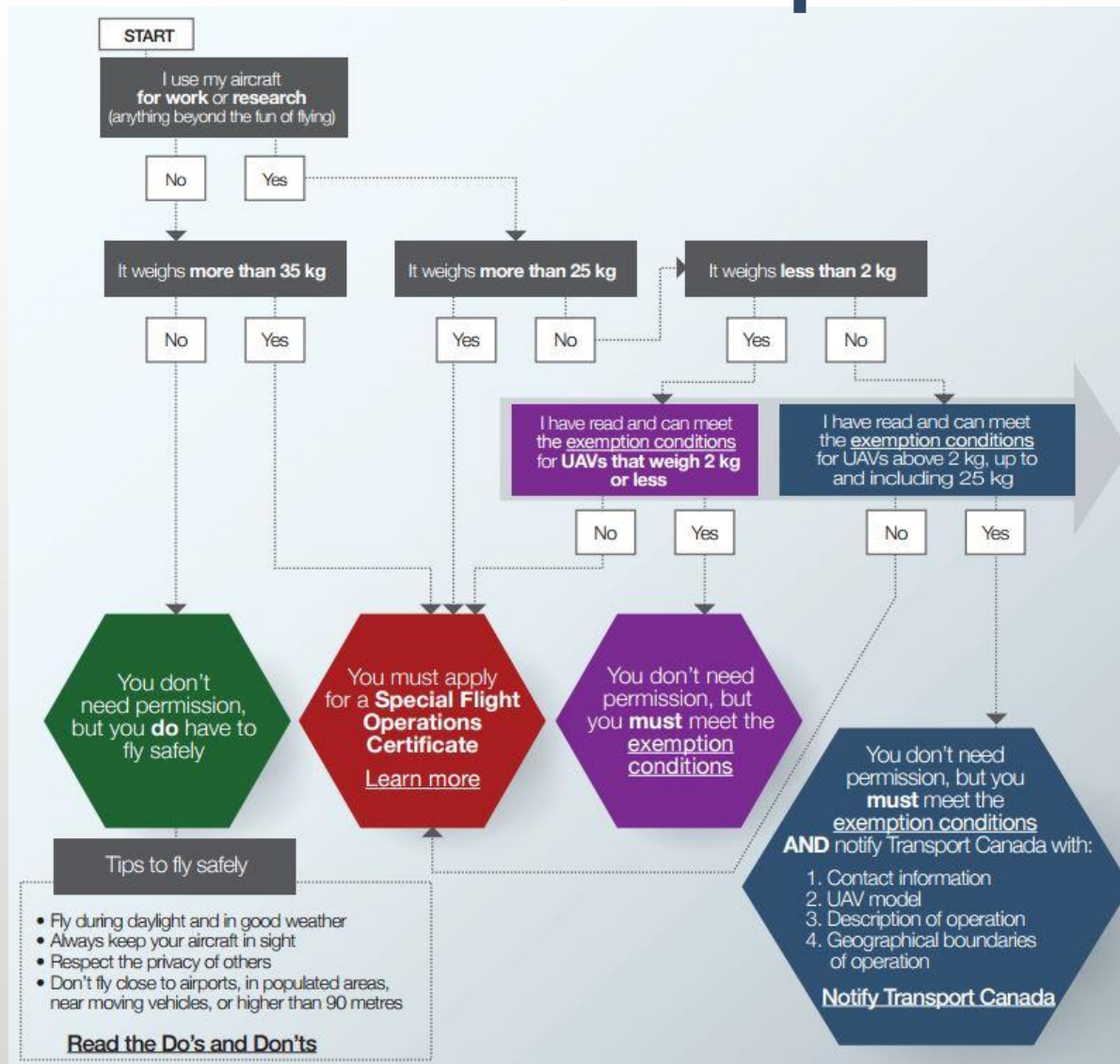


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# **REGULATORY AND PRACTICAL CONSIDERATIONS AND LIMITATIONS ON THE USE OF DRONES**

# Is Permission Required?



<https://www.tc.gc.ca/media/documents/ca-opssvs/flying-unmanned-aircraft-find-out-if-you-need-permission-from-transports-canada.pdf>

# 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



# 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

## Pending Amendments

- 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

# Authorization and Consent to Collect and Use

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?



# Privacy Impact Assessments

*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?



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# QUESTIONS?

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