

Does drone spying violate nuisance law?

By Aaron West
The Bulletin

REDMOND (AP) — A Redmond woman's concerns about her neighbor spying on her with his camera-equipped drone was met with uncertainty at a City Council meeting June 14 as to what could be done about it. But others familiar with drone rules say that low-flying drone-harassment potentially violates nuisance and trespassing laws.

Fawn Curry told Redmond councilors this week that since May her neighbor has been using his drone to spy on her and her family in their home, but after contacting local police she'd been told nothing can be done about it.

"I recently have had a situation with a neighbor who lives a block away and is flying his drone over my home day and night," Curry said. "I've asked him to stop but he continues to do so. It sounds like a simple situation but it truly is not."

Curry, who spoke during the meeting's public comment period, said she's called the Redmond Police Department about the drone twice but was told both times that drone usage above a house is outside local law enforcement's jurisdiction.

"Unfortunately there is (sic) no teeth in the law for us to be able to take any action against him," Redmond Police Chief Dave Tarbet said on Tuesday, noting that he's taking Curry's complaint seriously. "The FAA mandates that the airspace above the highest object on private property is public airspace, unfortunately."

So Curry, who told *The Bulletin* she's concerned for her family's safety, turned to local government for help.

"Please, at the very least, consider putting a City ordinance in place to stop the usage of drones in residential areas," she said at the meeting.

Council members promised Curry they'd look into it, asking City Attorney Steve Bryant to investigate the matter. At the meeting, Bryant said that trespassing or nuisance laws could possibly come into play, and that he'd explore those options. Meanwhile, an official ordinance would at least make it obvious where the City stood on such matters, he said.

"Certainly passing an ordinance that says no drone flights in residential areas makes it clear that you can't do that," Bryant told councilors, who seemed receptive to the idea but also hesitant to target a specific situation with a blanket rule.

"I wouldn't want to shut down someone from flying

a drone in their backyard," Councilor Jay Patrick said.

"If we want to look at creating an ordinance, frankly I'd be for it," Tarbet said.

"I recently have had a situation with a neighbor who lives a block away and is flying his drone over my home day and night."
— Fawn Curry

But local ordinances restricting drone use are an unknown to the Oregon League of Cities, according to Kevin Toon, communication director for the League, who said that such ordinances probably wouldn't be enforceable because of state and federal preemption.

"There aren't any (ordinances) that we know of," Toon said. "A lot of it's the newness of the subject itself, it takes a while for it to become something we look into. Drones haven't risen to that level where a lot of cities are calling us."

Gary Firestone, Bend's assistant city attorney, said no local rules exist in Bend about the use of drones in residential areas or otherwise.

"The answer is very simple: We don't have any regulations," Firestone said when asked about local drone rules.

A Federal Aviation Administration fact sheet released December 17, 2015, to clear up confusion over drone regulations states that local and state governments

should consult with the FAA before creating ordinances or laws that attempt to regulate where drones are allowed to be used.

For example, the fact sheet states the FAA would need to weigh in on "a city ordinance banning anyone from operating (drones) within the city limits, within the airspace of the city, or within certain distances of landmarks." However, "specifying that (drones) may not be used for voyeurism" is generally within state or local jurisdiction, the FAA states in its fact sheet.

"I've asked him to stop but he continues to do so. It sounds like a simple situation but it truly is not."
— Fawn Curry

State Rep. John Huffman, R-The Dalles, who has spearheaded a couple of pieces of drone-related legislation in Oregon since 2011, said that harassment using drones could be against some trespassing and nuisance laws, and that he's frequently surprised local police so often defer to the FAA's jurisdiction in situations like Curry's.

"It surprises me that local police handle it that way, because quite frankly they do have some kinds of authority," he said, adding that he's run into similar situations before. He said he would try to get in touch with authorities in Redmond and organize a training session about

drone laws. "We have trespassing and nuisance laws in place that can be used. These types of complaints are going to happen more and more, and I hear about them fairly frequently. The more hobbyists that get drones and don't know what the laws are and are flying them around people's backyards and harassing them, well, it's against the law to do that."

However, Huffman did note that while trespassing or nuisance laws are enforceable in these situations, a local ordinance might not be so helpful.

"I will say that Redmond was correct in saying that they didn't have the authority to pass a local ordinance for drone use," Huffman wrote in an email to *The Bulletin*. "HB 2710 from 2011 was our first drone bill and it stipulated statewide preemption over regulation of drones."

On a federal level, the FAA backs up what Huffman said. According to Allen Kenitzer, an FAA public affairs officer, people who use drones for recreational purposes are required to avoid "careless and reckless operations," as well as abide by local and state laws.

"Users must NOT intentionally fly over unprotected persons or moving vehicles, and remain at least 25 feet away from individuals and vulnerable property," Kenitzer stated in an email to *The Bulletin*. "They also must check and follow all local laws and ordinances before flying over private property."

Church group plans Quilt Show breakfast

This year marks the 13th year that the woman of the St. Edward the Martyr Catholic Church Altar Society will again be preparing "Early Bird Breakfasts" during Quilt Show week, July 4-8. They will serve breakfast daily from 6:30 to 9 a.m. at the church.

Each day's "special" is offered for \$8 and the continental breakfast is available for \$4. Originally intended to offer a convenient option for those quilters who needed to get to classes at the high school, it has expanded to welcome everyone in the community, visitors and locals alike.

This is the women's group's main fundraiser for the year. Also featured is the annual raffle, with prizes such as artwork, quilt, gift certificates, etc. Tickets are \$1 each or six for \$5. Drawing for prizes will be held Sunday, July 17, and ticket holders need not be present to win.

St. Edward the Martyr Catholic Church is located at 123 Trinity Way in Sisters.

For more information, contact Mary Richards at 541-549-2053.

Black Butte Ranch
THERE IS A PLACE

NOW HIRING
For the Summer Season

SUMMER JOBS TO KEEP YOU STOKED!

VIEW AVAILABLE POSITIONS AND APPLY ONLINE AT
BlackButteRanch.com

Firewood Season is Open!

We Sell WOOD-CUTTING PERMITS And Rent Log Splitters

We've got you covered for all your needs!

Files/Tools • Bar Oil/2-Cycle Mix • Hard Hats
Personal Protective Wear • Chaps • Face Shields
Eye Wear • Saw Tune-up • New Chain & Sharpening

Your Local **STIHL**® Chainsaw Dealer

SISTERS RENTAL
506 N. Pine St.
541-549-9631
www.SistersRental.com