

Drone rules remain up in the air for now

Wayne T. Price and R. Norman Moody, FLORIDA TODAY 3:45 p.m. EST March 6, 2016



(Photo: MALCOLM DENEMARK / FLORIDA TODAY)

Twice in the past year, pilots from Patrick Air Force Base have had incidents with drones. Those drones could have been operated by hobbyists or people taking photos over the Banana River, which borders the Air Force base.

Either way, the remotely piloted vehicles entered restricted air space setting up possible tragedies.

"It could put a hole in a wing, it could shut down an engine," said Lt. Colonel John Lowe, chief of safety for the 920th Rescue Wing at Patrick. "It could be devastating."

Welcome to the more crowded skies.

Brevard County and the entire country are discovering that drones – remote-controlled, unmanned aerial vehicles – are no longer just a tool of the military.

Smaller and less expensive drones are buzzing with civilians and business activities. Often about the size and weight of a 2-liter bottle of Coke, these new class of drones being used by farmers, real estate agents, insurance adjustors, event promoters and numerous others.

Equipped with cameras, the drones are able to take photos and videos from angles all but impossible just a few years ago.

And they're also new raising questions with regulators, lawyers and privacy and property rights advocates. It's an issue that's not going away.

"The market for unmanned aircraft in the United States is expanding rapidly, and companies, public entities, and research institutions are developing newer, faster, stealthier, and more sophisticated drones every year," said Jennifer Lynch, a senior lawyer with the Electronic Frontier Foundation, an organization that works on privacy and civil liberties issues in new technologies.



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[Sen. Nelson wants coordinated drone safety policy](#)

[\(http://www.floridatoday.com/story/news/politics/2016/01/16/sen-nelson-wants-coordinated-drone-safety-policy/78910502/\)](http://www.floridatoday.com/story/news/politics/2016/01/16/sen-nelson-wants-coordinated-drone-safety-policy/78910502/)

A specialty law practice

Melbourne-based law firm of Widerman Malek recently started a specialty line in its practice to cover the numerous issues regarding commercial drones – from registering the small aircraft with the Federal Aviation Administration to working through the legal maze of property, copyright and liability laws.

It's believed to be the first local law firm, and one of a few throughout the country, to specialize in drone regulations.

The law firm said last week it was going to be working with the city of Palm Bay to develop an ordinance regulating drones within that city. The Widerman Malek team also will be addressing area real estate agents, who are using drones more and more to showcase properties on the market.

"We think it's going to be a very complicated legal area," said Edward Kingberg, one of the lawyers at Widerman Malek. "We're focusing on commercial and the commercial drone operators need to know the rules, insurance, contract issues. It's pretty much like operating a tax service or anything else. There are a lot of regulations and laws involved."

FAA and drones

It's unclear how many commercial drone operators there presently are in Brevard County, though a few that advertise their services maintain they're in compliance.

Last December the FAA released a 195-page document outlining drone regulations. A few notable requirements:

- Commercial drone operators have to be licensed pilots.

- Generally, commercial drones should weigh less than 55 pounds, fly only during daylight hours and in good weather, fly no faster than 100 miles per hour, stay at least five miles away from airports, and remain within line of sight of the operator.
- Hobby drone operators, or non-commercial users, must register their drones with the FAA and have the numbers clearly visible or accessible. In case there is an accident involving a drone, authorities can use the number track down the drone's owner.

The regulations mean that licensed pilots must operate drones if they're being used for a commercial purpose, such as taking video or photos of a 5K race or music event.



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Roger Scruggs, a Cocoa Beach-base videographer, has three drones that he flies regularly. He said he will wait to obtain an FAA license because he believes the rules will soon change to ease the rules on who can operate drones.

"I'm just holding off on doing commercial work until the dust settles on the FAA rules on commercial flying," he said.

Ironically, Widerman Malek, which owns a drone and has a licensed pilot as one of the firm's partners, can't operate its drone outside its office because of its proximity to Orlando Melbourne International Airport.

A growing commercial field

A handful of commercial drone operators have popped up in Brevard and they say they're in compliance with the new regulations.

They include Space Coast Aerial Surveillance in Viera, Planet Inhouse in Melbourne and Digital GIS in West Melbourne.

Adam Beard, president and co-owner of Digital GIS, previously worked for the city of Palm Bay putting together maps of Brevard County's largest city.

Beard and a partner started Digital GIS last year – using a \$1,000 drone for some of the work, as well as a \$30,000 drone that weighs less than 2 pounds and flies on battery for about half an hour as it records aerial photos and multi-spectral images that can't be seen by the naked eye.

The company's biggest clients have been in agriculture. That includes owners of orange groves in Brevard and Indian River counties, and also strawberry fields in Plant City.

"I think there are a lot of different industries now looking at this technology that really haven't thought of it in the past," Beard said. "Drones are able to do things that haven't even been dreamed of."

Beard, who uses student pilots at the Florida Institute of Technology to operate the company's drones, has monitored the growth of citrus canker in orange groves. Drone technology is much easier and less costly for the growers people walk the fields and examine crops.

"If you've got a grower that has 10,000 acres of land out there and they have, let's say, a 200-acre block of trees that are having an issue, it's much easier for us to throw this in the air and get aerial pictures and multi-spectral images of it to find problems rather than scouting," Beard said

"So it's a time saver and a money saver."

Privacy rights

What would you do if a walked outside onto your patio and saw a drone filming down on your backyard? Could you shoot it or a throw a rock at it do disable it?

Earlier this month a New Jersey man who shot down a drone flying above his neighborhood plead guilty to criminal mischief, stemming from a September 2014 incident in which he shot down a drone. The man said he was trying to protect his family's privacy. He could have faced more than five years in prison if he had been convicted on weapons charges and other counts.

Almost two years ago, Florida Gov. Rick Scott signed the "Freedom from Unwarranted Surveillance Act" which restricts local or state law enforcement agencies, and individuals, from using can use surveillance drones without a judge's order.

Still disabling a drone might not be the best approach.

"If somebody parks their car on your property you can't vandalize it," said Kelly Swartz, one of the lawyers at Widerman Malek. "You call and have it towed away, or you call the police and have them deal with it because it's a criminal violation."

And, she said, it's possible the property owner might be liable for the damaged drone.

For now, the best remedy is to have someone charged under the state unwarranted surveillance act.

"There isn't a great remedy for someone filming on your property," Swartz said. "You can have them exposed to criminal sanctions, but there is not immediate way to make it end. You just have to go inside."

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