

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)
--------------------------------------------------------	----------------------------------------------------

TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Homeland Security	DATE: 4/1/2016
---------------------	-----------------------------------------------------	-------------------

SUBJECT: Amendments to the Municipal Code to Encourage Safe Operation of Unmanned Aircraft Systems Pursuant to FAA Rules

PRIMARY CONTACT (NAME, PHONE): John Valencia, 619-533-6763	SECONDARY CONTACT (NAME, PHONE): Tiffany Vinson, 619-533-6765
---------------------------------------------------------------	------------------------------------------------------------------

COMPLETE FOR ACCOUNTING PURPOSES

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE):

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Environmental Analysis	ORIG DEPT.	Valencia, John	04/11/2016
Liaison Office	CFO		
	DEPUTY CHIEF		
	COO		
	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Amend Chapter V, Article 2 of the San Diego Municipal Code by adding Division 54 Sections 52.5401, 52.54502, 52.5403, 52.5404, 52.5405, 52.5406, 52.5407, and 52.5408 all relating to unmanned aircraft systems.

STAFF RECOMMENDATIONS:
Approve Requested Actions

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)

COUNCIL DISTRICT(S): All

COMMUNITY AREA(S):	Citywide
ENVIRONMENTAL IMPACT:	This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).
CITY CLERK INSTRUCTIONS:	

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 4/1/2016

ORIGINATING DEPARTMENT: Homeland Security

SUBJECT: Amendments to the Municipal Code to Encourage Safe Operation of Unmanned Aircraft Systems Pursuant to FAA Rules

COUNCIL DISTRICT(S): All

CONTACT/PHONE NUMBER: John Valencia/619-533-6763

DESCRIPTIVE SUMMARY OF ITEM:

This amends Chapter V, Article 2 of the San Diego Municipal Code by adding Division 54 Sections 52.5401, 52.54502, 52.5403, 52.5404, 52.5405, 52.5406, 52.5407, and 52.5408 all relating to unmanned aircraft systems.

STAFF RECOMMENDATION:

Approve Requested Actions

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

The City of San Diego currently has no Municipal Code section that specifically pertains to use of unmanned aircraft systems (UAS). After recent issues came to light in the region, including a sighting of UAS near a flight over Lindbergh Field, many departments expressed a desire to develop a solution.

In November 2015, the Office of Homeland Security convened the Unmanned Aircraft Systems (UAS) Working Group. The UAS Working Group consisted of members from the Office of Homeland Security, the Police Department, the Fire-Rescue Department, the Office of the City Attorney, the Office of Special Events, the Public Utilities Department, and the Real Estate Assets Department. The group ultimately expanded to include the San Diego Law Enforcement Coordination Center, the Harbor Police, and a representative from the Federal Aviation Administration (FAA). The UAS Working Group also received input from multiple Council District Offices.

The UAS Working Group conducted a thorough review of existing legislation and regulations, including the FAA Modernization Reform Act of 2012, California Assembly Bill 856, and ordinances approved in Berkeley, CA; Poway, CA; Los Angeles; CA; Miami, FL; Chicago, IL, and Pittsburgh, PA. Additionally, the UAS Working Group reviewed bills in the State Legislature under discussion, as well as pending legislation from other local agencies.

The UAS Working Group is proposing a UAS policy based on extensive research and development by the broad-based working group. The proposed legislation mirrors FAA rules and regulations, and leverages local agency authority to allow for local enforcement. This addition is proposed to Chapter V, Division 2, as the Chapter pertains to police powers and prohibitions, including vehicle policies.

This policy includes the following regulations for unmanned aircraft system operations:

- Unmanned aircraft systems cannot be operated in a careless or reckless manner, as defined by federal statutes
- Unmanned aircraft systems cannot be operated in violation of any flight restriction issued by the Federal Aviation Administration (pursuant to 14 C.F.R. 91)
- Unmanned aircraft systems cannot be operated in violation of any restriction issued by the Federal Aviation Administration applicable to unmanned aircraft systems
- Unmanned aircraft systems cannot be operated in a manner that interferes with law enforcement, firefighter, or any other emergency rescue operations
- Violations of this article may be prosecuted as provided in Municipal Code section 12.0201

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #2: Work in partnership with all our communities to achieve safe and livable neighborhoods.

Objective #1: Protect lives, property, and the environment through timely and effective response in all communities.

Objective #2: Reduce and prevent crime.

FISCAL CONSIDERATIONS: None

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee): N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: The Office of Homeland Security led a UAS Working Group that engaged City departments, as well as the San Diego Law Enforcement Coordination Center, the Harbor Police, and the FAA.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Valencia, John
Originating Department

Deputy Chief/Chief Operating Officer

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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, 52.5405, 52.5406, 52.5407, AND 52.5408 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, 52.5405, 52.5406, 52.5407, and 52.5408, 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.

§ 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 ELLIOTT, 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 _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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, 52.5405, 52.5406, 52.5407, AND 52.5408 RELATING TO UNMANNED AIRCRAFT SYSTEMS.

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.

§ 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.

Or.Dept:PSE
Doc. No.: 1259239_6

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

EFFECTIVE DATE _____

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, 52.5405, 52.5406, 52.5407, AND 52.5408 RELATING TO UNMANNED AIRCRAFT SYSTEMS.

The City of San Diego desires to protect its citizens against the misuse of Unmanned Aircraft Systems (UAS), colloquially known as drones. UAS pose danger to persons and property on the ground if they are misused. This ordinance makes it a misdemeanor crime for UAS operators to violate certain UAS regulations promulgated by the FAA. These municipal code amendments are designed to give City Officials criminal enforcement authority which does not conflict with current federal or state statutes or regulations.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to final passage, a written copy having been made available to the Council and the public prior to the day of its passage.

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

A complete copy of this ordinance is available for inspection in the Office of the
City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego,
CA 92101.

NJB:hm
09/07/2016
Or.Dept:PSE
Doc. No.: 1262051_5