



# ON A WING

*(and a Prayer?!)*

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Regulating Drone Use in California  
Common Interest Developments

By Cecilia N. Brennan, Esq.



Small, remote-controlled aircraft commonly known as drones are increasingly being used in ways that raise important issues for common interest developments, triggering privacy concerns, trespass and nuisance concerns and potential liability.

How drones can or should be regulated, however, is a highly complex issue with many areas of uncertainty. This article is meant to encourage thought and discussion around the topic of drone regulation, but it should not be viewed as legal advice nor as either condoning or condemning the use of drones for non-governmental purposes, such as recreation, hobby or business-related activities.

Federal, state, and local laws and regulations have created a complicated and uncertain regulatory framework. Federal regulations have been issued by the Federal Aviation Administration, but its enforcement powers are unclear. California has codified and proposed statutes on the use of drones in the “paparazzi” and emergency contexts, but enforcement powers and remedies are yet to be developed. Locally, some municipalities restrict or even ban the use of drones, but their enforcement abilities are yet to be tested.

Given the lack of certainty in the current regulation of drones, associations should consider creating their own reasonable restrictions on drone use.

Although this issue may not be pressing for your association at this particular time, it is one that will increase in importance for California community associations. It is a good time to begin to unpack this issue and plan for addressing it before an unexpected situation arises.

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## Best Practices for General Drone Regulation

- Carefully consider whether the issue is likely to arise in your community. You could poll your boards and members or include the topic for open session.
- Ensure that your association is updated on important changes in the laws and regulations. You can request such information from legal counsel.
- Consider whether the association itself wishes to use drones, and/or whether local utilities may be using drones, and what regulations could be designed to serve the association.

## Regulating Drone Use by Members and Guests

- Do not impose unreasonable restrictions and/or outright bans on use, unless permitted under the law or approved by legal counsel.
- Do not impose any restrictions that conflict with federal, state or local laws and regulations.

## Specific Reasonable Regulations

- Designate certain flight zones/paths, and specific landing areas/pads. Place “no drone zone” signage in specific locations.
- Adopt time restrictions, including limits on the times of day that drones may be flown and/or used for delivery.
- Adopt use restrictions, such as prohibiting the use of cameras to record/film persons without their consent, imposing distance limitations (for example, no people or pets permitted within five feet of a landing or departing drone; and all items delivered by drones must be picked up within a certain amount of time).
- Amend the governing documents to include liability and indemnification provisions (i.e., that the association is not liable for damages to persons or property relating to drone use, and that the drone-using owner or tenant will indemnify the association in the event that a claim is asserted against it relating to the drone).