

Proposed commercial drone language for NMB City

-adopt the City of Folly Beach ordinance which requires permits for drone operations within city limits. Deny permits for non-US citizens (because it would be impossible to do background checks) or for personnel who have convictions for stalking, voyeurism, pornography, rape/sexual assault, domestic violence, assault, murder. A fee could be imposed to do a criminal check to verify. Permits should be required to be renewed annually or every other year.

-prohibit launching a drone in NMB unless a permit has been issued by the city and then only from land where the owner has provided written permission for launching. No landing a drone in NMB unless the owner has provided written permission for landing. Prohibit launching and recovering drones from city property unless by permit for a city sponsored event or by state regulated utilities for utility management purposes.

-limit any authorized commercial and recreational drone flying to the hours of 7am and 8pm and make it clear that during those hours the drone is subject to the decibel limits of applicable NMB ordinances (80 db is the daytime limit).

-allow property owners 90 days before the start of commercial drone activity the opportunity to “opt out” of the property being used as a landing area. In this way, non-residential owners can prevent their property from being used as an unauthorized drop zone in their absence. I further recommend the city work with the county and state and urge either the county or the state to create an online registry so county or state wide, owners could register their property/properties and all future commercial actors coming into NMB could be required to update their “no property use allowed” list based on this centralized, up to date database. Otherwise, if Wal Mart wants to do drone deliveries, now residents and owners would have to LEARN of new commercial drone deliveries and then find out how to register with a growing list of drone companies.

-adopt the City of Charleston’s language that restricts drones within a 1/4-mile radius of schools while in session, hospitals, parks, recreation facilities, sporting events, road races, outdoor festivals, fireworks shows, stadiums, and any public gathering of more than 50 people. Recommend specifying that recreation facilities includes all beach accesses which will significantly reduce the pervert effect of people flying drones to see people, including young children, in beach attire. Recommend bans within ¼ mile radius of churches/places of worship so churches with attendance of under 50 people would also be protected.

-Impose a high fine to ensure transient tourists are not tempted to infringe on residents quality of life. A fee such as \$5000 per violation which is less than the \$50,000 imposed by California.

Seeⁱ

NMB should also consider an ordinance similar to California's: California Penal Code § 402 makes it a misdemeanor to willfully remain at the scene of an emergency in a way that impedes firefighters, peace officers, or EMS.

Drone invasion of privacy draft law

(a) A person is liable for physical invasion of privacy when the person knowingly enters onto the land or into the airspace above the land of another person without permission or otherwise commits a trespass in order to capture any type of visual image, sound recording, or other physical impression of the plaintiff engaging in a private, personal, or familial activity and the invasion occurs in a manner that is offensive to a reasonable person.

(b) A person is liable for constructive invasion of privacy when the person attempts to capture, in a manner that is offensive to a reasonable person, any type of visual image, sound recording, or other physical impression of the plaintiff engaging in a private, personal, or familial activity, through the use of any device, regardless of whether there is a physical trespass, if this image, sound recording, or other physical impression could not have been achieved without a trespass unless the device was used.

(c) An assault or false imprisonment committed with the intent to capture any type of visual image, sound recording, or other physical impression of the plaintiff is subject to subdivisions (d), (e), and (h).

(d) A person who commits any act described in subdivision (a), (b), or (c) is liable for up to three times the amount of any general and special damages that are proximately caused by the violation of this section. This person may also be liable for punitive damages. If the plaintiff proves that the invasion of privacy was committed for a commercial purpose, the person shall also be subject to disgorgement to the plaintiff of any proceeds or other consideration obtained as a result of the violation of this section. A person who comes within the description of this subdivision is also subject to a civil fine of not less than five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000).

(e) A person who directs, solicits, actually induces, or actually causes another person, regardless of whether there is an employer-employee relationship, to violate any provision of subdivision (a), (b), or (c) is liable for any general, special, and consequential damages resulting from each said violation. A person who comes within the description of this subdivision is also subject to a civil fine of not less than five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000).

(f)(1) The transmission, publication, broadcast, sale, offer for sale, or other use of any visual image, sound recording, or other physical impression that was taken or captured in violation of subdivision (a), (b), or (c) shall not constitute a violation of this section unless the person, in the first transaction following the taking or capture of the visual image, sound recording, or other

physical impression, publicly transmitted, published, broadcast, sold, or offered for sale the visual image, sound recording, or other physical impression with actual knowledge that it was taken or captured in violation of subdivision (a), (b), or (c), and provided compensation, consideration, or remuneration, monetary or otherwise, for the rights to the unlawfully obtained visual image, sound recording, or other physical impression.

(2) For the purposes of paragraph (1), “actual knowledge” means actual awareness, understanding, and recognition, obtained prior to the time at which the person purchased or acquired the visual image, sound recording, or other physical impression, that the visual image, sound recording, or other physical impression was taken or captured in violation of subdivision (a), (b), or (c). The plaintiff shall establish actual knowledge by clear and convincing evidence.

(3) Any person that publicly transmits, publishes, broadcasts, sells, or offers for sale, in any form, medium, format, or work, a visual image, sound recording, or other physical impression that was previously publicly transmitted, published, broadcast, sold, or offered for sale by another person, is exempt from liability under this section.

(4) If a person's first public transmission, publication, broadcast, or sale or offer for sale of a visual image, sound recording, or other physical impression that was taken or captured in violation of subdivision (a), (b), or (c) does not constitute a violation of this section, that person's subsequent public transmission, publication, broadcast, sale, or offer for sale, in any form, medium, format, or work, of the visual image, sound recording, or other physical impression, does not constitute a violation of this section.

(5) This section shall not be construed to limit all other rights or remedies of the plaintiff in law or equity, including, but not limited to, the publication of private facts.

(g) This section shall not be construed to impair or limit any otherwise lawful activities of law enforcement personnel or employees of governmental agencies or other entities, either public or private, who, in the course and scope of their employment, and supported by an articulable suspicion, attempt to capture any type of visual image, sound recording, or other physical impression of a person during an investigation, surveillance, or monitoring of any conduct to obtain evidence of suspected illegal activity or other misconduct, the suspected violation of any administrative rule or regulation, a suspected fraudulent conduct, or any activity involving a violation of law or business practices or conduct of public officials adversely affecting the public welfare, health, or safety.

(h) In any action pursuant to this section, the court may grant equitable relief, including, but not limited to, an injunction and restraining order against further violations of subdivision (a), (b), or (c).

(i) The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

(j) It is not a defense to a violation of this section that no image, recording, or physical impression was captured or sold.

(k) For the purposes of this section, “for a commercial purpose” means any act done with the expectation of a sale, financial gain, or other consideration. A visual image, sound recording, or other physical impression shall not be found to have been, or intended to have been, captured for a commercial purpose unless it is intended to be, or was in fact, sold, published, or transmitted.

(l)(1) For the purposes of this section, “private, personal, and familial activity” includes, but is not limited to:

(A) Intimate details of the plaintiff's personal life under circumstances in which the plaintiff has a reasonable expectation of privacy.

(B) Interaction with the plaintiff's family or significant others under circumstances in which the plaintiff has a reasonable expectation of privacy.

(C) Any activity that occurs on a residential property under circumstances in which the plaintiff has a reasonable expectation of privacy.

(D) Other aspects of the plaintiff's private affairs or concerns under circumstances in which the plaintiff has a reasonable expectation of privacy.

(m) The rights and remedies provided in this subdivision are cumulative and in addition to any other rights and remedies provided by law.

(n) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

ⁱ <https://www.flyusi.org/guides/drone-laws/south-carolina>