

Chapter 196

UNMANNED AIRCRAFT SYSTEMS

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[HISTORY: Adopted by the Board of Trustees of the Village of Alden 10-25-2018 as L.L. No. 12-2018. [Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Fees -- See Ch. A220.

§ 196-1. Purpose and intent.

To provide rules governing the use of unmanned aerial vehicles to ensure that such vehicles are operated in a safe manner that does not interfere with the property rights of residents or the municipality.

§ 196-2. Definitions

UNMANNED AIRCRAFT SYSTEMS (UAS) -- Any drone, unmanned aircraft system, model aircraft, remotely piloted aircraft system, or any other such aircraft that is controlled autonomously from the ground either by a person or a computer.

§ 196-3. Federal Regulations.

Any person who operates a UAS in violation of regulations set forth by the Federal Aviation Administration in the Code of Federal Regulation, Title 14, Part 107, shall also be in violation of this chapter.

§ 196-4. Non-applicability.

It is lawful to capture an image using an UAS under the following circumstances:

- A. for purposes of professional or scholarly research and development by a person acting on behalf of an institution of higher education provided that notice of such use shall be provided to the Villager Clerk and Code Enforcement Officer prior to such use;
- B. in airspace designated as a test site or range authorized by the Federal aviation Administration for the purpose of integrating UAS into the national airspace;
- C. as part of an operation, exercise, or mission of any branch of the United States military;
- D. if the image is captured by or for an electric or natural gas utility;
 - (1) for operations and maintenance of utility facilities for the purpose of maintaining utility system reliability and integrity;
 - (2) for inspecting utility facilities to determine repair, maintenance, replacement needs during and after construction of such facilities;
 - (3) for assessing vegetation growth for the purpose of maintaining clearances on utility easements;
 - (4) for utility facility routing and siding for the purpose of providing utility service;
- E. with the consent of the individual who owns or lawfully occupies the real property captured in the image;
- F. pursuant to a valid search or arrest warrant or use by any law enforcement agency;
- G. if the image is captured by a law enforcement authority or person who is under contract with or otherwise acting under the direction or on behalf of a law enforcement authority;
 - (1) in immediate pursuit of a person, law enforcement officers have reasonable suspicion or probable cause to suspect a committed offense, not including misdemeanors or offenses punishable by fine only;

- (2) for the purpose of documenting a crime scene for an offense that has been committed;
- (3) for the purpose of investigating the scene of:
 - (a) a human fertility;
 - (b) motor vehicle accident causing death or serious bodily injury to a person;
or
 - (c) any motor vehicle accident on a state highway or federal state or highway.
- H. In connection with a search for missing persons;
- I. For the purpose of conducting a high-risk tactical threat that poses a threat to human life; or
- J. a private property that is generally open to the public where the property owner consents to law enforcement public safety and responsibility;
- K. at the scene of a spill, or suspected spill, of hazardous materials;
- L. for the purpose of fire suppression;
- M. for the purpose of rescuing a person whose life or wellbeing is in imminent danger;
- N. if the image is captured by a licensed real estate broker in connection with the marketing, sale or financing of real property, provided that no individual is identified in the image and the owner of the property consents to such use.

This section should not be construed to authorize the use of a drone for any purpose that would violate local, state and/or federal law and/or regulations.

§ 196-5. Airspace Restrictions.

Except as may pertain to governmental use for an official function, it shall be a violation of this chapter, except as otherwise provided by federal or state law, for a person to operate a UAS:

- A. more than four hundred feet above ground level; or

- B. without a visual line of sight of such aircraft; or
- C. during a time either earlier than thirty (30) minutes before sunrise or later than thirty (30) minutes after sunset; or
- D. in airspace within one thousand feet of a structure or property where the flight of an unmanned aircraft may cause a disruption to the function of a governmental or sensitive operation including but not limited to schools, utility equipment, law enforcement facilities, communication towers, bridges, and railroad station lines.

§ 196-6. Invasion of Privacy.

Except as may pertain to governmental use for an official function, it shall be a violation of this chapter, except as otherwise provided by federal or state law, for a person to operate a UAS in airspace above the private property without permission of the owner or otherwise trespass in order to capture any type of visual image, sound recordings, or other physical impression in a manner that is offensive to a reasonable person.

§ 196-7. Dangerous Uses.

It shall be a violation of this chapter, except as otherwise provided by federal or state law, for a person to operate a UAs:

- A. weighing more than ten pounds; or
- B. equipped with any type of weapon or device capable of firing projectiles; or
- C. in a reckless manner wherein such operation creates a risk of harm to the public.

§ 196-8. Penalties.

Any person who shall violate any provisions of this chapter, shall be guilty of an offense punishable by a fine not to exceed two hundred fifty dollars (\$250.00).

§ 196-9. Severability.

In any section, clause or provision of this chapter or the application thereof to any persons is adjudged invalid, the adjunction shall not affect other sections, clauses or provisions or

the application thereof which can be sustained or given effect without the invalid section, clause or provision or application, and to this end the various sections, clauses or provisions of this chapter are declared to be severable.