

TITLE 10

SPECIAL ORDINANCES, REGULATIONS, RULES, POLICIES, AND BARGAINING AGREEMENTS

SUBTITLE 3 — POLICIES

POLICY 42

DRONE USAGE POLICY

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I. BACKGROUND

42.010 Purpose

The purpose of this policy is to establish clear and concise parameters for the County’s use of unmanned aircraft systems (UAS), commonly referred to as drones. Use of a UAS is regulated by both the Federal Aviation Administration and by state law.

[Adopted 2018-370 eff 11/27/2018]

42.020 Application

This policy applies to all County-elected officials, employees, volunteers, contractors, or agents using a UAS for County business.

[Adopted 2018-370 eff 11/27/2018]

42.030 Definitions

As used in this policy, the following definitions apply:

(A) “**Authorized Operator**” means a pilot with a valid Remote Pilot Airman Certificate, as issued by the FAA, and authorized by this policy to operate a UAS for County business.

(B) “**County**” means Linn County.

(C) “**Certificate of Waiver or Authorization (COA)**” means an authorization issued by the FAA to a public operator for a specific UAS activity.

(D) “**CIS Oregon**” means the City-county Insurance Services which provides the County with comprehensive property/liability and workers’ compensation coverage.

(E) “**Critical Infrastructure Facility**” means any facility as defined in ORS 837.372.

(F) “**Data**” means recorded information gathered from the operation of a UAS, including, but is not limited to, audio, photographic, and video recordings.

(G) “**Drone**” means an Unmanned Aircraft System or UAS.

(H) “**Drone Endorsement Application**” means the insurance application form provided by CIS Oregon.

(I) “**Federal Aviation Administration (FAA)**” means the federal agency responsible for regulating civil aviation and aeronautics.

(J) “**Personally Identifiable Information (PII)**” means information that can be used to distinguish or trace an individual’s identity or, when combined with other personal or identifying information, is linked or linkable to a specific individual.

(K) “**Small UAS Rule**” means the federal regulations found in 14 CFR Part 107 pertaining to operation of a UAS.

(L) “**State of Oregon Department of Aviation (OST DOA)**” means the state agency responsible for the safe operation of aviation in Oregon.

(M) “**Remote Pilot Airman Certificate**” means the FAA-issued certificate granting an individual the authority to pilot a UAS.

(N) “**Unmanned Aircraft System (UAS)**” means unmanned flying machine, commonly known as a drone, and its associated elements, including communication links and the components that control the machine.

[Adopted 2018-370 eff 11/27/2018]

II. DRONE OPERATION

42.100 Authorized Use

(A) The authority to operate a UAS for County business shall be granted by the County Administrative Officer. Only an Authorized Operator is permitted to operate a UAS for

County business.

(B) The County Administrative Officer shall not arbitrarily deny a UAS authorization request without substantial evidence of wrongdoing or likelihood of harm.

[Adopted 2018-370 eff 11/27/2018]

42.110 FAA Requirements

Use of a UAS by the County must abide by the requirements of the federal Small UAS Rule (Rule) delineated in 14 CFR Part 107. When appropriate, the Authorized Operator of the UAS may seek a blanket public Certificate of Waiver or Authorization (COA) to allow for deviation from the Rule as permitted by the FAA.

[Adopted 2018-370 eff 11/27/2018]

42.120 Registration with the State of Oregon.

(A) An Authorized Operator shall register with the OST DOA, pursuant to ORS 837.360(1) and OAR 738-080-0045, prior to operating the UAS for County business.

(B) The County department utilizing a UAS shall be responsible for submitting an annual report to OST DOA describing their UAS usage for the preceding year, pursuant to the requirements of ORS 837.360(6).

[Adopted 2018-370 eff 11/27/2018]

42.130 Prohibited Use

(A) An Authorized Operator may not operate a UAS that is capable of firing a bullet or other projectile, directing a laser, or otherwise being used as a weapon.

(B) An Authorized Operator may not fly a UAS over the boundaries of privately owned premises in a manner so as to intentionally, knowingly, or recklessly harass or annoy the owner or occupant of premises, unless the UAS is being operated by a law enforcement agency pursuant to ORS 837.335.

(C) An Authorized Operator may not operate a UAS over a Critical Infrastructure Facility at an altitude not higher than 400 feet above ground

level, pursuant to ORS 837.372.
[Adopted 2018-370 eff 11/27/2018]

42.140 Notification of Use

(A) When an Authorized Operator intends to operate a UAS over privately-owned property, the County department shall provide written notice to the owner of the property at least 24 hours in advance of the scheduled flight. The notification shall include a summary of the intended use, a description of the type of data to be collected, and an explanation of the measures that will be taken to prevent the disclosure of PII, if any.

(B) Subsection (A) of this section does not apply to the use of a UAS by a law enforcement agency under ORS 837.335.

[Adopted 2018-370 eff 11/27/2018]

42.150 Insurance Coverage Required

(A) No Authorized Operator may operate a UAS without proper and adequate drone liability insurance coverage.

(B) Authorized Operators that are operating a UAS owned by the County must submit a Drone Endorsement Application to CIS Oregon prior to operating a UAS to ensure coverage under the County's insurance policy.

(C) Authorized Operators that are operating a UAS owned by a contractor, or that are otherwise unable to acquire insurance coverage through CIS Oregon, must provide the County with proof of proper and adequate insurance coverage prior to operating the UAS.

[Adopted 2018-370 eff 11/27/2018]

III. PUBLIC RECORDS AND DATA SHARING

42.200 Record Retention

(A) The County department utilizing a UAS shall be responsible for maintaining all public records created by or in association with the UAS.

(B) Data collected through the use of a UAS shall be retained pursuant to ORS 192.501. At

minimum, the following retention schedules would be relevant to public records created by or in association with a UAS:

(1) OAR 166-150-0105(7): equipment calibration records; minimum retention: the life of the UAS.

(2) OAR 166-150-0105(8): equipment maintenance records; minimum retention: one year after disposition of UAS.

(3) OAR 166-150-0105(10): property disposition records; minimum retention: three years after disposition of UAS.

(4) OAR 166-150-0105(13): technical manuals, specifications, and warranties; minimum retention: for manuals, until disposition of UAS; for warranties, until expiration.

(C) The following retention schedules may be relevant to public records created by or in association with a UAS:

(1) OAR 166-150-0100(5): emergency and disaster incident records; minimum retention: for declared emergencies, permanent; for non-declared emergencies, five years after emergency.

(2) OAR 166-150-0135(37): law enforcement incident case files; minimum retention: for cases involving crimes with no statute of limitations, 75 years after case closed; for all other cases, until statute of limitations expires.

(D) The annual report required pursuant to ORS 837.360(6) shall be retained in accordance with OAR 166-150-0005(34): reports and studies; minimum retention: five years.

[Adopted 2018-370 eff 11/27/2018]

42.210 Protection of Personally Identifiable Information

(A) The County department utilizing a UAS shall take adequate measures to prevent the disclosure of PII. These measures may include, but are not limited to:

(1) Blurring the faces of individuals that

are recognizable in images or video recorded by the UAS.

(2) Capturing images and video of individuals only in large groups at a distance and resolution where individual recognition is not easily accomplished.

(3) Obtaining signed consent from the individual that permits the public release of the photo and/or video.

(B) All drone captured images or video that do not adequately protect PII, and for which no signed consent was obtained, must be maintained securely and confidentially by the department for the duration of the record's respective retention schedule.

[Adopted 2018-370 eff 11/27/2018]

42.220 Using, Storing, Accessing, and Sharing of Data

(A) Data may be used in any manner consistent with local, state, and federal law. Any use of data for law enforcement purposes shall comply with the requirements of ORS 837.300 to 837.345.

(B) Data shall be stored consistent with Linn County Information Technology (IT) requirements. Any data stored with a third party, including on a "cloud" computing platform, shall be in accordance with County policy.

(C) Data access shall be in accordance with Linn County IT requirements. Only those personnel with a business need for data are authorized to access the data.

(D) Data may be shared or disclosed (including by means of an intergovernmental agreement) in a manner consistent with state public records laws. Any sharing of data for law enforcement purposes shall comply with the requirements of ORS 837.300 to 837.345.

[Adopted 2018-370 eff 11/27/2018]

References and Authorities:

14 CFR Part 107; ORS 837.300 to 837.998

Legislative History of Policy 42:

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