



STAFF REPORT

TO: Hon. Mayor Scott Hines
Members of the City Council

DATE: April 4, 2013

FROM: Randal K. Bynder, City Manager
Steven B. Quintanilla, City Attorney

SUBJECT: Drone Prohibition Ordinance

SPECIFIC REQUEST OR RECOMMENDATION:

That the City Council adopt the attached ordinance which will prohibit the flying of drones in residentially zoned areas of the City with some exceptions.

Background:

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

Some drones are equipped with high definition cameras, night vision cameras and infrared-see-through scopes. 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.

There are no existing state or federal 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,

City Council Action:

Approved as Requested: _____
Approved as Amended: _____
Denied: _____
Other: _____

Referred to: _____
For: _____
Cont. to Agenda of: _____
Hearing Set: _____

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assault and battery.

In light of the foregoing concerns, the proposed ordinance would prohibit the flying of drones in any airspace below 400 feet within or over any residentially zoned area in the city, unless otherwise exempt under the ordinance. For instance, the proposed ordinance will exempt the use of drones in residential areas by any law enforcement agency of the city, state or federal government for lawful purposes and in a lawful manner. In addition, drones will be permitted 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. This is intended to accommodate the practice of some realtors who use drones to advertise properties for sale or lease.

Any person found to be in violation of the provisions of the proposed ordinance will be guilty of an infraction which is punishable by: (a) a fine in an amount not to exceed one hundred dollars for a first violation; (b) a fine in an amount not to exceed two hundred dollars for a second violation of the same provision within a twelve month period commencing on the date of the first violation; and (c) a fine in an amount not to exceed five hundred dollars for the third violation of the same provision within a twelve month period commencing on the date of the first violation. A fourth violation and subsequent violations of the same provision within a twelve month period from the date of the first violation shall be deemed a misdemeanor.

Attachment:

Ordinance

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