



# DRONE SAFETY & ACCOUNTABILITY ORDINANCE

Pueblo of Laguna Code, Title XII, Chapter 8

## Abstract

This chapter regulates the operation of unmanned aircraft systems within Pueblo jurisdiction and levies civil sanctions or consequences for certain activities.

May 12, 2018

Pueblo of Laguna Code

Title XII – General Civil, Chapter 8 – DRONE SAFETY AND ACCOUNTABILITY ORDINANCE

**Section 1 – Purpose.**

The Pueblo encourages the safe and responsible use of Unmanned Aircraft Systems. This ordinance protects the confidential cultural/religious activities of the Pueblo and protects or promotes the health, safety, and welfare of Pueblo members, residents, visitors, and public or private property.

**Section 2 – Definitions.**

An “Unmanned Aircraft System” (UAS) shall mean an aircraft of any weight operated without the possibility of direct human intervention from within or on the aircraft. This definition includes any unmanned aerial devices commonly referred to as drones, remote controlled aircraft, and model aircraft.

**Section 3 – Development of Rules.**

In addition to the specific requirements set forth below, the Governor is authorized to develop rules for the operation of UAS within the Pueblo’s jurisdiction, consistent with this ordinance. The rules developed by the Governor must be consistent with the following:

- A. The Governor may adopt restrictions on the time, place, and manner in which a person may land, launch, or otherwise operate UAS so as to protect the confidential cultural/religious activities of the Pueblo and to not interfere with the health, safety, and welfare of Pueblo members, residents, visitors, or property. Such restrictions may not place an undue burden on recreational or commercial operation of UAS.
- B. The Governor may require certain conditions be fulfilled prior to the take-off, landing, or operation of UAS in relation to designated lands within the boundaries of the Pueblo.
- C. The Governor shall delegate administrative staff to publish such rules on the Pueblo’s website, or through other equivalent internet accessible systems, and may be issued by written directive.
- D. The Governor may designate areas where notice pursuant to Section 11 is not required, such as a certain park area or over a designated Pueblo location to encourage UAS operation.

**Section 4 – No Reckless Operation.**

- A. No person may operate UAS in a reckless manner so as to create a substantial risk of physical injury to another, or a substantial risk of damage to the property of another.
- B. This section may be enforced against a violator by any Pueblo law enforcement or by a private civil action in Pueblo Court by any aggrieved person.

**Section 5 – No Operation During Cultural/Religious Activities.**

Pueblo member ceremonial activity related to the Pueblo’s confidential cultural/religious activities is regarded as sacred and private, and observation or recording by any means or the circulation of any recorded confidential ceremonial activity is strictly regulated or prohibited.

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- A. No person may operate UAS of any weight within a horizontal radius of five (5) miles of any Pueblo confidential cultural/religious activity.
- B. The prohibition against UAS operation during Pueblo confidential cultural/religious activity commences one-hour before the beginning, and extends to one-hour following the conclusion, of such cultural/religious activity.
- C. Noncompliance with this section violates the Pueblo's collective privacy rights and a member's individual privacy rights, is regarded as an act of voyeurism and trespass, and may be enforced against a violator by Pueblo law enforcement or as a private civil action by any aggrieved adult Pueblo member.
- D. Governor has authority to impose specific time, place, and manner restrictions on UAS operation to protect privacy and to prevent surveillance of confidential cultural/religious activity.

### **Section 6 – No Game Hunting Operation.**

No person may operate UAS to spot, locate, or take a Pueblo regulated game species.

### **Section 7 - No Violation of Privacy**

- A. No person may operate UAS to photograph, record, or otherwise observe another individual in a place where the individual has a reasonable expectation of privacy.
- B. This section may be enforced against a violator by any Pueblo law enforcement or by a private civil action in Pueblo Court by any aggrieved person.

### **Section 8 – No Weaponization**

No person may install or attach a firearm or any other weapon to UAS.

### **Section 9 - Court Appearance and Process.**

- A. Any person to whom a notice of violation is issued or a petition for improper UAS operation is served may appear in Pueblo Court to deny the allegation, and to present evidence and testimony at a hearing without a jury to rebut the allegation.
- B. Upon failure to appear in Pueblo Court, or following the conclusion of the presentation of evidence the Judge finds by a preponderance of the evidence that a violation occurred, the Pueblo Court shall impose a civil assessment in accordance with Section 10 and may order other remedy provided under this chapter.
- C. A final decision of the Pueblo Court may be appealed to the Court of Appeals.

### **Section 10 – Consequences.**

- A. A person who possesses or operates UAS in violation of this chapter, or of any rule published by the Governor under section 3, shall be levied a civil assessment by the Pueblo Court of not less than \$100 and not exceeding \$5,000 per cite-able offense.

- B. Any UAS operated in violation of this Ordinance shall be seized and held by the Pueblo law enforcement pending payment of the civil assessment, and the authority for seizure extends to controlling devices and associated UAS equipment and recorded material in any medium or location. The UAS and associated equipment is subject to forfeiture for failure to timely remit said assessment or upon the Court finding repeated violations. Seized recorded material obtained in violation of this ordinance is not subject to return and shall be forfeited.
- C. Civil assessments under this section shall be paid to Pueblo Court.
- D. In addition to civil assessments, any person enforcing a private action in Pueblo Court under this Ordinance shall be entitled to a judgment of damages and costs in favor of the aggrieved party as deemed proper by the Court.
- E. Any minor Native American violating this ordinance must appear in Pueblo Court along with his/her parent or guardian and may be subject to other intervention measures in addition to, or in lieu of, civil assessments imposed.

**Section 11 – Additional Requirements for Operation of UAS Weighing More Than 250 Grams.**

- A. To ensure UAS operations are accountable, no UAS weighing more than 250 grams (8.82 ounces) shall take-off from, land upon, or be operated within the boundaries of the Pueblo without the operator first notifying the Pueblo at least 24 hours in advance of the intended operation through an internet accessible system to be provided by the Pueblo. The electronically filed notice shall contain at least the following information:
  - 1. The name, address, and telephone number of the person or corporation filing the notice and the telephone number at which the operator can be contacted during the operation;
  - 2. The take-off and landing location of the operation;
  - 3. The anticipated start and end time of the operation (if the operator intends to take-off and land multiple times in the same location, one notice for multiple operations may suffice, so long as the duration of the combined operations does not exceed 4 hours, after which a new notice must be filed);
  - 4. The purpose of the operation;
  - 5. A statement affirming that the operator has consulted relevant Pueblo rules and intends to abide by them;
  - 6. Such other information as the Governor shall deem reasonably necessary to inform the Pueblo whether the take-off, landing, or operation will adversely affect confidential cultural/religious activities or endanger the health, safety, or welfare of persons or property located within the Pueblo, and if such use is inconsistent with this ordinance.
- B. Once notice has been electronically filed consistent with this Section, the operation may commence without any need for action or approval by the Governor or Pueblo, so long as such operation is consistent with Pueblo laws and any rules or directives pursuant to Section 3 and will adhere to this ordinance.

- C. Notice pursuant to this Section shall not apply to UAS operation where the take-off, landing, and operation takes place entirely within an operator's assignment, lease, or allotment.
- D. Operation under this section is still be subject to nuisance, privacy, and trespass law violations. See Sec. 15-14-4 – Maintaining or creating a public nuisance; Sec. 15-7-12 – Video voyeurism; Chapter 6 of Title XII – Trespass.
- E. The Governor may provide a paper-based procedure as an alternative to the electronic system specified in this Section, such system will collect information identical to that specified in subsection A.1 - A.6).

**Section 12—Exceptions.**

This Ordinance does not apply to UAS that is operated by the Pueblo, or any of its public agencies, for government related purposes in compliance with federal laws and regulations and Pueblo agency operating procedures.

**Section 13 – Law Enforcement Use.**

- A. Pueblo law enforcement is authorized, and generally shall obtain a Pueblo Court search warrant, to operate UAS for purposes of conducting a search or surveillance for admissible evidence of a crime, except that no warrant shall be necessary when exigent circumstances exist such as preventing the imminent destruction of evidence, pursuing a fleeing suspect or protection of an individual from imminent danger.
- B. Pueblo law enforcement may operate UAS without obtaining a search warrant for purposes of routine patrol, search and rescue operations, emergency scene evaluations, and other public safety activities in compliance with federal regulations and Pueblo policy.