

## The Ultimate Checklist for Creating a Model Drone Ordinance

- If you are creating a model ordinance that requires multiple cities to adopt the model, make sure to have buy-in from all the City Managers.** The City Managers will not only be helpful in ensuring that their staff is engaged in the drafting and refining process, but will also be instrumental in working with their Council to at least consider adopting the ordinance once it is completed.
- Stakeholder engagement is key.** Make sure the group charged with creation of the model ordinance are not just city staffers and attorneys. While these perspectives are certainly important, bringing in voices from the public safety world are equally valuable, not only because of the safety concerns that drone technology presents, but also since these departments will most likely assist with enforcement of the model ordinance.
- Identify common concerns that each city, which will adopt the ordinance may have.** This includes safety concerns around particularly sensitive sites like schools, jails, city halls, and hospitals. While you won't want to be prescriptive as to what cities should and shouldn't regulate, identifying commonalities can lead to better a regulatory scheme across city lines, improving enforcement efforts.
- Identify what generally applicable laws can be used to achieve desired outcomes in drone regulation, as they pertain to areas such as privacy or noise concerns.** Guidance provided to ACC-OC by the FAA suggests that current privacy laws already codified in state law are considered applicable to drones and should be reviewed first when considering additional privacy regulations. A simple clarification that generally applicable privacy laws also apply to drone usage may be all that is necessary to address this policy concern. Other generally applicable laws, such as wildlife/domestic animal harassment or noise ordinances, can also be clarified to include drones.
- When in doubt, go back to land use—cities' ultimate power lies in their land use authority.** When attempting to achieve a desired drone regulation, ensure that it is clearly tied to the takeoff and landing of drones, and not their overhead flight operations.
- Attempt to stay as tech-neutral as possible.** Drone technology is rapidly evolving, so in order for your ordinance to remain as relevant as possible, make sure it is not intricately tied to technology that could be irrelevant in a few short years. This includes utilizing notification and permitting software from private companies. The consensus amongst the ACC-OC working group was that our model ordinance should not require the purchasing of additional software to be enforceable. However, cities may wish to include a notification, permit, or accountability system for the operation of drones within their city limits. Cities choosing to do so, should consult with their retained counsel to ensure that any notification system developed does not morph into a separate, mandated registration process from the current FAA registration process, either in appearance or in practice. This could raise an additional preemption issue, separate from overhead flight regulations.

- Consult with the FAA throughout your drafting process.** While it can be frustrating to navigate a policy area that has local impacts, but mostly federal jurisdiction, the FAA can help you avoid most preemption pitfalls and are more than willing to assist. Reach out to your FAA district representative and ask to speak to an attorney in their enforcement division for assistance.
- Once your model ordinance has been created and approved, ensure that you are working together with relevant stakeholders to educate the general public on new rules and regulations.** Just like city governments are new to the drone regulation scene, so are your residents. Most see drones as a fun and harmless toy; take advantage of this by working together to ensure compliance through education.

*The Association of California Cities – Orange County (ACC-OC) is a 501(c)(3) non-profit organization representing the interests of the 34 cities in Orange County. ACC-OC is committed to protecting and preserving local governance, while offering a vast array of benefits and resources for city staff and elected representatives. ACC-OC's ongoing mission is to be the authoritative regional voice for public policy issues, with focus on: education that empowers, policy that is collaborative and advocacy that is service-oriented. Learn more at <http://www.accoc.org>.*