

## **Appendix A: FAA Guidance to Cities, Counties, and States**



U.S. Department  
of Transportation

Southern Region  
Office of the Regional Counsel

P.O. Box 20636  
Atlanta, Georgia 30320

**Federal Aviation  
Administration**

(404) 305-5200  
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**CERTIFIED MAIL**

MAY 25 2016

David Wolpin, Esq.  
Weiss Serota Helfman Cole & Bierman  
200 E. Broward Blvd.  
Suite 1900  
Ft. Lauderdale, FL 33301

Re: City of Aventura Proposed UAS/Drone Ordinances

Dear Mr. Wolpin:

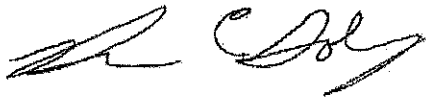
The FAA is in receipt of your May 5, 2016 correspondence regarding proposed unmanned aircraft systems (UAS) ordinances for Aventura. Please find below the FAA's comments regarding Aventura's proposed language.

1. Regarding the definitions sections, if any of these definitions relating to aviation are not consistent with the FAA's official definitions in federal statutes or regulations, then the city could be open to a preemption defense in the future.
2. Regarding the ordinance establishing UAS operational restrictions at public gatherings, as stated in the FAA's UAS Fact Sheet and generally speaking, any law that regulates flight paths or establishes operational bans are operational restrictions with which we could not concur. The city's prohibition of UAS being "flown in any airspace ..." constitutes such an operational restriction. However, the city may regulate where UAS may take off or land (*i.e.*, launched).
3. Regarding the ordinance concerning privacy, to the extent this ordinance regulates flight paths or bans operations in certain airspace, these would be operational restrictions with which we could not concur. The City of Aventura is free to apply any *generally applicable* voyeurism or privacy laws (*i.e.*, those that might apply anywhere within the city limits) not specifically directed at UAS use or UAS operations. However, proposed section 30-211(3) is directed solely at UAS.

The City of Aventura is free to pursue UAS legislation. However, if there is a legal challenge and the agency's views are requested by a court or other official body, our position would be consistent with the principles set forth in the Fact Sheet.

Thank you for contacting the FAA regarding your proposed ordinances. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Goldberg', written in a cursive style.

Brandon C. Goldberg  
Attorney  
Office of the Regional Counsel  
Southern Region



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VIA EMAIL

JUN - 9 2016

Austin D. Roberson  
Associate County Attorney  
Cobb County Attorney's Office  
100 Cherokee Street, Suite 350  
Marietta, GA 30090-7003  
e-mail: [Austin.Roberson@CobbCounty.org](mailto:Austin.Roberson@CobbCounty.org)

Re: Cobb County Proposed UAS/Drone Ordinances

Dear Mr. Roberson:

The Federal Aviation Administration (FAA) is in receipt of your June 2, 2016 correspondence regarding proposed unmanned aircraft systems (UAS) ordinances for Cobb County. Thank you for coordinating with the Agency. Please find below our comments regarding Cobb County's proposed language.

Regarding section 86-50, Definitions, if any of these definitions relating to aviation are not consistent with the FAA's official definitions in federal statutes or regulations, then the county-defined terms could be open to a preemption defense in the future. The FAA has exercised its authority from Congress to enact exclusive air safety and airspace management standards. Based upon the FAA's promulgation of pervasive regulations in these areas, the courts have inferred a preemptive intent to displace all state law on the subject of air safety, control of the airspace, and flight management and efficiency. This includes aviation-related definitions.

Regarding section 86-51, Restrictions, as stated in the FAA's December 17, 2015 UAS Fact Sheet and generally speaking, any law that regulates aircraft flight paths or establishes operational bans of aircraft are operational restrictions with which we could not concur. The county's prohibition of UAS being flown within certain distances of sports stadiums, airports, or other venues constitutes such an operational restriction and would be inconsistent with the Federal statutory and regulatory framework. As a land use matter, the county may regulate where UAS may take off or land (*i.e.*, launched), but this does not include overflight.

In response to your general query concerning what standards local governments can set through ordinance, the County may apply any generally applicable police power laws addressing voyeurism or privacy laws, etc. (*i.e.*, those that might apply anywhere within the county limits) not specifically directed at UAS use or operations. Courts distinguish between state laws that directly affect aeronautical safety, on the one hand, and facially neutral laws of general application that have merely an incidental impact on aviation safety.

The FAA cannot prevent Cobb County from pursuing UAS legislation. However, if section 86-51 was legally challenged and the agency's views were requested by a court or other official body, our position would be consistent with the principles set forth in the Fact Sheet.

Thank you for contacting the FAA regarding your proposed ordinances. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Goldberg', written in a cursive style.

Brandon C. Goldberg  
Attorney  
Office of the Regional Counsel  
Southern Region



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Office of the Chief Counsel

800 Independence Ave., S.W.  
Washington, D.C. 20591

AUG 10 2016

The Honorable Sean D. Reyes  
Attorney General, State of Utah  
Office of the Attorney General  
Utah State Capitol Complex  
350 North State Street Suite 230  
Salt Lake City, UT 84114-2320

RE: Utah H.B. 3003, "Unmanned Aircraft Amendments"

Dear General Reyes:

I write in response to Utah's recent enactment into law of H.B. 3003, Unmanned Aircraft Amendments, pertaining to the "neutralization" of unmanned aircraft systems (UAS) by law enforcement officials in certain wildland fire areas that pose an imminent or direct threat to the State's efforts to protect people and property from wildland fires.

The Department of Transportation, of which the Federal Aviation Administration (FAA) is a part, shares Utah's concern about interference, by UAS or any aircraft operation, with fire prevention or firefighting efforts. As Secretary of Transportation Anthony Foxx noted in a statement last summer, "Flying a drone near aerial firefighting aircraft doesn't just pose a hazard to the pilots ... When aircraft are grounded because an unmanned aircraft is in the vicinity, lives are put at greater risk." See, "Wildfires and Drones Don't Mix," FAA Press Release (July 29, 2015). [https://www.faa.gov/news/press\\_releases/news\\_story.cfm?newsId=19234](https://www.faa.gov/news/press_releases/news_story.cfm?newsId=19234)

We understand that Utah enacted the new law – which authorizes designated law enforcement officials responding to wildland fires, to "neutralize" ("disable," "damage," "interfere" or "take control") UAS that fly in areas designated as wildland fire scenes – because State officials and legislators believe that this summer's wildfires in Utah have become significantly worse due to UAS operations interrupting firefighting air operations.

We also are aware and concerned that air tankers fighting the large Saddle Fire in southwestern Utah were grounded several times because of interference by UAS, despite the FAA's 5-mile Temporary Flight Restriction. Indeed, with your assistance, FAA is prepared to pursue and prosecute UAS operators who have violated FAA's restricted airspace and/or operated a UAS so as to endanger the life or property of another.

It is noteworthy that on July 15, the president signed into law the FAA Extension, Safety, and Security Act of 2016, which addresses interference with wildfire suppression, law enforcement, or emergency response efforts by UAS operations. Under § 2205 of the Act, if an individual operates a UAS and knowingly or recklessly interferes with a wildfire suppression, law enforcement, or

emergency response effort, that individual shall be liable to the U.S. Government for a civil penalty of up to \$20,000.

The FAA recognizes that state and local law enforcement agencies often are in the best position to detect and investigate unauthorized or unsafe UAS operations in cooperation with federal law enforcement agencies, including the FAA. The FAA and state and local government are being presented with many difficult challenges as we attempt to apply existing law and regulations to the extensive proliferation of UAS operations throughout the country in a wide variety of circumstances and conditions. Our success in dealing with these challenges will be very much dependent upon a cooperative approach to these issues.

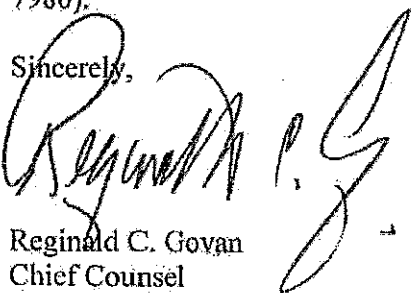
As you know, Congress vested the FAA with authority to regulate the areas of airspace use, management, efficiency and safety, among other matters, 49 U.S.C. §§ 40103, 44502, and 44701-44735, and also provided fines and penalties for damaging, destroying or disabling any aircraft (including a UAS) in the navigable airspace. 18 U.S.C. § 32(a)(1). Accordingly, the FAA has substantial equities to ensure that implementation of the "neutralization" provisions of H.B. 3003, including through the use of any electronic jamming technology, conforms to federal law and does not inadvertently or otherwise endanger aviation safety and the integrity of the national airspace system (NAS), including possible interference with a range of frequency signals relied on by FAA Air Traffic Control (including, for example, Automatic Dependent Surveillance-Broadcast (ADS-B)).

To ensure aviation safety and the efficiency of the NAS, it is essential that the FAA examine and understand the means by which Utah's law enforcement officers propose to "neutralize" UAS. In the spirit of the need for cooperative efforts that I have mentioned above, I understand discussions on this issue have begun between FAA representatives and appropriate law enforcement and other State officials, including a Utah State Senate UAS Committee working group. It is important to maintain open and transparent communication between the FAA and state and local officials.

Thank you in advance for your assistance in ensuring the FAA and Utah State officials enjoy a collaborative relationship as we work to ensure the safety of the NAS and aircraft operations do not interfere with the State's important wildfire fighting responsibilities.

Should you have any questions or need additional information, please do not hesitate to contact either me at (202) 267-3332, Jonathan Cross, Senior Attorney, Regulations Division (202-267-7173), Dean Griffith, UAS Team Lead, Regulations Division (202-267-1854), or Joshua Holtzman, Director, Office of National Security Programs and Incident Response (202-267-7980).

Sincerely,



Reginald C. Govan  
Chief Counsel