



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

COUNTY OF SAN DIEGO

2017 OCT -6 AM 9:24

CLERK OF THE BOARD
OF SUPERVISORS

AGENDA ITEM

DATE: October 10, 2017

TO: Board of Supervisors

SUBJECT

REQUEST TO ADOPT AN URGENCY ORDINANCE TO ADD CHAPTER 16 TO TITLE 3, DIVISION 2 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES, NECESSARY TO PRESERVE PUBLIC SAFETY, HEALTH, AND WELFARE, RELATED TO UNMANNED AIRCRAFT OPERATION IN OR NEAR FIRES AND TEMPORARY AREA RESTRICTIONS, TO TAKE EFFECT IMMEDIATELY (DISTRICTS: ALL)

OVERVIEW

The proposed urgency ordinance would restrict the launching, landing and operation of civilian unmanned aerial systems, commonly called drones, within three miles of a fire or Temporary Area Restriction or where such operation is interfering, or could interfere, with emergency operations. The proposed ordinance includes an exception for news media, which may be restricted upon a reasonable determination that the drone operation will interfere with emergency operations.

The proposed urgency ordinance is necessary because (1) the County is entering into peak fire season during which firefighting efforts will involve aircraft, and (2) the ordinance also relates to the Temporary Area Restriction urgency ordinance passed just last month. In both cases, the unrestricted launching, landing and operation of civilian drones in the specified areas may present a serious danger of interference with emergency operations.

RECOMMENDATION(S)

SUPERVISORS DIANNE JACOB AND BILL HORN

Read title, waive further reading, and adopt the following Urgency Ordinance (4 VOTES):

AN URGENCY ORDINANCE TO ADD CHAPTER 16 TO TITLE 3, DIVISION 2 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES, NECESSARY TO PRESERVE PUBLIC SAFETY, HEALTH, AND WELFARE, RELATED TO UNMANNED AIRCRAFT OPERATION IN OR NEAR FIRES AND TEMPORARY AREA RESTRICTIONS, TO TAKE EFFECT IMMEDIATELY

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FISCAL IMPACT

There is no fiscal impact associated with the proposed actions. There will be no change in net General Fund costs and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

The proposed urgency ordinance would restrict the launching, landing or operation of civilian unmanned aerial systems, commonly called drones, within three miles of a fire or Temporary Area Restriction or where such operation is interfering, or could interfere, with emergency operations. The proposed ordinance includes an exception for news media, which may be restricted only upon a reasonable determination that the drone operation will interfere with emergency operations.

The proposed urgency ordinance is necessary because (1) the County is now in a peak fire season during which firefighting efforts will most likely involve aircraft and coordinated air-ground emergency operations, and (2) the drone restriction also relates to the urgency Temporary Area Restriction Ordinance passed just last month. In both cases, the unrestricted operation of civilian drones in the area presents a serious danger of interfering with emergency operations.

Firefighting Safety

San Diego County is now in the time of year known as “peak fire season” because of the long history of seasonal hot and dry winds known as “Santa Ana conditions” that contribute to disastrous wildfires. On October 1, the National Interagency Fire Center issued its monthly and seasonal outlook, assessing the “large fire potential” as “above normal” until December and characterizing this fall as “challenging...with regards to fire suppression efforts,” along with a prediction of greater than normal Santa Ana wind days for October through December. Firefighting efforts increasingly rely on rapid response with aerial assets such as helicopters and fixed wing aircraft to deliver water and fire suppressant, and coordinate emergency operations on the ground and in the air. Interference with aircraft by persons operating unmanned aircraft, commonly known as drones, is becoming more and more frequent. The simple act of operating a drone in an area where firefighting aircraft intend to operate will cause the firefighting aircraft to be excluded from the firefighting effort and otherwise interfere with emergency operations.

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Laws exist that impose criminal penalties for interfering with firefighters, first responders and law enforcement, including but not limited to Penal Code section 402 (illegal to interfere by using a drone at the scene of an emergency) and Penal Code section 148.2 (interfering with firefighters). The Federal Aviation Administration may also issue Temporary Flight Restrictions affecting drones. However, the effort to curb interference and protect the safety of firefighting personnel and preserve the efficacy of integrated ground-air emergency operations would be greatly enhanced by the adoption of an ordinance that prohibits the launching, landing or operation of drones from areas that are within three miles of a fire or where such operation is interfering, or will interfere, with emergency operations. There is a media exception that may only be restricted if such media operation will interfere with emergency operations.

Temporary Area Restrictions – Emergency Operations

On September 26, 2017(16), your Board adopted an urgency ordinance authorizing the Chief Administrative Officer to impose a Temporary Area Restriction that prohibits, within a defined area, items that may be used as weapons or implements of riot upon a determination that civil disturbances may occur. Recent events across the country have demonstrated that persons intending to engage in conflict and non-peaceful conduct may participate in these events and these persons may be equipped with items intended to be used as weapons. County Regulatory Code section 32.1501 was a necessary urgency ordinance because construction of prototype border walls in the unincorporated area was imminent. That construction has now started and a number of public roads have already been closed to some or all vehicle traffic to ensure the health and safety of persons who may want to peacefully express their views on the border wall.

Because a Temporary Area Restriction (“TAR”) will be issued when there is a determination that there is an immediate and compelling need to ensure public safety against the use of weapons and items that may be used as weapons, the Sheriff must be able to effectively monitor the area under temporary restriction. To do so, the Sheriff must be able to safely operate manned and unmanned aircraft in coordination with ground assets. Persons launching, landing or operating drones in or within three miles of the TAR area would endanger the flight crews in Sheriff and other agency manned aircraft, interfere with the integrated ground-air operation of agency unmanned aircraft, and interfere with emergency operations. Therefore, it is imperative that this urgency ordinance be adopted in order to address this immediate public safety issue.

Media Operation

The California State Legislature and the Board of Supervisors recognize the importance of a public informed by media coverage of disasters, calamities and other significant newsworthy events. Accordingly, the proposed ordinance only restricts media launching, landing or operation of drones in the specified areas if the Sheriff or Fire officials have reasonably determined that the launching, landing or operation of drones in the specified area will interfere with emergency operations.

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Urgency Ordinance Recommended

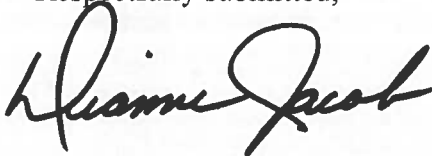
This urgency ordinance is recommended to preserve public safety, protect the safe operation of emergency aircraft over and near fires, preserve emergency firefighting operational integrity, and prevent interference with emergency operations. The County is now in peak fire season, with a higher than normal risk of large fires. Aircraft, including but not limited to rotary- and fixed-wing assets, are critical to fire suppression and firefighting coordination among all firefighting assets. The safe operation of firefighting aircraft is critical.

This urgency ordinance is further recommended to preserve public safety, protect the safe operation of emergency aircraft over and near areas subject to Temporary Area Restrictions, and preserve emergency operational integrity. Temporary Area Restrictions are imposed when it is determined that weapons and implements of riot may be brought to the area. Prototype border wall construction, a potential motivator for persons who might bring weapons and implements of riot, is currently scheduled to continue through the middle of November. Accordingly, it is critical that this ordinance become effective immediately.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's action to adopt an urgency ordinance restricting drone operations where such operation will endanger emergency operations supports the Safe Communities Initiative in the County of San Diego's 2017-2022 Strategic Plan. Among the plan's key objectives are to make San Diego the safest urban county and the most resilient community in the nation. Today's requested action aligns with these objectives by ensuring the safety and protection of the public, and in so doing improving the quality of life for San Diegans.

Respectfully submitted,



DIANNE JACOB
Supervisor, 2nd District



BILL HORN
Supervisor, 5th District

ATTACHMENT(S)

AN URGENCY ORDINANCE TO ADD CHAPTER 16 TO TITLE 3, DIVISION 2 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES, NECESSARY TO PRESERVE PUBLIC SAFETY, HEALTH, AND WELFARE, RELATED TO UNMANNED AIRCRAFT OPERATION IN OR NEAR FIRES AND TEMPORARY AREA RESTRICTIONS, TO TAKE EFFECT IMMEDIATELY

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

September 26, 2017(16) – Request to Adopt an Urgency Ordinance to Add Chapter 15 to Title 3, Division 2, of the San Diego County Code of Regulatory Ordinances Related to Temporary Area Restrictions Necessary to Preserve Public Safety, Health and Welfare to Take Effect Immediately

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: District 2 & District 5

OTHER CONCURRENCE(S): N/A

CONTACT PERSON(S):

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