

ORDINANCE NO. 12538  
(New Series)

JAN 2 1979

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 3,  
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING  
SECTION 63.02.32 RELATING TO ISSUANCE OF  
PERMIT TO CONDUCT OR PARTICIPATE IN ANY  
SOARING OR GLIDING ACTIVITY.

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

Section 1. That Chapter VI, Article 3, of the San Diego  
Municipal Code be and the same is hereby amended by adding  
Section 63.02.32 to read as follows:

SEC. 63.02.32 SOARING OR GLIDING ACTIVITY--PERMIT

(a) The following words and phrases, wherever  
used in this section, shall be construed as defined  
herein unless from the context a different meaning is  
intended or unless a different meaning is specifically  
defined and more particularly directed to the use of  
such words or phrases.

(1) "Hang gliding" shall mean flight by any  
motorless, heavier than air, contrivance now known  
or hereafter invented, used or designed for  
navigation of or flight in the air in which the  
pilot, crew and passengers are carried externally  
to the frame of such contrivance.

(2) "Full-scale glider soaring" shall mean  
flight by any motorless, heavier than air, aircraft  
now known or hereafter invented, used or designed

for navigation of or flight in the air, in which the pilot, crew and passengers are carried internally within the frame of such aircraft.

(3) "Radio-controlled model glider operations" shall mean flight by any unmanned, motorless, heavier than air contrivance, now known or hereafter invented, used or designed for flight or navigation, which is controlled from the ground by radio signals.

(b) Any person who, on any park, beach or other property owned or maintained by The City of San Diego, conducts or participates in any soaring or gliding activity, including, but not limited to, hang gliding, full-scale glider soaring, and operation of radio-controlled model gliders, without first having obtained a permit from the City shall be guilty of a misdemeanor.

(c) No permit shall be issued unless all of the following conditions are met:

(1) The applicant shall submit and maintain a certificate of personal injury and liability insurance in the amount of Five Hundred Thousand Dollars (\$500,000) combined single limit, naming the City as an additional named insured, and providing that in the event of cancellation of the policy, the City will be provided at least 30 days' written notice.

(2) The applicant shall present and have approved by the City Manager a complete set of flight regulations, rules and procedures related to safety standards and operations.

12538

(3) The applicant shall agree to abide by all rules and regulations approved by the City Manager for the protection of persons and property during flight operations.

(4) The applicant shall agree to indemnify and save City harmless from any and all liability for damage to property or injury to or death of persons resulting from applicant's activities on the ground or in the air.

(5) The City Manager determines that the requested location of the gliding or soaring activity does not endanger the safety of persons or property.

(d) A permit shall be issued for a term of twelve (12) months and be renewable during the eleventh month of the term. Each permit shall contain the following information: name and address of holder, date of issuance, expiration date, the location of the approved activity.

(e) Upon notification that a person holding a permit under this section is in violation of subsections (c)(1) or (3) of this section, the City Manager shall order a hearing before a hearing officer, appointed by the City Manager, to be conducted within 30 days of such notification. The City Manager upon ordering such hearing shall mail by certified or registered United States mail written notice of such hearing to the person holding the permit at the address

shown on the permit currently filed with the City Manager. Failure to respond to such notice shall be considered to be a surrender of such permit.

(f) Upon denial of a permit under this section, the person requesting such permit shall have the right to appeal such decision before the hearing officer within 30 days of such denial.

(g) Hearings heard by a hearing officer shall be conducted with recognition of constitutional rights of due process of law including proper notice, the right to appear at the hearing personally or with representation, the right to present evidence, the right to confront and examine witnesses and the right to have written findings and conclusions. The hearing officer may consider hearsay evidence as part of his determination except that no finding or recommendation may be based solely on such hearsay evidence unless the hearsay evidence is supportive or supplementary to other legally competent evidence.

(h) The hearing officer's written report of findings of fact and recommendation shall be completed and submitted to the City Manager for approval within 10 days of the hearing.

(i) The effect of the decision by the City Manager to revoke or suspend a permit issued under this section shall be stayed while an appeal to the Public Facilities and Recreation Committee is pending or until the time for filing such appeal has expired.

(j) Within ten (10) days of the decision of the City Manager, the appellant may appeal to the Public Facilities and Recreation Committee of the City Council by filing a request therefor with the City Clerk. A decision of the City Manager shall be final if an appeal is not filed in accordance herewith.

(k) If no appeal is filed within ten (10) days, permits which have been suspended or revoked by the City Manager shall immediately be surrendered to the City Manager and the person surrendering such permit shall cease all soaring or gliding activity permitted under this section.

(l) The appellant shall present his case to the Council Committee. The department representing the City Manager shall then present its case after which the appellant shall be afforded an opportunity for rebuttal.

(m) The Public Facilities and Recreation Committee members may at any state of the proceedings direct questions to the appellant or the department. It may also summon witnesses or call for other evidence, and continue the hearing to a later date.

(n) After the presentation by the appellant and the department, the Public Facilities and Recreation Committee shall, upon motion, close the hearing and make its decision on the appeal. Three affirmative votes of a Council Committee are required to reverse, modify, or uphold the decision of

a hearing officer. If the decision of the City Manager to suspend or revoke the permit is upheld, the permit shall be immediately surrendered to the City Manager.

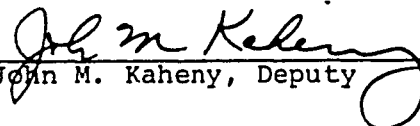
(o) Subject to the permanent rules of the Council, the decision of the Council Committee shall be the final administrative remedy.

(p) Any person who conducts or participates in any soaring or gliding activity under this section with a suspended or revoked permit shall be guilty of a misdemeanor.

(q) Any person who operates any hang glider, full scale glider, or radio-controlled model glider on any park, beach, or other property owned or maintained by the City of San Diego, in willful or wanton disregard for the safety of persons or property shall be guilty of a misdemeanor.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By   
John M. Kaheny, Deputy

JMK:lco:523  
10/26/78  
REV. 12/13/78  
Or.Dept.:Pk&Rec

Passed and adopted by the Council of The City of San Diego on JAN 2 1979,  
 by the following vote:

| Councilmen          | Yeas                                | Nays                     | Not Present                         | Ineligible               |
|---------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Bill Mitchell       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Maureen F. O'Connor | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Bill Lowery         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Leon L. Williams    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Fred Schnaubelt     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Tom Gade            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Larry Stirling      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Lucy Killea         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Mayor Pete Wilson   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

AUTHENTICATED BY:

PETE WILSON  
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

(Seal)

By E. H. Cook, 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

DEC 18 1978

JAN 2 1979

, and on \_\_\_\_\_

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

(Seal)

By E. H. Cook, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 12538 Adopted JAN 2 1979

sk

ATTORNEYS)

San Diego, City of  
12th Floor, City Admin. Bldg.  
202 C St.  
San Diego, Ca 92101  
Attn: Earnest H. Cook

RECORDED  
INDEXED  
JAN 21 1979

CERTIFICATE OF PUBLICATION

No. 12538

IN THE MATTER OF

SOARING OR GLIDING ACTIVITY

ORDINANCE NO. 12538

(New Series)

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 63.02.32 RELATING TO ISSUANCE OF PERMIT TO CONDUCT OR PARTICIPATE IN ANY SOARING OR GLIDING ACTIVITY.

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

Section 1. That Chapter VI, Article 3, of the San Diego Municipal Code be and the same is hereby amended by adding Section 63.02.32 to read as follows:

SEC. 63.02.32 SOARING OR GLIDING ACTIVITY - PERMIT

(a) The following words and phrases, wherever used in this section, shall be construed as defined herein unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

(1) "Hang gliding" shall mean flight by an motorless, heavier than air, contrivance now known or hereafter invented, used or designed for navigation or flight in the air in which the pilot, crew and passengers are carried externally to the frame of such contrivance.

(2) "Full-scale glider soaring" shall mean flight by any motorless, heavier than air, aircraft now known or hereafter invented, used or designed for navigation or flight in the air, in which the pilot, crew and passengers are carried internally within the frame of such aircraft.

(3) "Radio-controlled model glider operations" shall mean flight by any unmanned, motorless, heavier than air contrivance, now known or hereafter invented, used or designed for flight or navigation, which is controlled from the ground by radio signals.

(b) Any person who, on any park, beach or other property owned or maintained by The City of San Diego, conducts or participates in any soaring or gliding activity, including, but not limited to, hang gliding, full-scale glider soaring, and operation of radio-controlled model gliders, without first having obtained a permit from the City shall be guilty of a misdemeanor.

(c) No permit shall be issued unless all of the following conditions are met:

(1) The applicant shall submit and maintain a certificate of personal injury and liability insurance in the amount of Five Hundred Thousand Dollars (\$500,000) combined single limit, naming the City as an additional named insured, and providing that in event of cancellation of the policy, the City will be provided at least 30 days' written notice.

(2) The applicant shall present and have approved by the City Manager a complete set of flight regulations, rules and procedures related to safety standards and operations.

(3) The applicant shall agree to abide by all rules and regulations approved by the City Manager for the protection of persons and property during flight operations.

(4) The applicant shall agree to indemnify and save City harmless from any and all liability for damage to property or injury to or death of persons resulting from applicant's activities on the ground or in the air.

(5) The City Manager determines that the requested location of the gliding or soaring activity does not endanger the safety of persons or property.

(d) A permit shall be issued for a term of twelve (12) months and be renewable during the eleventh month of the term. Each permit shall contain the following information: name and address of holder, date of issuance, expiration date, the location of the approved activity.

I, PATRICIA M. SPAULDING, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 12538

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to-wit:

January 16, 1979

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 24th day of Jan 19 79

*Patricia M. Spaulding*  
Signature

24 147 33



(8) Upon denial of a permit under this section, the City Manager shall, within 30 days of such denial, cause a hearing officer to be appointed within 30 days of such denial. The City Manager upon ordering such hearing shall mail by certified or registered United States mail written notice of such hearing to the person holding the permit at the address shown on the permit currently filed with the City Manager. Failure to respond to such notice shall be considered to be a surrender of such permit.

(9) Upon denial of a permit under this section, the person requesting such permit shall have the right to appeal such decision before the hearing officer within 30 days of such denial.

(a) Hearings heard by a hearing officer shall be conducted with recognition of constitutional rights of due process of law including proper notice, the right to appear, at the hearing personally or with representation; the right to present evidence, the right to confront and examine witnesses and the right to have written findings and conclusions. The hearing officer may consider hearsay evidence as part of his determination except that no finding or recommendation may be based solely on such hearsay evidence unless the hearsay evidence is supportive or complementary to other legally competent evidence.

(b) The hearing officer's written report of findings of fact and recommendation shall be completed and submitted to the City Manager for approval within 10 days of the hearing.

(c) The effect of the decision by the City Manager to revoke or suspend a permit issued under this section shall be stayed while an appeal to the Public Facilities and Recreation Committee is pending or until the time for filing such appeal has expired.

(d) Within ten (10) days of the decision of the City Manager, the applicant may appeal to the Public Facilities and Recreation Committee of the City Council by filing a request therefor with the City Clerk. A decision of the City Manager shall be final if an appeal is not filed in accordance herewith.

(e) If no appeal is filed within ten (10) days, permits which have been suspended or revoked by the City Manager shall immediately be surrendered to the City Manager, and the person surrendering his permit shall cease all towing or gliding activity pursuant to this section.

(f) The applicant shall present his case to the Council Committee. The department representing the City Manager shall then present its case after which the applicant shall be afforded an opportunity for rebuttal.

(g) The Public Facilities and Recreation Committee members may at any stage of the proceedings direct questions to the applicant or the department. It may also examine witnesses or call for other evidence, and continue the hearing to a later date.

(h) After the presentation by the applicant and the department, the Public Facilities and Recreation Committee shall, upon motion since the hearing and make its decision on the appeal. Three of its members, when a County Committee are required to reverse, modify or uphold the decision of a hearing officer. If the decision of the City Manager to suspend or revoke the permit is upheld, the permit shall be immediately surrendered to the City Manager; the decision of the Council Committee shall be the final administrative remedy.

(i) Any person who conducts or participates in any towing or gliding activity under this section with a suspended or revoked permit shall be guilty of a misdemeanor.

(j) Any person who operates any hang glider, full scale glider, radio-controlled model glider, on any park, beach, or other property owned or maintained by the City of San Diego, in willful or wanton disregard for the safety of persons or property shall be guilty of a misdemeanor.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on December 14, 1978.  
 Passed and adopted by the Council of The City of San Diego on January 2, 1979.

**AUTHENTICATED BY:**  
 PETE WILSON,  
 Mayor of The City of San Diego, California.  
 CHARLES G. ABDELNOUR,  
 City Clerk of The City of San Diego, California.  
 By EMBERT H. COOK, Deputy

02-1253

2 of 2

12538