

## Interoffice Memorandum

Date: September 17, 2014

**To:** Thomas Barwin, City Manager  
**Through:** John Lege, Finance Director  
**From:** Susan Dodd, Assistant to the Finance Director  
**Subject:** **Municipal Drone Regulations**



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The purpose of this memorandum is to provide information to assist the City Manager in understanding what restrictions have been adopted in other Florida municipalities regarding the flight of unmanned aerial systems (UASs, or Drones) operated by government, private, or commercial entities.

Currently, there are no Florida municipalities that have adopted laws for the flight of unmanned aerial systems. However, this memo will account for the existing and developing laws in other government entities.

In 2012, Congress tasked the Federal Aviation Administration (FAA) with developing policies to safely integrate unmanned aerial systems (UASs) into the American airspace by September 2015, including establishing six test ranges that will serve as integration pilot projects. Congress did not expressly direct the FAA to address issues of privacy or trespass. In September 2013, the FAA released their Comprehensive Plan for Unmanned Aircraft Systems, which outlined how the organization would proceed in meeting their September 2015 deadline. The Comprehensive Plan acknowledged that the FAA and their partners are aware of the significant issues related to privacy, civil rights, and civil liberties, as the private and civil uses of UASs grow. The Plan indicated that initial privacy policies have been developed for use at the six test sites and creation of these policies and their subsequent localized implementation will help the FAA refine best practices for communities and operators. The FAA has also stated that they will be heavily participating in interagency partnering teams to continue to consider the aforementioned ‘non-safety’ issues associated with UASs.

Regarding restrictions presently in place, there has been some disagreement with regard to the FAA’s authority to regulate UASs use. The FAA states that that all UASs require a level of FAA approval to fly in U.S. airspace and that drones are regulated by the FAA to prohibit them from use in commercial endeavors, but that public institutions may apply for authorization to use them. The FAA states that approval is not needed for hobbyists flying radio controlled aircrafts aka ‘model airplanes’ as long as they follow the FAA’s Model Aircraft Operating Standards as outlined in the 1981 FAA Advisory Circular– in addition to any added restrictions placed on hobby flight by local jurisdictions. Sixty-seven (67) Florida municipalities have model aircraft restrictions. For instance, the City of Sarasota’s Code Chapter 20.4 *Unreasonable Sound Regulations* restricts model airplanes from being flown between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays in or within fifty yards of any residential real property line or noise sensitive area.

The distinction between model aircraft and UASs or drones can be confusing due to the fact that little difference exists between UASs and radio controlled vehicles. The clearest distinctions in place include the following:  
1)UASs have the *capacity* for autonomous flight. UASs *may* operate with remote piloting, like a radio controlled plane would, but they have the ability to fly autonomously, and, 2)UASs are operating in a mission-oriented fashion – carrying payload, or tasked with some other practical function (including information gathering). Radio Controlled Vehicles on the other hand, are operated solely for recreational use.

The FAA had been enforcing UAS ‘restrictions’ via cease and desist letters, but in 2011 a court case arose after R. Pirker was unsafely operating a UAS over a college campus for a commercial endeavor. The courts judged in favor of the FAA’s \$10,000 civil penalty of Mr. Pirker, but on appeal it was dismissed with prejudice. It was determined that the FAA does indeed lack the authority to enforce drone regulations due to the fact that no drone-specific regulations (and, in fact, none regulating model airplanes) were ever enacted into laws. While the FAA contented that their legally established ability to regulate ‘aircraft’ inherently includes UASs, the Courts found the FAA’s policies typically expressly described any types of non-standard aircraft such as Ultra Lights, or model aircraft, leading to the conclusion that the FAA had not properly adopted laws clearly identifying and regulating UASs. It is worth noting that the UAS being operated in the aforementioned case was operating in an unsafe manner however, the FAA’s claim was based on lack of operator safety in addition to 10 other claims of unregulated operating and the courts dismissed the whole case.

The safety of drones and their operation is only one of the many legal issues that will arise with widespread drone flight. Federal, state, and local laws have established many legal parameters governing issues of privacy, trespass, and nuisance related to being viewed and/or recorded in private and public spaces (including stalking laws), having repeat air travel occur over your property, and issues of unwarranted surveillance (by law enforcement agencies). However, the introduction of UASs en masse will require refining current privacy and trespass laws to address a greater host of issues which will arise when UASs are paired with technology that can capture high resolution images, reach previously unreachable locations, utilize face recognition technology, capture sensitive audio recordings, etc. Additionally, widespread commercial UAS use will need to be governed to protect and encourage commerce while ensuring public safety and quality of life.

The Congress-directed FAA regulations are currently pending and will include overarching issues of operator qualifications, airworthiness, flight altitudes, etc. Meanwhile, many entities (including local Sarasota drone builders) are planning on future operations that include private, public, or commercial use of UASs. In anticipation of citizens’ concerns regarding rights of privacy, trespass, and nuisance, some U.S. states have adopted legislature regulating drone use; as of April 2014, 16 states have enacted 20 laws addressing UASs. Most of this early state legislature regarding drones has identified unwarranted surveillance as a primary incentive for law-making. Florida was the first state to adopt a drone law in the nation: Florida’s Freedom from Unwarranted Surveillance Act went into effect July 1, 2013 and restricts the use of surveillance drones in the State of Florida without a judge-issued warrant except in the cases of natural disaster or an immediate-danger emergency.

At a local level, few regulations regarding UASs are being enacted. Although many communities have begun public discussions, only eight local jurisdictions have either adopted or drafted UAS-related ordinances or resolutions since 2012. Many private and civil entities are interested in establishing a modern set of rules and regulations governing use of drones that can be applied throughout US municipalities as the ubiquity of these devices will leave not even the smallest town untouched. At this time however, there appear to be no examples of local drone ordinances that address the multitude of privacy, civil rights and liberties issues in a comprehensive manner. Attached are the currently available examples of other cities’ Drone legislation – either in development, declined, or enacted for your review and consideration.

Attachments:

1. Charlottesville, VA Adopted Drone Resolution, February 4, 2013
2. Evanston, IL Adopted Drone Moratorium Resolution, May 28, 2014
3. Iowa City, IA Adopted Drone Ordinance, June 18, 2013
4. Phoenix, AZ Preliminary Proposal for Drone Regulations, August, 2014
5. Pierce County, WA Adopted Drone Ordinance, October 15, 2013
6. Rancho Mirage CA, Draft Ordinance April 2013 – Tabled indefinitely after 1<sup>st</sup> Reading
7. Seattle, WA Adopted Drone Ordinance, March 18, 2013
8. St. Bonifacius, MN Adopted Drone Moratorium Resolution, March 20, 2013

**RESOLUTION  
Calling on the General Assembly of Virginia to Limit the Use of  
Domestic Drones Equipped with Anti-Personnel Devices**

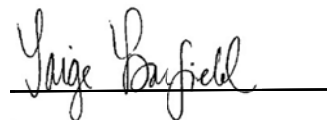
**WHEREAS**, the rapid implementation of drone technology throughout the United States poses a serious threat to the privacy and constitutional rights of the American people, including the residents of Charlottesville; and

**WHEREAS**, the federal government and the Commonwealth of Virginia have thus far failed to provide reasonable legal restrictions on the use of drones within the United States; and

**WHEREAS**, police departments throughout the country have begun implementing drone technology absent any guidance or guidelines from law makers;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of Charlottesville, Virginia, endorses the proposal for a two year moratorium on drones in the state of Virginia; and calls on the United States Congress and the General Assembly of the Commonwealth of Virginia to adopt legislation prohibiting information obtained from the domestic use of drones from being introduced into a Federal or State court, and precluding the domestic use of drones equipped with anti-personnel devices, meaning any projectile, chemical, electrical, directed-energy (visible or invisible), or other device designed to harm, incapacitate, or otherwise negatively impact a human being; and pledges to abstain from similar uses with city-owned, leased, or borrowed drones.

Approved by Council  
February 4, 2013

A handwritten signature in cursive script, reading "Paige Bayfield", is written over a horizontal line.

Clerk of Council

4/18/2013  
5/7/2013  
5/21/2013

**27-R-13**

**A RESOLUTION**

**Authorizing the City of Evanston to Establish a Moratorium on the Use  
of Unregulated Drone Technology**

**WHEREAS**, the implementation of drone (unmanned aerial system) technology in the United States implicates the privacy and constitutional rights of United States residents, including the residents of Evanston, Illinois; and

**WHEREAS**, the federal government and the State of Illinois have yet to enact reasonable regulation on the use of drones within the United States; and

**WHEREAS**, police departments in the United States have begun to deploy drone technology absent any regulation on the appropriate use of such technology, although the Evanston Police Department has not.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF  
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

**SECTION 1:** That the foregoing recitals are hereby found as fact and incorporated herein by reference.

**SECTION 2:** The City of Evanston establishes a moratorium on the use of drones in the City of Evanston in the absence of reasonable state and federal regulation of the use of drone technology which will expire without further action by the City Council two years from the date of this resolution; with the following exemptions:

1) for Hobby and Model Aircraft, defined as an unmanned aircraft that is—

a) capable of sustained flight in the atmosphere;

- b) flown within visual line of sight of the person operating the aircraft; and
  - c) flown for hobby or recreational purposes; and
- 2) the Research and Development of "Experimental Aircraft" for non-Department of Defense contracts.

**SECTION 3:** The City of Evanston establishes a moratorium on the use of drones in the City of Evanston in the absence of reasonable state and federal regulation of the use of drone technology; and

**SECTION 4:** The City of Evanston supports efforts in the Illinois General Assembly, the Illinois Senate, and the United States Congress to enact legislation (1) prohibiting information obtained from the domestic use of drones from being introduced into a federal or state court, and (2) precluding the domestic use of drones equipped with anti-personnel devices (meaning any projectile, chemical, electrical, directed-energy), or other device designed to harm, incapacitate, or otherwise negatively impact a human being.

**SECTION 5:** The City of Evanston jointly resolves, with the Associated Student Government ("ASG") of Northwestern University, as evidenced by the attached resolution of the ASG (Exhibit 1), to provide that the moratorium on drone use extends to all areas of Northwestern University.

**SECTION 6:** Copies of this Resolution will be sent to Illinois Governor Pat Quinn, Illinois Attorney General Lisa Madigan, U.S. Senators Dick Durbin and Mark Kirk, U.S. Congresswoman Jan Schakowsky, Illinois State Senators Daniel Biss and Heather Steans, and Illinois State Representatives Robyn Gabel, Kelly Cassidy and Laura Fine.

**SECTION 7:** This resolution 27-R-13 shall be in full force and effect from and after the date of its passage and approval in the manner provided by law.

\_\_\_\_\_  
Elizabeth B. Tisdahl, Mayor

Attest:

\_\_\_\_\_  
Rodney Greene, City Clerk

Adopted: May 28, 2013

**JOINT RESOLUTION ON UNREGULATED DRONE TECHNOLOGY  
BY EVANSTON CITY COUNCIL  
AND NORTHWESTERN UNIVERSITY  
ASSOCIATED STUDENT GOVERNMENT**

WHEREAS, the implementation of drone (unmanned aerial system) technology in the United States implicates the privacy and constitutional rights of United States residents, including the residents of Evanston, Illinois; and

WHEREAS, the federal government and the State of Illinois have yet to enact reasonable regulation on the use of drones within the United States; and

WHEREAS, police departments in the United States have begun to deploy drone technology absent any regulation on the appropriate use of such technology, although the Evanston Police Department has not.

NOW, THEREFORE, BE IT JOINTLY RESOLVED, that the City Council of Evanston, Illinois, and the Associated Student Government of Northwestern University, hereby:

Establish a moratorium on the use of drones in the City of Evanston in the absence of reasonable state and federal regulation of the use of drone technology; and

Support efforts in the Illinois General Assembly, the Illinois Senate, and the United States Congress to enact legislation (1) prohibiting information obtained from the domestic use of drones from being introduced into a federal or state court, and (2) precluding the domestic use of drones equipped with anti-personnel devices (meaning any projectile, chemical, electrical, directed-energy), or other device designed to harm, incapacitate, or otherwise negatively impact a human being.

BE IT FURTHER RESOLVED that copies of this Resolution will be sent to Illinois Governor Pat Quinn, Illinois Attorney General Lisa Madigan, U.S. Senators Dick Durbin and Mark Kirk, U.S. Congresswoman Jan Schakowsky, Illinois State Senators Daniel Biss and Heather Steans, and Illinois State Representatives Robyn Gabel and Kelly Cassidy.

**Iowa City, IOWA**  
**Adopted June 18, 2013**

Prepared by: Eleanor M. Dilkes, City Attorney, 410 E. Washington Street, Iowa City, IA 52240; 319-356-5030

ORDINANCE NO. 13-4539

**ORDINANCE AMENDING TITLE 9, ENTITLED "MOTOR VEHICLES AND TRAFFIC," OF THE CITY CODE BY ADOPTING AN ORDINANCE SIMILAR IN SUBSTANCE TO THE PROPOSED INITIATIVE ON TRAFFIC ENFORCEMENT CAMERAS AND DRONES, AUTOMATIC LICENSE PLATE RECOGNITION SYSTEMS AND OTHER KINDS OF TRAFFIC SURVEILLANCE SYSTEMS, AND BY REPEALING ORDINANCE NO. 12-4466 THAT ENABLED AUTOMATIC TRAFFIC ENFORCEMENT.**

WHEREAS, Title VII of the City Charter provides for initiative and referendum under certain circumstances; and

WHEREAS, on October 5, 2012, petitioners Aleksey Gurtovoy and Martha Hampel filed with the City Clerk an affidavit to commence an initiative on the use of traffic enforcement cameras and drones, automatic license plate recognition systems and other kinds of traffic surveillance systems; and

WHEREAS, the City Clerk certified the petition as sufficient on May 9, 2013; and

WHEREAS, if, within 60 days from May 9, 2013, Council does not adopt either the proposed initiative measure or an ordinance similar in substance, the proposed initiative must be submitted to the voters; and

WHEREAS, on February 1, 2012 the Council adopted Ordinance No. 12-4466 which enabled an automated traffic enforcement (ATE) system to allow for red light automated traffic enforcement; and

WHEREAS, Petitioners failed to meet the deadlines set forth in Section 7.03(E) of the City Charter for the filing of a referendum petition with respect to Ordinance No. 12-4466; and

WHEREAS, nevertheless Council chooses to repeal Ordinance No. 12-4466 because the City's use of ATE has been delayed due to the Iowa State Department of Transportation's rule-making process for the use of ATE on state routes, which, within Iowa City, are the high collision intersections at which ATE would be most useful; and

WHEREAS, there are ambiguities in the proposed initiative measure; and

WHEREAS, while the proposed initiative measure is directed at traffic surveillance devices, it defines "automatic traffic surveillance system or device" to include all cameras that "can be used" to identify a vehicle or occupant, and therefore can be interpreted to prohibit the use of all cameras by the City; and

WHEREAS, City staff routinely use cameras for a wide variety of reasons unrelated to traffic enforcement, such as nuisance property violations, Housing Code inspections, crime scene investigations, and cable television shows; and

WHEREAS, as detailed below, it is not clear whether the initiative pertains to parking violations; and

WHEREAS, the initiative's definition of "qualified traffic law violation" does not expressly include parking violations and the "databases" or "hotlists" which are a part of the definition of "automatic license plate recognition systems" are those generated by "law enforcement agencies;" and

WHEREAS, in some instances in the Iowa Code and the City Code "traffic" includes "parking," and in others "parking" is distinct from "traffic;" and

WHEREAS, the initiative proposes an amendment to Title 9 of the City Code, and parking regulations are contained in Chapters 4 and 5 of Title 9; and

WHEREAS, the initiative and Section 9-1-1 of the City Code do not define traffic, and Section 321.1(84) of the Iowa Code does not specifically include parking in its definition of traffic; and

WHEREAS, Section 9-1-1 of the City Code defines "Department" to include the Transportation Services Department as well as the Police Department; and

WHEREAS, Section 9-1-1 of the City Code and Section 321.1(50) of the Iowa Code define "peace officer" to include anyone authorized to "direct or regulate traffic;" and

WHEREAS, Section 321.236(1)(a) of the Iowa Code states that contested municipal "parking violations" shall proceed in the same manner as "other traffic violations;" and

WHEREAS, Section 9-1-3A(10-15, 17-19) of the City Code authorizes the City Manager or designee to install traffic control devices, including those regulating parking; and

WHEREAS, "ticket" is defined broadly in the initiative to include any "notice of liability," and a "notice of fine" that the City issues for parking violations is a "notice of liability," and



WHEREAS, City parking attendants as well as police officers issue notices of fine for parking violations;  
and

WHEREAS, the substance of the initiative is to prohibit the use of traffic surveillance systems in the enforcement of traffic violations unless a ticket is issued in person at the scene, and to prohibit the storage of data from those systems unless the data pertains to a traffic violation or other criminal violation for which a ticket, citation or arrest was issued or made at the scene; and

WHEREAS, an ordinance that adds language to clarify that parking attendants may use cameras to enforce parking laws if they are present to witness the parking violation is similar in substance to the initiative; and

WHEREAS, an ordinance that adds language to clarify that the proposal does not regulate the use of cameras by City staff for reasons other than identifying a vehicle for traffic and parking enforcement purposes is similar in substance to the initiative; and

WHEREAS, it is in the City's best interests that its ordinances be clear and unambiguous; and,

WHEREAS, it is in the City's best interest to adopt an ordinance similar in substance to the proposed initiative measure and to repeal Ordinance No. 12-4466.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CITY, IOWA:

SECTION I. AMENDMENTS.

1. Ordinance No. 12-4466 is hereby repealed.
2. Title 9, entitled "Motor Vehicles and Traffic," is amended by adding the following new Chapter 11, entitled "Traffic Cameras, Drones, and License Plate Recognition Systems":

General: The City shall not:

A. Use any automatic traffic surveillance system or device, automatic license plate recognition system or device, or domestic drone system or device for the enforcement of a qualified traffic law violation, unless a peace officer or Parking Enforcement Attendant is present at the scene, witnesses the event, and personally issues the ticket to the alleged violator at the time and location of the violation; nor

B. Store, archive, transmit, share, publish, grant access to, sell, index, cross - reference, or otherwise aggregate, distribute, analyze, or process any data obtained through automatic traffic surveillance system or device, automatic license plate recognition system or device, or domestic drone system or device unless the data directly pertains to a qualified traffic law violation or other criminal law violation for which a ticket, citation, or arrest was issued or made by a peace officer or Parking Enforcement Attendant who was present at the scene.

Definitions: As used in this chapter:

A. "Qualified traffic law violation" means a violation of any of the following:

- (1) any state or local law relating to compliance with a traffic control signal or railroad crossing sign or signal;
- (2) any state or local law limiting the speed of a motor vehicle; or
- (3) any state or local law regulating motor vehicle parking.

B. "Ticket" means any traffic ticket, citation, summons, or other notice of liability, whether civil, criminal, or administrative, issued in response to an alleged qualified traffic law violation detected or recorded by a traffic surveillance system or device.

C. "Automatic traffic surveillance system or device" means a device or devices including but not limited to a camera system(s) that uses any electronic, photographic, video, digital, or computer system designed for the purpose of producing a photograph, microphotograph, videotape, digital video, or other recorded image or digital record of a vehicle and /or its operator and/or its occupants that is used to establish identity or ownership of a vehicle and /or identify its operator, owner, or occupants.

D. "Automatic license plate recognition system" means a computer-based system(s) that captures an image of a license plate(s) and converts it to a data file to be compared with databases or hot lists generated by various law enforcement agencies, and which produces an alert when there is a match between the collected license plate data and those databases.

E. "Domestic drone," "drone," or "unmanned aerial vehicle" means an aerial vehicle that does not carry a human operator that can fly autonomously or be piloted remotely that is equipped with one or more on-board cameras or other sensors for registering, observing, or recording persons, objects, or events or for transmitting such information as it is occurring or thereafter.

F. "Parking Enforcement Attendant" means agents or employees designated to enforce the parking ordinances of the City.

SECTION II. REPEALER. All ordinances and parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION III. SEVERABILITY. If any section, provision or part of the Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION IV. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

Passed and approved this 18th day of June, 2013.

  
\_\_\_\_\_  
MAYOR

ATTEST:   
\_\_\_\_\_  
CITY CLERK

Approved by

  
\_\_\_\_\_  
City Attorney's Office 5-29-13

Ordinance No. 13-4539  
Page 4

It was moved by Dobyns and seconded by Payne that the Ordinance as read be adopted, and upon roll call there were:

AYES:	NAYS:	ABSENT:	
<u>X</u>	<u>      </u>	<u>      </u>	Champion
<u>X</u>	<u>      </u>	<u>      </u>	Dickens
<u>X</u>	<u>      </u>	<u>      </u>	Dobyns
<u>X</u>	<u>      </u>	<u>      </u>	Hayek
<u>X</u>	<u>      </u>	<u>      </u>	Mims
<u>X</u>	<u>      </u>	<u>      </u>	Payne
<u>X</u>	<u>      </u>	<u>      </u>	Throgmorton

First Consideration 6/4/2013

Vote for passage: AYES: Mims, Payne, Throgmorton, Champion, Dickens, Dobyns, Hayek. NAYS: None. ABSENT: None.

Second Consideration -----

Vote for passage:

Date published 6/27/2013

Moved by Dobyns, seconded by Payne, that the rule requiring ordinances to be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, the second consideration and vote be waived and the ordinance be voted upon for final passage at this time. AYES: Mims, Payne, Throgmorton, Champion, Dickens, Dobyns, Hayek. NAYS: None. ABSENT: None.

## Definitions

1. Unmanned Aircraft System (“UAS”) means an unmanned aircraft vehicle, drone, remotely piloted vehicles, or remotely piloted aircraft that does not carry a human operator.

## Offenses:

1. A person commits an offense if the person uses an unmanned aircraft to photograph, film, audiotape, or otherwise record an individual or individuals acting on private property without the expressed, written consent of the property owner and the individuals included in the recording.
  - a. An offense under this section is a Class 1 misdemeanor
  - b. It is a defense to prosecution under this section that the person destroyed all photographs, films, audiotapes, and other records:
    - i. As soon as the person had knowledge that the image was captured in violation of this section;
    - ii. Without disclosing, displaying, or distributing the image to a third party;
    - iii. The recordings did not include
      1. Children; or
      2. Sexual acts or nudity.
2. A person commits an offense if the person makes a recording in violation of Section 1 and discloses, displays, distributes, sells, or otherwise uses that image
  - a. An offense under this section is a Class 1 misdemeanor
  - b. Each image a person discloses, displays, distributes, or sells under this section is a separate offense
3. A person commits an offense if he outfits an unmanned aircraft system with a weapon and flies that unmanned aircraft over the private property of another individual or entity without expressed, written permission
  - a. An offense under this section is a Class 1 misdemeanor

## Nonapplicability

1. It is lawful to use an unmanned aircraft within the City of Phoenix to photograph, film, audiotape, or otherwise record an individual or individuals acting on private property
  - a. if the recording is captured for the purpose of mapping;
  - b. if the recording is captured by the City of Phoenix or an individual or entity under contract with the City of Phoenix for the purposes of resource management;
  - c. if the recording is made for the operation and maintenance of utilities or telecommunication facilities for the purpose of maintaining the reliability and integrity of the utility or telecommunication system or to determine if repairs to the system are necessary;

- d. if law enforcement is using the unmanned aircraft system to execute a valid search warrant;
- e. if law enforcement is acting under circumstances in which an exception to the warrant requirement is applicable;
- f. if law enforcement is using the unmanned aircraft system to document a crime scene where a felony offense has been committed; or
- g. if law enforcement is conducting a search for a missing or abducted person.
- h. if the recording is made over several private residences for an artistic or journalistic purpose and no individuals captured on the recording are personally identifiable

Sponsored by: Councilmembers Dan Roach, Stan Flemming and Jim McCune  
Requested by: Pierce County Council

**ORDINANCE NO. 2013-28s**

**An Ordinance of the Pierce County Council Adopting a New Chapter 1.30 of the Pierce County Code, "Freedom from Unwarranted Surveillance".**

**Whereas**, the Fourth Amendment of the United States Constitution provides that "[T]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."; and

**Whereas**, the Constitution of the State of Washington provides even greater protection of its citizens in Article I, Section 7 which provides that "[n]o person shall be disturbed in his private affairs, or his home invaded, without authority of law.; and

**Whereas**, the Council recognizes the rapidly changing technological advances and positive uses that drones can provide in the fields of public safety and emergency management; and

**Whereas**, the Council further recognizes and strives to uphold and protect the privacy rights of every citizen granted by the state and federal constitutions; and

**Whereas**, the enactment of this Ordinance is an effort to achieve a reasonable balance between the goals of protecting the public through effective criminal investigation and the rights of every citizen to be free from unlawful searches; **Now Therefore,**

**BE IT ORDAINED by the Council of Pierce County:**



1        Section 1. A new Chapter 1.30 of the Pierce County Code, "Freedom from  
2 Unwarranted Surveillance," is hereby adopted as shown in Exhibit A, which is attached  
3 hereto and incorporated herein by reference.

4  
5        PASSED this 15<sup>th</sup> day of October, 2013.

6  
7 ATTEST:

PIERCE COUNTY COUNCIL

Pierce County, Washington

8  
9  
10 Denise D. Johnson

11  
12 **Denise D. Johnson**

13 Clerk of the Council

Joyce McDonald

14 **Joyce McDonald**

Council Chair

15  
16  
17 Pat McCarthy

18 **Pat McCarthy**

Pierce County Executive

19 Approved \_\_\_\_\_ Vetoed \_\_\_\_\_, this

20 30 day of October,  
21 2013.

22  
23 Date of Publication of

24 Notice of Public Hearing: September 25, 2013

25  
26 Effective Date of Ordinance: November 9, 2013



"New Chapter"

*Chapter 1.30*

***FREEDOM FROM UNWARRANTED SURVEILLANCE***

**Sections:**

**1.30.010 Definitions.**

**1.30.020 Restrictions on Gathering Evidence.**

**1.30.030 Use of Unmanned Aircraft – Exigent Circumstances.**

**1.30.040 Remedies for Violations of this Chapter – Use of Information Obtained.**

**1.30.010 Definitions.**

As used in this Chapter, the following terms shall have the following meanings:

"Drone" means any powered aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable and can carry a lethal or nonlethal payload but does not include satellites.

"Unmanned Aircraft" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

**1.30.020 Restrictions on Gathering Evidence.**

No County department or agency shall use a drone or other unmanned aircraft to gather evidence or other information pertaining to criminal conduct or conduct in violation of a statute, ordinance, regulation or rule, except as authorized by state and federal law.

**1.30.030 Use of Unmanned Aircraft – Exigent Circumstances.**

The provisions of this Chapter do not prohibit the use of a drone when exigent circumstances exist.

**1.30.040 Remedies for Violation of this Chapter – Use of Information Obtained.**

No information obtained or collected in violation of the provisions of this Chapter may be admissible as evidence in an administrative hearing conducted pursuant to Chapter 1.22 PCC.





ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE AMENDING DIVISION III "OFFENSES AGAINST PUBLIC PEACE" OF TITLE 9 "PUBLIC PEACE, MORALS AND WELFARE" OF THE RANCHO MIRAGE MUNICIPAL CODE TO PROHIBIT THE FLYING OF DRONES IN RESIDENTIALLY ZONED AREAS OF THE CITY

WHEREAS, drones, which are unmanned aircraft that can fly under the control of a remote pilot or via a geographic positions system (GPS) guided autopilot mode, have become increasingly available to private citizens for personal and recreational uses due to their declining costs; and

WHEREAS, drones can fly at altitudes below the navigable airspace (generally at 400 feet) which is under the jurisdiction, regulation and control of the Federal Aviation Administration (FAA); and

WHEREAS, some drones are equipped with high definition cameras, night vision cameras and infrared-see-through scopes; and

WHEREAS, some drones can be used to fly above private residences and to hover outside somebody's window or in their backyards without the knowledge of the resident who has a reasonable expectation of privacy in his or her home and in his or her backyard; and

WHEREAS, there are no existing regulations regarding who may purchase a drone which presents a safety risk to residents in that drones may be purchased and operated by sex offenders, and other persons with certain criminal backgrounds, such as but not limited to domestic violence, theft, burglary, breaking and entering, trespass, assault and battery.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO MIRAGE DOES ORDAIN AS FOLLOWS:

Section 1. Recitals.

The recitals set forth above are true and correct.

Section 2. Amendment to Division III "Offenses Against

## Public Peace"

Division III "Offenses Against Public Peace" of Title 9 "Public Peace, Morals and Welfare" shall be amended as follows:

### Chapter 9.30 DRONES

#### 9.26.10 Definitions.

"Drone" shall mean an unmanned aircraft that can fly under the control of a remote pilot or by a geographic positions system (GPS) guided autopilot mechanism.

#### 9.26.20 Prohibition.

Drones are prohibited from flying in any airspace below 400 feet within or over any residentially zoned area in the city, unless otherwise exempt under this chapter

#### 9.26.30 Exemptions.

(a) This chapter shall not prohibit the use of drones by any law enforcement agency of the city, state or federal government for lawful purposes and in a lawful manner.

(b) Use of drones may be used to make visual recordings of a single residence, with the owner's written consent, provided the owner and/or operator of the subject drone obtains a validly issued drone permit from the city.

#### 9.26.40 Violations.

Any person found to be in violation of the provisions of this chapter shall be guilty of an infraction as set forth in chapter 14.100.

### Section 3. CITY ATTORNEY REVIEW

The City Attorney prepared and framed this ordinance pursuant to Section 1.04.010 of the Municipal Code and finds that the City Council has the authority to adopt this ordinance, that the ordinance is constitutionally valid and that the ordinance is consistent with the general powers and purposes of the City as set forth in Section 1.04.031 of the Municipal Code.

**Section 4.        SEVERABILITY**

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

**Section 5.        REPEAL OF CONFLICTING PROVISIONS**

All the provisions of the Rancho Mirage Municipal Code as heretofore adopted by the City of Rancho Mirage that are in conflict with the provisions of this ordinance are hereby repealed.

**Section 6.        AMENDING OF MUNICIPAL CODE**

The City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Municipal Code and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

**Section 7.        EFFECTIVE DATE**

This ordinance shall take effect thirty (30) calendar days after its second reading by the City Council.

**Section 8.        CEQA FILING**

The City Council hereby finds that under Title 14 of the California Code of Regulations section 15061(b)(3), this Ordinance is exempt from the requirements of CEQA since the prohibition against flying drones in residentially zoned areas of the city would not have the potential for causing a significant effect on the environment. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Riverside in accordance with CEQA Guidelines

**Section 9.        CERTIFICATION**

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to

law.

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The foregoing Ordinance was approved and adopted at a meeting of the City Council held on \_\_\_\_\_, 2013 by the following vote:

Ayes:  
Noes:  
Abstain:  
Absent:

\_\_\_\_\_  
Scott M. Hines, Mayor

ATTEST:

\_\_\_\_\_  
Cindy Scott, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven B. Quintanilla  
City Attorney

CITY OF SEATTLE

ORDINANCE 124142

COUNCIL BILL 117730

AN ORDINANCE relating to the City of Seattle's use of surveillance equipment; requiring City departments to obtain City Council approval prior to acquiring certain surveillance equipment; requiring departments to propose protocols related to proper use and deployment of certain surveillance equipment for Council review, requiring departments to adopt written protocols that address data retention, storage and access of any data obtained through the use of certain surveillance equipment, and establishing a new Chapter 14.18 in the Seattle Municipal Code.

WHEREAS, recent incidents involving the City's acquisition of drones and the installation of video cameras along Seattle's waterfront and downtown have raised concerns over privacy and the lack of public process leading up to the decisions to use certain surveillance equipment; and

WHEREAS, while surveillance equipment may help promote public safety in some contexts, such as red light cameras, the benefits of such technologies should be balanced with the need to protect privacy and anonymity, free speech and association, and equal protection; and

WHEREAS, while the courts have established that people generally do not have a reasonable expectation of privacy in public settings, the City should be judicious in its use of surveillance equipment to avoid creating a constant and pervasive surveillance presence in public life; and

WHEREAS, all City departments should seek approval from the City Council prior to the acquisition and operation of certain surveillance equipment; and

WHEREAS, City departments should also propose specific protocols for Council review and approval that address the appropriate use of certain surveillance equipment and any data captured by such equipment; and

WHEREAS, based upon the City Auditor Office's recommendations related to the Seattle Police Departments handling of in-car video footage, departments should also develop protocols for retaining, storing, and accessing data captured by surveillance equipment; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. A new Chapter 14.18 of the Seattle Municipal Code is established as follows:

**Chapter 14.18 Acquisition and Use of Surveillance Equipment**

**SMC 14.18.10 Definitions**

The following definitions apply to this Chapter 14.18

“Data management protocols” generally means procedures governing how data collected by surveillance equipment will be retained, stored, indexed and accessed. Information comprising data management protocols includes, at a minimum, the information required in Section 14.18.30.

“Operational protocols” generally means procedures governing how and when surveillance equipment may be used and by whom. Information comprising operational protocols includes, at a minimum, the information required in Section 14.18.20.

“Surveillance equipment” means equipment capable of capturing or recording data, including images, videos, photographs or audio operated by or at the direction of a City department that may deliberately or inadvertently capture activities of individuals on public or private property, regardless of whether “masking” or other technology might be used to obscure or prevent the equipment from capturing certain views. “Surveillance equipment” includes drones or unmanned aircraft and any attached equipment used to collect data. “Surveillance equipment” does not include a handheld or body-worn device, a camera installed in or on a police vehicle, a camera installed in or on any vehicle or along a public right-of-way intended to record traffic patterns and/or traffic violations, a camera intended to record activity inside or at the entrances to City buildings for security purposes, or a camera installed to monitor and protect the physical integrity of City infrastructure, such as Seattle Public Utilities reservoirs.

**SMC 14.18.20 Council Approval for City Department Acquisition and Operations of Surveillance Equipment**

Any City department intending to acquire surveillance equipment shall obtain City Council approval via ordinance prior to acquisition. Prior to deployment or installation of the surveillance equipment, City departments shall obtain Council approval via ordinance of operational protocols, unless applicable operational protocols were previously approved by ordinance. In requesting approval for acquisition of surveillance equipment, City departments shall include proposed operational protocols containing the following information for the City Council's consideration, along with any other information specifically requested by the City Council:

- A. A clear statement describing the purpose and use of the proposed surveillance equipment.
- B. The type of surveillance equipment to be acquired and used.
- C. The intended specific location of such surveillance equipment if affixed to a building or other structure.
- D. How and when a department proposes to use the surveillance equipment, such as whether the equipment will be operated continuously or used only under specific circumstances, and whether the equipment will be installed permanently or temporarily
- E. A description of the privacy and anonymity rights affected and a mitigation plan describing how the department's use of the equipment will be regulated to protect privacy, anonymity, and limit the risk of potential abuse.
- F. A description of how and when data will be collected and retained and who will have access to any data captured by the surveillance equipment.
- G. The extent to which activity will be monitored in real time as data is being captured and the extent to which monitoring of historically recorded information will occur.



1 H. A public outreach plan for each community in which the department intends to use the  
2 surveillance equipment that includes opportunity for public meetings, a public comment  
3 period, and written agency response to these comments.

4 I. If a department is requesting to acquire or use drones or other unmanned aircraft, it shall  
5 propose the specific circumstances under which they may be deployed, along with clearly  
6 articulated authorization protocols.

7 J. If more than one department will have access to the surveillance equipment or the data  
8 captured by it, a lead department shall be identified that is responsible for maintaining the  
9 equipment and ensuring compliance with all related protocols. If the lead department  
10 intends to delegate any related responsibilities to other departments and city personnel,  
11 these responsibilities and associated departments and personnel shall be clearly  
12 identified.

13 K. Whether a department intends to share access to the surveillance equipment or the  
14 collected data with any other government entity.

15 L. A description of the training to be provided to operators or users of the surveillance  
16 equipment.

17  
18 Upon review of the information required under this Section 14.18.20, and any other information  
19 deemed relevant by the City Council, the City Council may approve the acquisition and  
20 operation of surveillance equipment, approve the acquisition of surveillance equipment and  
21 require future Council approval for operations, deny the acquisition or use of surveillance  
22 equipment for the purpose proposed, or take other actions.





**SMC 14.18.30 Data Management Protocols for Surveillance Equipment**

Prior to operating surveillance equipment acquired after the effective date of this ordinance, City departments shall submit written protocols for managing data collected by surveillance equipment to the City Council. The City Council may require that any or all data management protocols required under this Section 14.18.30 be approved by ordinance. These data management protocols shall address the following:

- A. The time period for which any data collected by surveillance equipment will be retained.
- B. The methods for storing recorded information, including how the data is to be labeled or indexed. Such methods must allow for the department personnel and the City Auditor's Office to readily search and locate specific data that is collected and determine with certainty that data was properly deleted, consistent with applicable law.
- C. How the data may be accessed, including who will be responsible for authorizing access, who will be allowed to request access, and acceptable reasons for requesting access.
- D. A viewer's log or other comparable method to track viewings of any data captured or collected by the surveillance equipment, including the date, time, the individuals involved, and the reason(s) for viewing the records.
- E. A description of the individuals who have authority to obtain copies of the records and how the existence and location of copies will be tracked.
- F. A general description of the system that will be used to store the data.
- G. A description of the unit or individuals responsible for ensuring compliance with Section 14.18.30 and when and how compliance audits will be conducted.

**SMC 14.18.40 Acquisition and Use of Surveillance Equipment Related to Law Enforcement Investigations**



1 Notwithstanding the provisions of this Chapter, City departments may acquire or use  
2 surveillance equipment that is used on a temporary basis for the purpose of a criminal  
3 investigation supported by reasonable suspicion, or pursuant to a lawfully issued search warrant,  
4 or under exigent circumstances as defined in case law. This exemption from the provisions of  
5 this ordinance does not apply to surveillance cameras mounted on drones or other unmanned  
6 aircraft.

7 Section 2. Unless Council previously approved operational protocols by ordinance for  
8 department surveillance equipment, each City department operating surveillance equipment prior  
9 to the effective date of this ordinance shall propose written operational protocols consistent with  
10 SMC 14.18.20 no later than thirty days following the effective date of this ordinance for Council  
11 review and approval by ordinance.


12 Section 3. Each department operating surveillance equipment prior to the effective date  
13 of this ordinance shall adopt written data management protocols consistent with SMC 14.18.30  
14 no later than thirty days following the effective date of this ordinance and submit these protocols  
15 to the City Council for review and possible approval by ordinance.

16 Section 4. Following one year after the effective date of this ordinance, the City Council  
17 will review its implementation as it applies to city department use of surveillance equipment.

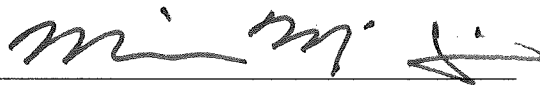
18 This ordinance shall take effect and be in force 30 days after its approval by the Mayor,  
19 but if not approved and returned by the Mayor within ten days after presentation, it shall take  
20 effect as provided by Seattle Municipal Code Section 1.04.020.




1 Passed by the City Council the 18<sup>th</sup> day of March, 2013, and  
2 signed by me in open session in authentication of its passage this  
3 18<sup>th</sup> day of March, 2013.

4  
5   
6 President \_\_\_\_\_ of the City Council

7  
8 Approved by me this 26<sup>th</sup> day of March, 2013.

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11 Michael McGinn, Mayor

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13 Filed by me this 27<sup>th</sup> day of March, 2013.

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16 Monica Martinez Simmons, City Clerk

17 (Seal)  
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CITY OF ST. BONIFACIUS  
8535 Kennedy Memorial Drive  
St. Bonifacius, MN 55375  
952/446-1061

**RESOLUTION 2013-8**

**A RESOLUTION RESTRICTING THE USE OF DRONES  
IN THE CITY OF ST. BONIFACIUS AIR SPACE**

**WHEREAS**, the rapid implementation of drone technology throughout the United States poses a serious threat to the privacy and constitutional rights of the American people, including the residents of St. Bonifacius; and

**WHEREAS**, the federal government and the State of Minnesota have thus far failed to provide reasonable legal restrictions on the use of drones within the United States; and


**WHEREAS**, police departments throughout the country have begun implementing drone technology absent any guidance or guidelines from law makers;

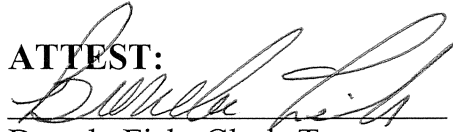
**NOW, THEREFORE, LET IT BE RESOLVED**, that the City Council of St. Bonifacius, Minnesota, calls for a two year moratorium on the use of drones in the state of Minnesota; and calls on the United States Congress and the Minnesota State Legislature to adopt legislation prohibiting information obtained unlawfully from the domestic use of drones from being introduced into a Federal or State court, and precluding the domestic use of drones equipped with anti-personnel devices, meaning any projectile, chemical, electrical, directed-energy (visible or invisible), or other device designed to harm, incapacitate, or otherwise negatively impact a human being; and pledges to abstain from similar uses with city-owned, leased, or borrowed drones.

**NOW, THEREFORE, LET IT BE FURTHER RESOLVED**, that the City Council of St. Bonifacius, Minnesota, hereby bans the operation of drones within the City air space by any individual, company, contractor, County Law Enforcement, State and Federal Law Enforcement, or any government entity without a valid warrant, except where immediate danger of death or serious injury to any person exists. Flying of a drone without a valid warrant within the airspace of the City of St. Bonifacius shall be

considered a gross misdemeanor carrying a penalty of up to one year in jail and a fine not to exceed \$5,000. More than one offense of flying a drone within said airspace will be considered a felony, with jail time and fines based on the number of violations.

Adopted by the St. Bonifacius City Council this 20<sup>th</sup> day of February, 2013.

  
Rick Weible, Mayor

**ATTEST:**  
  
Brenda Fisk, Clerk-Treasurer

**CITY OF ST. BONIFACIUS  
ORDINANCE NO. 115**

**AN ORDINANCE ADDING ARTICLE 9-9  
TO THE ST. BONIFACIUS CITY CODE RELATING TO  
RESTRICTING THE USE OF DRONES  
IN THE CITY OF ST. BONIFACIUS AIRSPACE**

THE CITY COUNCIL OF THE CITY OF ST. BONIFACIUS, HENNEPIN COUNTY, MINNESOTA, DOES  
ORDAIN AS FOLLOWS:

Section 1. A new Section 9-9 of the St. Bonifacius City Code is enacted as follows:

**ARTICLE 9-9. DRONES**

**9-9.1 – Purpose.** It is the purpose of this Section to provide the residents of the City protection from invasions of privacy due to the rapid implementation of drone technology being put into use by individuals, entities, and law enforcement agencies. Use of unmanned aerial vehicles also pose an unreasonable public safety concern to other aircraft or objects in the air, and to City residents and their property on the ground in the event of drone malfunction, loss of control, or other inability to sustain flight as intended.

**9-9.2 – Definitions.**

“Drone” means a powered, aerial vehicle that:

- a. does not carry a human;
- b. uses aerodynamic forces to provide vehicle lift;
- c. can fly autonomously or be piloted remotely;
- d. can be expendable or recoverable.

**9-9.3 – Prohibition.** No person, entity, governmental unit or law enforcement agency may operate a Drone within the air space of the City.

**9-9.4 – Exceptions.** This Section does not prohibit the use or operation of a Drone in the City's airspace if:

- a. a law enforcement agency first obtains a warrant authorizing its use; or

b. a law enforcement agency determines, under particular circumstances, that there is immediate danger of death or serious injury to any person; or

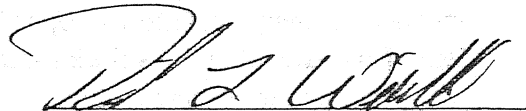
c. it is operated only within the boundaries of an individual's real property, and has no surveillance capabilities.

9-9.5 – Penalty. Use or operation of a drone within the airspace of the City in violation of this Ordinance shall be a misdemeanor, punishable in accordance with State law.


9-9.6 – Other. In connection with this Ordinance the City hereby adopts a call for a two year moratorium on the use of Drones in violation of this Ordinance anywhere in the State of Minnesota.

Section 2. This Ordinance shall be in force and effect upon adoption and publication in the official newspaper of the City of St. Bonifacius in accordance with applicable law.

Passed and adopted by the City Council of the City of St. Bonifacius on the 20th day of March, 2013, by a vote of 5 ayes and 0 nays.

  
Rick Weible, Mayor

ATTEST:

  
Brenda Fisk, City Clerk

(Published in The Waconia Patriot March 28, 2013)