

CLERK'S FILE COPY

(O-2017-35)
(COR.COPY)

ORDINANCE NUMBER O- 20818 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 05 2017

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW DIVISION 54, SECTIONS 52.5401, 52.5402, 52.5403, 52.5404, AND 52.5405 RELATING TO UNMANNED AIRCRAFT SYSTEMS.

WHEREAS, the City of San Diego (City) recognizes that current law enforcement options against operators of Unmanned Aircraft Systems (UAS) (colloquially known as drones) are limited under current state and local laws; and

WHEREAS, UAS use has exponentially increased within the City in recent years; and

WHEREAS, this ordinance is designed to allow local law enforcement to charge persons violating federally mandated UAS standards with a misdemeanor crime pursuant to Division 2, Article 2 of Chapter 1 of the San Diego Municipal Code; and

WHEREAS, this ordinance is also crafted so as to not conflict with existing state and federal law, following the pattern set by the State of California in creating criminal penalties for acts in the national airspace that are not preempted by federal regulations; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 5, Article 2 of the San Diego Municipal Code is amended by adding Division 54, sections 52.5401, 52.5402, 52.5403, 52.5404, and 52.5405, to read as follows:

Article 2: Police – Police Regulations – Offenses against Government

Division 54: Unmanned Aircraft Systems

§ 52.5401 Purpose and Intent

It is the purpose and intent of this Division to address the potential hazard *Unmanned Aircraft Systems* pose to other aircraft in flight, to persons and property on the ground, and to critical infrastructure within the City of San Diego. This Division is not intended to restrict the use of *Unmanned Aircraft Systems* flown in compliance with any federal rule, regulation, or exemption.

§ 52.5402 Definitions

For purposes of this Division, defined terms appear in italics. The following definition applies in this Division:

Unmanned Aircraft System shall mean a device that is used or intended to be used for flight in the air, operated without the possibility of direct human intervention from within or onboard the device. This definition includes, but is not limited to, devices commonly known as drones.

§ 52.5403 Unlawful Operation of Unmanned Aircraft Systems

It is unlawful for any person to operate a *Unmanned Aircraft System* in the air, on the ground, or on the water:

- (a) in a careless or reckless manner so as to endanger the life or property of another. In any proceeding charging operation of an *Unmanned Aircraft System* in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing *Unmanned Aircraft Systems*;

- (b) in violation of any flight restriction, temporary or permanent, issued by the Federal Aviation Administration pursuant to 14 C.F.R. 91, as amended;
- (c) in violation of any restriction issued by the Federal Aviation Administration applicable to *Unmanned Aircraft Systems*; or
- (d) in a manner that interferes with law enforcement, firefighting, or any government emergency operations.

§ 52.5404 Enforcement Authority

The Chief of Police, or any other Director authorized by the Mayor, is authorized to administer and enforce the provisions of this Division. The Chief of Police, or any other Director authorized by the Mayor, may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter 1 of this Code.

§ 52.5405 Violations and Penalties

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from
and after its final passage.

APPROVED: MARA W. ELLIOT, City Attorney

By _____
Noah J. Brazier
Deputy City Attorney

NJB:hm
09/07/2016
05/26/2017 COR. COPY
Or.Dept:PSE
Doc. No.: 1262005_10

I hereby certify that the foregoing Ordinance was passed by the Council of the City of
San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

"(See attached memo and signature page.)"

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: May 26, 2017
TO: Elizabeth Maland, City Clerk
FROM: Noah Brazier, Deputy City Attorney
SUBJECT: Correction to Ordinance Making Amendments to the San Diego Municipal Code Relating to Unmanned Aircraft Systems (O-2017-35)

On April 10, 2017 the City Council introduced an ordinance amending the San Diego Municipal Code (O-2017-35). After introduction, it came to our attention that it is necessary to correct page 1, Section 1, relating to the numbering of the added San Diego Municipal Code sections. Section 1 of the ordinance states: "That Chapter 5, Article 2 of the San Diego Municipal Code is amended by adding Division 54, sections 52.5401, 52.5402, 52.5403, 52.5404, 52.5405, 52.5406, 52.5407, and 52.5408, to read as follows:" However, sections 52.5406, 52.5407, and 52.5408 were not added to the San Diego Municipal Code. Accordingly, we have enclosed a corrected version of the ordinance with the accurate section numbers in both the ordinance text and the ordinance title. We have also enclosed a corrected strike-out of the ordinance and a corrected digest.

MARA W. ELLIOT, City Attorney

By



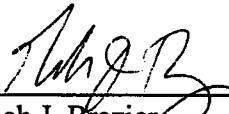
Noah J. Brazier
Chief Deputy City Attorney

NJB:

EXHIBIT E

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOT, City Attorney

By 
Noah J. Brazier
Deputy City Attorney

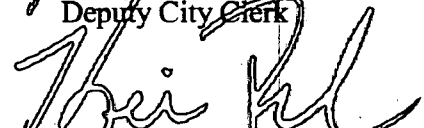
NJB:hm
09/07/2016
Or.Dept:PSE
Doc. No.: 1262005_8

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 25 2017.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5/5/17
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 25 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 05 2017

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 10 2017

MAY 05 2017

, and on

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

20818

Ordinance Number O-_____

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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Article 2: Police – Police Regulations – Offenses against Government

Division 54: Unmanned Aircraft Systems

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- (a) in a careless or reckless manner so as to endanger the life or property of another. In any proceeding charging operation of an *Unmanned Aircraft System* in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing *Unmanned Aircraft Systems*;
- (b) in violation of any flight restriction, temporary or permanent, issued by the Federal Aviation Administration pursuant to 14 C.F.R. 91, as amended;
- (c) in violation of any restriction issued by the Federal Aviation Administration applicable to *Unmanned Aircraft Systems*; or
- (d) in a manner that interferes with law enforcement, firefighting, or any government emergency operations.

§ 52.5404 **Enforcement Authority**

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fines and custody provided in San Diego Municipal Code section 12.0201.

NJB:hm
09/07/2016
05/26/2017 COR. COPY
Or.Dept:PSE
Doc. No.: 1259239_9