

**Fahey Schultz  
Burzych Rhodes**

EXPERT COUNSEL



REAL SOLUTIONS

---

# Eye in the Sky: Regulation and Use of Drones by Local Government

---

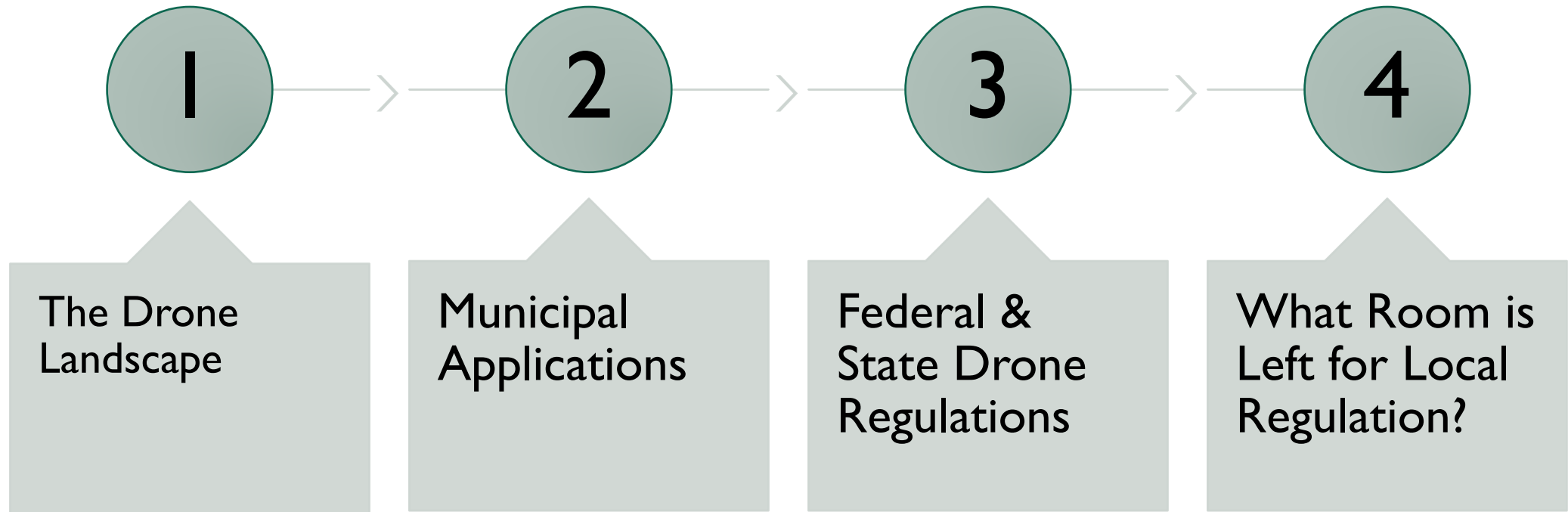
CHRISTOPHER S. PATTERSON AND JACOB N. WITTE

FAHEY SCHULTZ BURZYCH RHODES PLC

---

# Agenda

---



# The Drone Landscape

---

- Drones are a relatively new, rapidly expanding and evolving technology.
- Drones have the potential to be dangerous, but they can also be a powerful tool for local government.
- A Study showed that there were 2 million hobbyists using drones and 600,000 commercial operations of drones.
- These numbers are expected to increase greatly by 2020.
- Many local governments do not have any regulatory scheme in places for drones.



# Municipal Applications

---

- Before a municipality can begin using drones, it must ensure that its intended pilots meet the necessary licensing criteria under federal law.
- Drones are legally considered to be aircrafts and fall within the regulatory scope of the Federal Aviation Administration (FAA).
- Municipalities have two options for registration.



## Registration Under Part 107

Applies to all commercial drone applications.

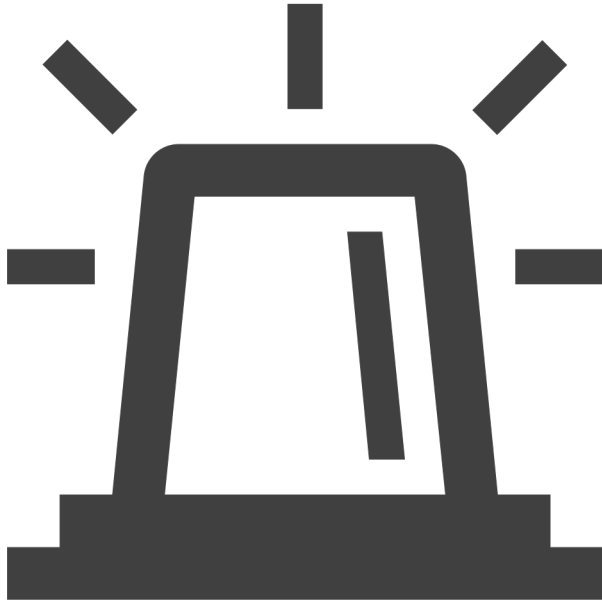
## Public Operation Registration

May waive some of the requirements set forth in Part 107, allowing the municipality to tailor the license to its particular application.



# Making Drones Work for You

---



- Search and Rescue
- Manhunts
- Surveying Storm Damage
- Inspecting Utility Lines
- Accident Investigation



# Making Drones Work for You

---

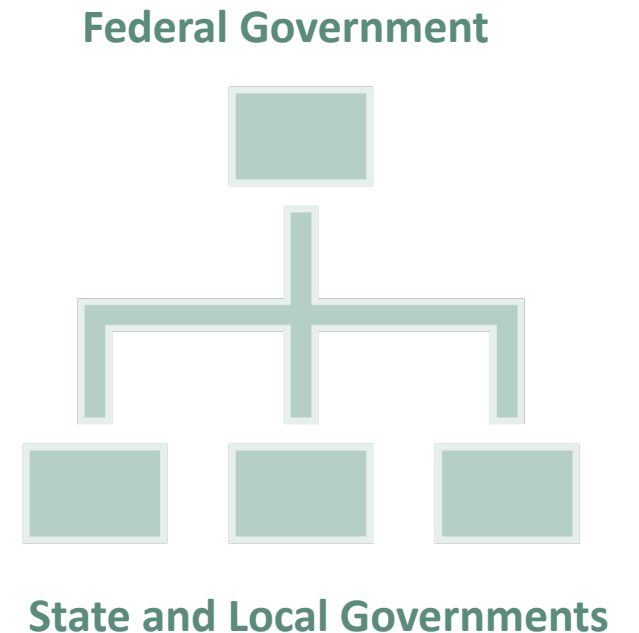
- Postal delivery
- Monitoring bridges
- Traffic control
- Firefighting, for observation and dropping fire-retardant chemicals
- Code enforcement
- Building inspection
- Monitoring pollution levels
- Responding to 911 calls
- Mapping unpaved roads and identifying potholes and roads in need of repair
- Monitoring trees and forests for deforestation
- Carrying out search warrants
- Asset monitoring and fleet security
- Event venue planning and preparation for public safety



# Federal Drone Regulations

---

- FAA’s jurisdictional authority to regulate “aircraft” preempts state and local attempts to regulate drone operations.
- FAA regulations do not cover every aspect of drone use, so state and local rules will likely be upheld to the extent that they are consistent with the FAA’s regulatory framework.





## FAA rules govern the following aspects of drone operation:

### Operational Parameters

- Restrictions on Speed, Height, Line of Sight, Weather Conditions

### Airspace

- Controls Flight Locations

### Licensing

- Encompasses Registration, Pilot Qualifications, Training, Reporting Obligations and Ongoing License Requirements

### Equipment

- Includes Weight, Safety Features, Payload and Preflight Inspections



# State Drone Regulations

---

- Unmanned Aircraft Systems Act, Public Act 436 of 2016, MCL 259.201 *et seq.*
  - Establishes criminal penalties for certain activities involving drones.
  - “Except as expressly authorized by statute, **a political subdivision shall not enact or enforce an ordinance or resolution that regulates the ownership or operation of unmanned aircraft** or otherwise engage in the regulation of the ownership or operation of unmanned aircraft.” MCL 259.305(1) (emphasis added).

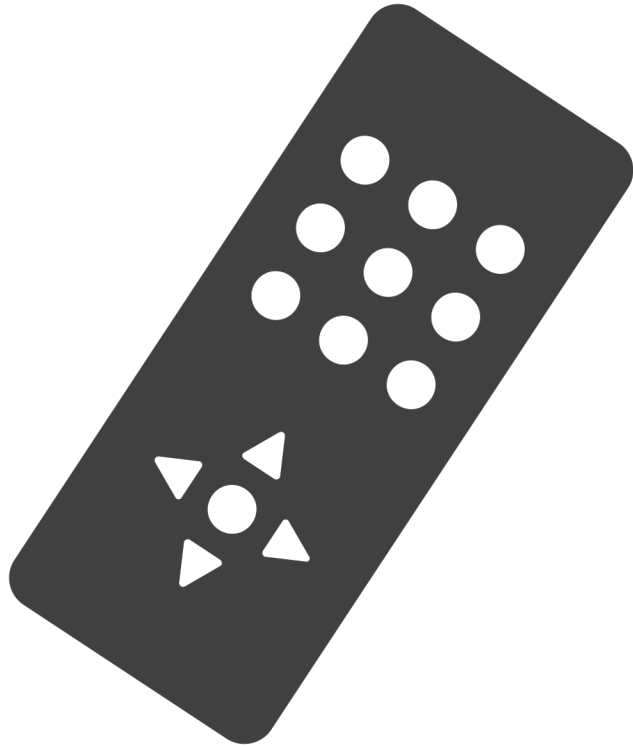


# State Drone Regulations

---

- **Lame Duck Amendments to State Drone Regulations**
  - Under the new amendments to the UAS Act, drone operators will be considered guilty of underlying criminal offenses caused by drones if the person would have been liable for the same act if it was performed directly by the person. MCL 259.320.
  - Restricts the use of drones by state agencies and departments to inspect facilities that are subject to state permit or licensing requirements. MCL 259.307.

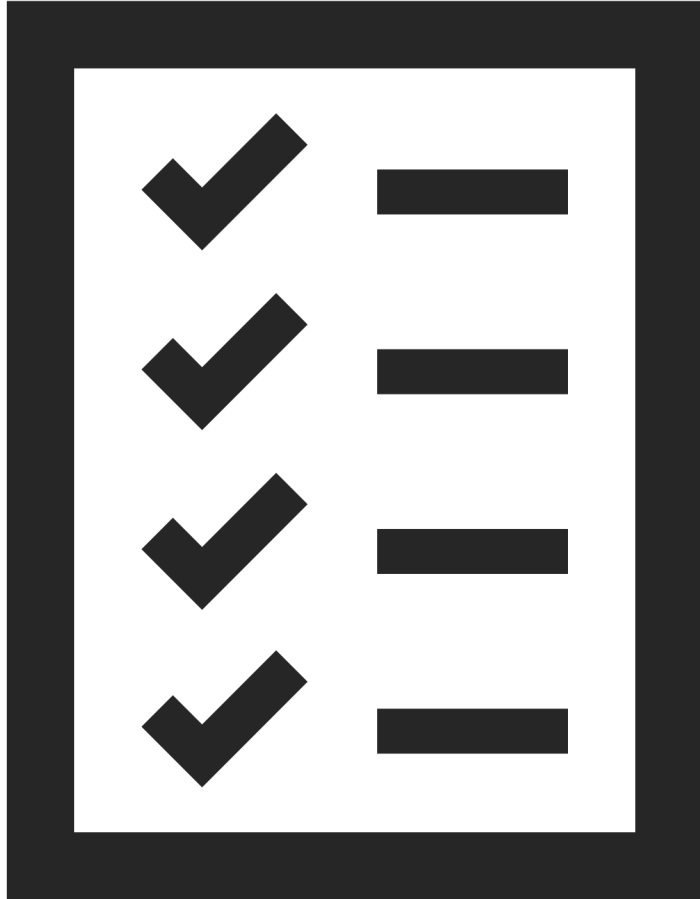




- Regulation of drones under both state and federal law is rapidly changing.
- There will likely be even more changes to come...

Stay Tuned!





# Special Considerations for Municipalities

---

- Municipalities should develop an internal policy regulating drone use.
- Internal Policy Should Address Data Collected by Drones.
- Footage collected by municipal drones may be subject to FOIA (although lame duck amendments may be an indication that drone footage of private property is presumptively exempt from FOIA requests).



# Special Considerations for Municipalities

---

**Municipal drones used for Police or Code Enforcement may implicate Fourth Amendment protections for unreasonable searches and seizures.**



**To avoid violating privacy rights, your drone policy should have very clear guidelines on operating drones above private property.**





# Questions

---

Christopher S. Patterson

Jacob N. Witte

Fahey Schultz Burzych Rhodes PLC  
4151 Okemos Rd., Okemos, MI 48864

Tel: 517-381-0100

[cpatterson@fsbirlaw.com](mailto:cpatterson@fsbirlaw.com)

[jwtte@fsbirlaw.com](mailto:jwitte@fsbirlaw.com)

[www.fsbirlaw.com](http://www.fsbirlaw.com)

