



Wylie Parks and Recreation Board

NOTICE OF MEETING

Meeting Agenda

September 14, 2015 – 6:30 p.m.
Wylie Municipal Complex
Council Chambers
300 Country Club #100
Wylie, Texas 75098

- Matt Rose Chair
Bobby Kinser Vice-Chair
Dan Chesnut Board Member
David White Board Member
Jeff Harris Board Member
Emmett Jones Board Member
Lisa Ulmer Board Member
- Robert Diaz Board Liaison
Shohn Rodgers Parks Manager
Mike Sferra Public Services Director
Janet Hawkes Board Secretary

In accordance with Section 551.042 of the Texas Government Code, this agenda has been posted at the Wylie Municipal Complex, distributed to the appropriate news media, and posted on the City website: www.wylietexas.gov within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Wylie website: www.wylietexas.gov.

The Board Chair requests that all cell phones and pagers be turned off or set to vibrate. Members of the audience are requested to step outside the Council Chambers to respond to a page or to conduct a phone conversation.

The Wylie Municipal Complex is wheelchair accessible. Sign interpretation or other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Secretary's Office at 972.516.6020.

Hearing impaired devices are available from the City Secretary prior to each meeting.

CALL TO ORDER

Announce the presence of a Quorum.

CITIZENS COMMENTS ON NON-AGENDA ITEMS

Residents may address the Board regarding an item that is not listed on the Agenda. Residents must provide their name and address. Board requests that comments be limited to three (3) minutes. In addition, the Board is not allowed to converse, deliberate or take action on any matter presented during citizen participation.

REGULAR AGENDA

1. **Consider and act upon approval of the Minutes from the August 19, 2015 special meeting.**
2. **Consider and act upon vendor application for Wylie East High School Colorguard for the Breakfast with Santa event December 12, 2015 at the Bart Peddicord Community Center.**
3. **REMOVE FROM TABLE: Consider and act upon recommending to the City Council changes in the Fee Ordinance on Brown House rental fees.**

DISCUSSION ITEMS

- **Motorized remote-controlled aircraft or unmanned aircraft system, including, but not limited to, drones, airplanes, and helicopters.**

ADJOURNMENT OF MEETING

CERTIFICATION

I certify that this Notice of Meeting was posted on this 11th day of September 2015 at 5:00 p.m. as required by law in accordance with Section 551.042 of the Texas Government Code and that the appropriate news media was contacted. As a courtesy, this agenda is also posted on the City of Wylie website: www.wylietexas.gov.

Carole Ehrlich, City Secretary

Date Notice Removed



Parks and Recreation Board

Special Meeting Minutes

Monday, August 19, 2015 – 6:30 p.m.
Wylie Municipal Complex
300 Country Club, #100
Wylie, Texas 75098

CALL TO ORDER

Board Chairman Rose called the meeting to order at 6:30 p.m. with Board Member Chesnut, Board Member Harris, Board Member Jones, Board Member Kinser, and Board Member White present. Board Member Ulmer was absent from the meeting.

Staff members present were Parks and Recreation Superintendent, Robert Diaz, Parks Board Secretary, Janet Hawkes, and Renae' Ollie, Development Services Director.

CITIZENS PARTICIPATION

No Citizens came forward.

BUSINESS ITEMS

1. Consider and act upon approval of the Minutes from the July 13, 2015 meeting.

Board Action:

Board Member White made a motion, seconded by Board Member Jones, to approve the minutes from the July 13, 2015 Meeting. A vote was taken and passed 6-0.

2. Consider and act upon clarification of parkland dedication for the Kreymer Park Development.

Superintendent Diaz stated that this item was initially approved by the Parks and Recreation Board at the July 13, 2015 meeting. City Council subsequently tabled the item at their August 11, 2015 meeting requesting additional clarification from the Parks and Recreation Board on certain proposed development details. City Council's questions were as follows:

1. Were entry feature items included in the developer, Amalgamated Properties' parkland item cost estimate?
2. Is the developer including the .15-acre parcel on the east side of the development as part of the parkland dedication?
3. Does the proposed trail area and open space comply with the 2010 Parks, Recreation, and Open Space Plan and 2012 Trails Master Plan?

Question 1: Superintendent Diaz explained that the original cost estimate provided to the Board by the developer totaled \$321,280.00 because the proposed entry feature items were included in with the required parkland dedication items. This led City Council to request clarification, whether the value of these items should or should not be comingled. Therefore, to clarify this point, the entry feature items were removed from the cost estimate reflecting a more accurate total in the amount of \$215,020.00. The parkland dedication improvements totaling \$215,020.00 in combination with the 6.42 acres of land dedication will satisfy the parkland dedication requirement.

Question 2: Superintendent Diaz clarified that the .15 acre open space area in question was indeed not included in the 6.42 acres of land dedication.

Question 3: Superintendent Diaz confirmed that the location of the open space and proposed trail is within the recommended guidelines of the 2010 Parks, Recreation, and Open Space Plan and the 2012 City of Wylie Trails Master Plan.

Board Action:

Board Member Jones made a motion, seconded by Board Member Kinser, to approve the clarification of parkland dedication for the Kreymer Park Development. A vote was taken and passed 6-0.

DISCUSSION ITEMS

- **No discussion items.**

ADJOURNMENT

There being no further business a motion to adjourn was made by Board Member Kinser and seconded by Board Member Harris. A vote was taken and passed 6-0. The meeting was adjourned at 6:39 p.m.

ATTEST

Janet Hawkes, Parks Board Secretary

Matt Rose, Parks Board Chairman



PARKS AND RECREATION

300 Country Club Rd, Building 100, Wylie, TX 75098
Office: 972-516-6340 / Fax 972-516-6355
Email: parks@wylietexas.gov

VENDOR APPLICATION-Once approved by City Council, vendor has 7 days to finalize event with Parks & Recreation facility staff. Recommended timeline for submission is 2-3 months in advance of event. Please forward completed application to above address, email or fax.

Applicant Information

Name of Organization/Group:

Wylie East Color Guard

Organization/Group's Phone Number:

Organization/Group's Street Address:

Organization/Group's City/State/Zip:

Primary Contact Person's Name:

Angel Wygant

Primary Contact Person's Phone Number:

214-663-2416

Primary Contact Person's Street Address:

196 Squirrel Ridge

Primary Contact Person's City/State/Zip:

Wylie, Texas, 75098

Alternate Contact Person's Name/Number:

Event Information

EVENT NAME/TITLE:

Breakfast with Santa

Event Type (fundraiser, etc.):

Fundraiser

Event Location:

Bart Peddicord Community Center

Anticipated Number of Participating Vendors:

1

Anticipated Event Attendance:

200 (come and go)

Purpose of Event:

Fundraising

Proposed Event Date(s):

December 12, 2015

Start Time (incl. setup):

7:00 am

End Time (incl. cleanup):

1:00 pm

Event Target Audience:

Citizens

EVENT DETAILS:

Please list any and all specifics, as well as items intended to sell. If available, attach additional pages, announcements or flyers.

This is an "All-You-Can-Eat" Pancake Breakfast with Santa. The event will include breakfast, storytime, and pictures with Santa.

NOTE:

If food is prepared on-site or off-site and brought to the location to be sold, the vendor must contact the Collin County Environmental Services Office in McKinney (972-548-5585 www.collincountytx.gov) in order to obtain a Health Permit prior to the sale of such products. An Inspector must examine food preparation and storage equipment to assure the health and safety of customers.

Sec. 78-105 of the City Code of Ordinances states: It shall be unlawful for any person to solicit for sale, vend, peddle, sell or offer to sell any cold drinks, cigars, tobacco, cigarettes, fruits, candies, goods, wares or merchandise of any kind or nature whatsoever within the municipal parks or recreation or community center facility; provided, however, that this section shall not apply to any person, organizations, firms or corporations, or the agents of any person, or organization, firm or corporation, or employees of any person who are recommended by the Parks and Recreation Board and approved by the City Council to operate a concession or concessions for the sale of specified goods, wares, and merchandise within the municipal parks or recreation or community center facilities of the city.

Brown House - Rental Pricing Comparisons

updated 9-10-15 (Parks Subcommittee recommendations)

	Deposit	Hourly Rate	Minimum	Other	Additional Info
Staff recommendation (capacity 40-50)	\$ 300.00	\$ 100.00	3 hours		Mon-Thu Resident (Double deposit if alcohol allowed)
		\$ 125.00	4 hours		Fri-Sun Resident (Double deposit if alcohol allowed)
	\$ 300.00	\$ 125.00	3 hours		Mon-Thu Non-resident (Double deposit if alcohol allowed)
		\$ 150.00	4 hours		Fri-Sun Non-resident (Double deposit if alcohol allowed)
		\$ 50.00	per hour		Photography session per hour rate (use of outdoor/indoor)
Birmingham Trust	\$ 500.00	\$ 100.00	4 hours		Photography Sessions: \$35/hr for inside house access
City of Farmers Branch Historical Park (Capacity Varies)	\$ 200.00	\$ 150.00	3 hours		Package 1 - Resident
	\$ 300.00	\$ 250.00	3 hours		Package 2 - Resident
	\$ 200.00	\$ 75.00	3 hours		Package 1 - Non-Resident*
	\$ 300.00	\$ 125.00	4 hours		Package 2 - Non-Resident*
City of Carrollton A.W. Perry Homestead Museum	\$ 150.00	\$ 200.00	3 hours		Wrap around Veranda and front yard (capacity 100)
	\$ 150.00	\$ 200.00	3 hours		Barn and surrounding grounds (capacity 150)
				\$ 200.00	Alcohol deposit
				\$ 100.00	Special Equip Deposit
				\$ 200.00	Photography-3 hours, \$75 additional hour
				\$ 500.00	Photography-10 hour day rate
City of Dallas - White Rock Lake Big Thicket (Capacity 50)	\$ 200.00	\$ 60.00	4 hours		Resident - Mon-Thurs
	\$ 200.00	\$ 76.00	4 hours		Resident - Fri-Sun
	\$ 200.00	\$ 70.00	4 hours		Non-Resident - Mon-Thurs
	\$ 200.00	\$ 70.00	4 hours		Non-Resident - Fri-Sun
				\$ 400.00	Alcohol security deposit
				\$ 50.00	Alcohol permit application fee
Ball-Eddleman-McFarland House Fort Worth, TX (Capacity 70) Privately owned property	\$ 500.00	\$ 1,450.00	4 hours		Fri-Sat
	\$ 500.00	\$ 1,950.00	7 hours		Fri-Sat
	\$ 500.00	\$ 2,400.00	10 hours		Fri-Sat
	\$ 500.00	\$ 950.00	4 hours		Mon-Thurs evenings and Sun
	\$ 500.00	\$ 1,500.00	7 hours		Mon-Thurs evenings and Sun
			2 hours	\$ 150.00	Bridal Portrait - during business hours
		2 hours	\$ 200.00	Bridal Portrait - weeknights and weekends	

*All Non-Residents are required to use \$1000 worth if business with Farmers Branch hotels. A \$25 per hour fee will be deducted from all deposits for reservations taking place before or after the Historical Park's hours of operation.

DRAFT-Alcohol Policy-Brown House

Alcohol may be consumed during Brown House reservations and at designated special events with written approval of the Director of the Public Services Department or his/her designee. The following guidelines must be adhered to:

- Alcohol beverages shall be brought to the city facility and served ONLY by a contractor/vendor/concessionaire appropriately licensed by the Texas Alcoholic Beverage Commission. It is the contractor/vendor/concessionaire's responsibility to abide by all applicable laws/regulations/licensing/permitting.
- Either the sponsor of the event or the contractor/vendor/concessionaire who will be serving/selling alcoholic beverages at the event must carry or obtain a Liquor Liability Addendum to their General Liability Policy and have such policy endorsed to the name City of Wylie as additional insured on the policy.

Insurance requirements are as follows:

General Liability Coverage:

\$1,000,000 per occurrence

\$2,000,000 annual aggregate

G/L must include coverage for the following:

- a. Must be on an occurrence basis.
- b. Must include Medical Expense limits of not less than \$10,000.
- c. Personal and Advertising Injury limit of not less than \$1,000,000.
- d. Products and Completed Operations limit of \$2,000,000 aggregate.
- e. Fire Damage, any one Fire limit of \$1,000,000.

The above insurance shall be in addition to any other insurance coverage required by the City policies or ordinances or contracts with the City. In the event any other policy, ordinance, or contract require greater levels of additional insurance than this policy, then the more stringent requirement will control.

- The event sponsor shall be responsible for ensuring that intoxicated individuals are not served additional alcoholic beverages.
- Consumption/service of alcoholic beverages will only be allowed in a specified area defined in the permit issued by the Director and his/her designee.
- Any time alcoholic beverages are served; food must be made available by the event sponsor to attendees of the event.
- Alcoholic beverages will not be authorized at an event where the attendees will predominantly be under 21 years of age or under (e.g. children's birthday parties, high school graduation parties, and similar events), which determination shall be solely at the discretion of the Director or his/her designee.
- The Director or his/her designee shall have the authority to require one or more off duty Wylie Police Officers (or, if insufficient number of Wylie Police Officers are available, one or more law enforcement officers, as approved by the Wylie Police Department, with TCLEOSE certificate), as determined by the Director or his/her designee based on anticipated attendance at the event. Attendance exceeding the anticipated amount may require additional Police Officers and will be at the discretion of the Police Officer working the event. The cost of such officers shall be solely the expense of the event sponsor.
- The deposit required by Fee Ordinance _____ shall be doubled for events for which the Director and his/her designee have issued a permit pursuant to this policy.

- Alcoholic beverages shall not be brought to a City facility or City park by an individual(s) or event sponsor for personal consumption, event for ceremonial purposes: provided, however, a single bottle of champagne, wine or other alcoholic beverage may be bought by the wedding party to a wedding event for which a park reservation has been made solely for a toast between the bride and groom. This does require written permission of the Director or his/her designee, and intent such a ceremonial toast must be indicated on the rental agreement.

Add at end of list of prohibited acts:

(30)

To operate any motorized remote-controlled aircraft or Unmanned Aircraft System, including, but not limited to, drones, airplanes, and helicopters.

This would leave open the possibility that a permit could be issued for drone or Unmanned Aircraft System Use, since the opening paragraph of the Prohibited Acts section reads:

'It shall be unlawful for any person to commit any one or more of the following acts in a park unless authorized by city staff in writing.'

We would be able to authorize use on a case-by-case basis, while making sure our bases were covered with regard to patron privacy concerns, liability, and so on.

§ 74-21. Use of city park property for flying remote controlled model aircraft

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Latest version.

- (a) The city authorizes persons, local clubs, or chapters, hereinafter referred to as "model aircraft users," to utilize the designated section of park property for the flying of remote controlled model aircraft upon executing a use agreement for such activity with the city parks, recreation and open space department and fulfilling the condition of this section.

(b) The model aircraft user will be responsible for furnishing an annual list of members of any club or chapter to the city parks, recreation and open space department, upon execution of a required use agreement which may be renewed annually thereafter.

(c) The model aircraft user will be responsible for following all park rules and regulations, all national association rules and regulations, and any amendments thereto. It shall further be the responsibility of any club or chapter to adequately and fully inform all members of said rules.

(d) All persons flying remote controlled aircraft must restrict their use of Erwin Park to the established flight zone, as established by the parks, recreation and open space department.

(e) All model aircraft users shall furnish proof of liability insurance acceptable to the city, naming the city and its employees and officers as co-insured, with a minimum amount of \$2,500,000.00 per occurrence.

(f) Failure to abide by provisions of this section or the conditions of any use agreement shall result in termination of said agreement and use of said facility for model aircraft.

(Code 1982, § 21-21; Ord. No. 93-10-35, § 1, 10-19-1993; Ord. No. 2008-08-082, § 2, 8-19-2008)

24-49 Remote control aircraft.

- A. No person may fly any remote controlled or self-propelled aircraft, including, but not limited to, radio controlled or control line model airplanes, helicopters, and gliders, in a park or preserve except in parks designated by the Director or designee in flying sites that meet the requirements of Subsection C of this Section.
- B. In parks designated for operation of remote control aircraft, the Academy of Model Aeronautics (AMA) Safety Code is to be observed in flying radio-controlled or control line model airplanes, helicopters, and gliders. Persons flying radio controlled or control line model airplanes, helicopters, and gliders shall follow AMA guidelines and produce a current Academy of Model Aeronautics membership card. Only one remote control aircraft may be flown at a time.
- C. Flying sites shall at all times remain unobstructed and a safe distance away from other park users. Dimensions of flying sites shall be no less than 400 feet on all sides. For purposes of this Section, "*unobstructed*" means an open park area that is level and free of trees, structures, and fences, and that is fully accessible for the retrieval of launched aircraft.
- D. Children younger than 16 years of age shall be accompanied by an adult when flying model aircraft in City parks.
- E. Model aircraft that exceed any of the specifications listed below may only be flown in City parks or preserves where there is a specifically developed model aircraft flying site with spectator control fencing, established runways, flight pads or flying circles, and safety barriers for the protection of pilots and callers.
1. Fueled radio controlled model airplanes with an engine size of .20 cubic inches, wingspan of 60 inches, or weight of 3 pounds.
 2. Electric powered radio controlled model airplanes with a wingspan of 80 inches or weight of 3 pounds.
 3. Radio controlled helicopters with a main blade diameter of 40 inches or a weight of 3 pounds.
 4. Radio controlled gliders with a wingspan of 80 inches or weight of 3 pounds.
 5. Control line model airplanes with a single engine size of .25 cubic inches.

(Ord. No. G-5144, § 2, adopted 4-16-2008, eff. 5-16-2008)

AC 91-57

DATE June 9, 1981

ADVISORY CIRCULAR



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Washington, D.C.

Subject: MODEL AIRCRAFT OPERATING STANDARDS

1. PURPOSE. This advisory circular outlines, and encourages voluntary compliance with, safety standards for model aircraft operators.
2. BACKGROUND. Modelers, generally, are concerned about safety and do exercise good judgement when flying model aircraft. However, model aircraft can at times pose a hazard to full-scale aircraft in flight and to persons and property on the surface. Compliance with the following standards will help reduce the potential for that hazard and create a good neighbor environment with affected communities and airspace users.
3. OPERATING STANDARDS.
 - a. Select an operating site that is of sufficient distance from populated areas. The selected site should be away from noise sensitive areas such as parks, schools, hospitals, churches, etc.
 - b. Do not operate model aircraft in the presence of spectators until the aircraft is successfully flight tested and proven airworthy.
 - c. Do not fly model aircraft higher than 400 feet above the surface. When flying aircraft within 3 miles of an airport, notify the airport operator, or when an air traffic facility is located at the airport, notify the control tower, or flight service station.
 - d. Give right of way to, and avoid flying in the proximity of, full-scale aircraft. Use observers to help if possible.
 - e. Do not hesitate to ask for assistance from any airport traffic control tower or flight service station concerning compliance with these standards.


R. J. VAN VUREN
Director, Air Traffic Service

Initiated by: AAT-220

May State And Local Gov't Control Low-Flying Drones?

Law360, New York (December 04, 2014, 11:33 AM ET) --

Most of the attention paid to drones has focused on issues of aviation and Federal Aviation Administration authority. Yet much of the impact of low-flying drones will fall, not on the national air transportation system, but on those who live and work at ground level. Accordingly, states, counties and municipalities are increasingly asserting regulatory authority over drones and citing the need to protect the health and safety, including privacy, of residents.

Historically, state and local governments protect their residents through land use and zoning restrictions, among other laws adopted under their broad police powers. For example, a community may choose to preserve its beach or mountain views by restricting the construction of high-rise hotels or apartments on the shoreline, and a state may control noise in school zones or near hospitals. And, of course, the “rules of the road” for surface vehicles are essential for pedestrian, cyclist and vehicle safety. Indeed, such power has traditionally been reserved to states and local governments.



William O'Connor

Drones — with uses quickly proliferating in both urban and rural areas — have the potential to impact the privacy, quietude and safety of residents in a manner that older aircraft technologies do not. But what authority (if any) do states and local governments have to prevent or allow uninspected, or unauthorized, drones operated by unlicensed “pilots” to operate directly above and around their residential and commercial areas, or even in and around local and state parks?

This question will only become more critical with advances in technology, including arrival from China of what the Wall Street Journal calls the “Model T of drones,” a mass-market device selling for about \$1,000 that could induce explosive growth in drone usage in the United States.

State and Local Regulation of Drones

More than half of the state governments in the United States have formally considered legislative actions to address drone operations. At least 10 states have gone further and enacted such legislation. Alaska, for example, passed a bill creating procedures and policies for the use of drones by law enforcement, including regulations governing information collected by drones. Illinois, Indiana, and Iowa have also passed legislation that similarly regulates the use of drones in law enforcement. Louisiana’s

legislation extends to the civil sector, prohibiting the unlawful use of an unmanned aircraft system, defined as the “intentional use of a UAS to conduct surveillance of a targeted facility without the owner’s prior written consent.”

At least two states have passed laws that directly address drone flight as opposed to privacy. Oregon allows property owners to sue a drone operator if (1) a drone has flown less than 400 feet above the owner’s property at least once, (2) the property owner has told the drone operator that he/she does not consent to the drone flying over his/her property, and (3) the operator then flies the drone less than 400 feet above the property again. Tennessee has gone even further, criminalizing the operation of low-flying drones over private property.

Nonfederal efforts to regulate drones are not limited to the state level; municipalities are also stepping in to regulate drones. St. Bonifacius, Minnesota, for example, passed a resolution banning anyone from operating a drone “within the airspace of the city,” making a first offense a misdemeanor and a repeat offense a felony. Northampton, Massachusetts, passed a resolution affirming that — within the city limits — “the navigable airspace for drone aircraft shall not be expanded below the long-established airspace for manned aircraft,” and that “landowners subject to state laws and local ordinances have exclusive control of the immediate reaches of the airspace and that no drone aircraft shall have the ‘public right of transit’ through this private property.” Some towns have considered legalizing self-help remedies like “drone hunting,” while others have simply passed resolutions calling for federal action.

It seems plain that laws regulating drones are becoming a standard part of the regulatory landscape in most states. What is the legal status of such regulations today, and what will become of these local regulations when the FAA issues drone-specific regulations? Can and should the FAA curtail local authority to regulate drones? If so, how will the FAA be able to effectively regulate the many inexpensive drones available for myriad uses, benign and malign, that operate below what traditionally has been considered “navigable airspace.”

The FAA’s Authority to Regulate Drones

The FAA has a statutory mandate to regulate the navigable airspace of the United States. In 2012, when Congress passed the FAA Modernization and Reform Act, it extended this statutory mandate to drone operations, specifying that the FAA must develop a plan for integrating drones into the existing regulatory framework.[1]

The 2012 act coupled with the FAA’s statutory mandate suggests that the FAA may have the authority to regulate drones at any altitude through notice and comment rulemaking, even in airspace that is traditionally below FAA purview and regulated by the states through zoning ordinances.[2]

Until the FAA acts, there is a considerable argument that state and local governments may retain their broad police powers to control use of drones within their borders, particularly at the low altitudes at which most drones operate. After the FAA releases final drone regulations, however, a variety of preemption questions could arise.

What happens when a state, for important economic reasons, wants to allow farmers to use drones in precision agriculture, but FAA regulations hinder or prohibit that use? Or, if a state wants to ban drones from flying low over private residences or playgrounds and hospitals for privacy and safety reasons, would the FAA require that the local government permit such flight, objectionable as it might be to local residents, so long as it is conducted in accordance with the FAA regulations? Will the state “police

power” interest prevail or will preemption prohibit the state regulation? Or will the FAA expressly acknowledge and preserve the state police power so long as it does not intrude into the FAA’s control of the national air transportation system? These are key emerging questions, both of policy and of law.

Preemption of State and Local Regulation

From a legal perspective, these questions largely depend on whether the FAA’s authority and the manner in which it is exercised is determined to “preempt” the historical state and local powers to protect residents. Preemption questions often arise when both significant federal interests and weighty local interests conflict. The regulation of drone activity is a clear case of such potential conflict.

Although the FAA has yet to issue its notice of proposed rulemaking for small UAS, at least one petition has already been filed requesting that the anticipated NPRM include an “express preemption clause.” This is not surprising given the interests at stake; drone manufacturers, suppliers, and operators want a uniform federal standard to abide by, not a patchwork of state regulations that may be more restrictive than the federal framework. Whether an express preemption provision will be proposed in the NPRM, and whether that is a good idea, remains to be seen.

One thing is clear: Courts have often held that state regulation of traditional aircraft in the areas of safety and operations are preempted. Most of these courts have done so on the basis of “field preemption” (which occurs when Congress’ regulatory scheme sufficiently pervades a particular area so as to evidence an intent for federal law to occupy the entirety of the field), even in cases where federal law does not include an express preemption provision of the kind discussed above.

Even in the context of safety and operations, however, courts have limited federal law’s preemptive scope. In the Ninth Circuit, for example, the breadth of FAA field preemption depends on the specificity and comprehensiveness of the federal regulations at issue. Absent an express preemption provision in the small UAS final rules, similar case-specific field-preemption standards will likely apply. Thus, the breadth and pervasiveness of the forthcoming drone regulations will greatly influence the degree and scope of preemption.

Conclusion: Buckle Your Seatbelts

This is a new arena brought on by a remarkable application of many different technological advances. There are no tidy precedents or analogous regulatory schemes. There are substantial commercial interests in the spread of drones, as well as privacy and safety concerns at the state and local levels.

Accordingly, the FAA is likely to take a fair period of time to develop final regulations. In the meantime, state and local governments are likely to attempt to fill what they perceive as a regulatory void. Thus, it is likely that there will be continuing conflicts about the extent of the FAA’s focused authority on aviation and the broader concerns state and local governments have under their historical police powers.

Until this settles out, we forecast a bumpy ride!

—By William V. O’Connor, Christopher J. Carr, Zane O. Gresham, Joseph R. Palmore and Joanna L. Simon, Morrison & Foerster LLP

William O’Connor is a partner in Morrison & Foerster’s San Diego and Los Angeles office. Christopher

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The opinions expressed are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] Notably, the FAA is behind schedule in publishing the notice of proposed rulemaking for small UAS.

[2] The FAA's authority to regulate UAS operations under the existing regulatory framework was recently affirmed by the NTSB in *Huerta v. Pirker*. For more information, see our client alert available at: <http://www.mofo.com/~media/Files/ClientAlert/2014/11/141120HuertavPirker.pdf>. The NTSB decision, however, does not speak to the preemptive effect of federal regulation of drones.