

Ordinance No. 330-16

Council Members Zone, Keane and Kelley
(by departmental request)

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 490.01, 490.02, 490.03, and 490.99, relating to unmanned aircraft systems.

WHEREAS, the operation of unmanned aircraft systems ("UAS") has recently increased significantly both locally and nationally and numerous incidents have occurred involving UAS operations in restricted areas without compliance with existing Federal Aviation Administration ("FAA") regulatory guidance; and

WHEREAS, there is currently no legislation that regulates UAS operations in the City of Cleveland or provides specific enforcement authority to safety officers; and

WHEREAS, this situation poses a significant enforcement issue for responding officers; and

WHEREAS, the United States Government has exclusive sovereignty of airspace of the United States under 49 U.S.C. §40103; and

WHEREAS, the FAA has issued Law Enforcement Guidance For Suspected Unauthorized UAS Operations, stating that local law enforcement agencies are often in the best position to deter, detect, immediately investigate, and pursue enforcement actions to stop unauthorized UAS; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by adding new Sections 490.01, 490.02, 490.03, and 490.99, to read, respectively, as follows:

CHAPTER 490 UNMANNED AIRCRAFT SYSTEMS

Section 490.01 Definitions

As used in this chapter, certain words and terms are defined as follows:

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(a) "Unmanned Aircraft" or "UAS" means an aircraft operated without the possibility of direct human intervention from within or on the aircraft, weighing more than 0.55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

(b) "Unmanned Aircraft System" means an Unmanned Aircraft and its associated elements (including communication links and the components that control the Unmanned Aircraft) that are required for the safe and efficient operation of the Unmanned Aircraft in the National Airspace System.

Section 490.02 Purpose and Intent

This Chapter is intended to promote public safety. In consideration of this concern, the City is restricting the use of UAS in certain areas. It is not intended to restrict legitimate hobbyists operating unmanned aircraft systems in compliance with FAA rules and regulations. This Chapter is not intended to preempt FAA rules and regulations, but to operate in conjunction with those rules to promote public safety while recognizing the limitations in the FAA's enforcement capabilities.

Section 490.03 Restrictions

(a) Anyone who launches, operates, or causes to be launched or operated, any Unmanned Aircraft System within the limits of Cleveland, Ohio, must be able to present, immediately upon request by any member of the Police or Fire Force, a current Certificate of Aircraft Registration issued by the Federal Aviation Administration for the Unmanned Aircraft System.

(b) No person shall launch, operate, or cause to be launched or operated, any Unmanned Aircraft System in any airspace within or over:

(1) A five (5) mile radius of Cleveland Hopkins International Airport;

(2) A five (5) mile radius of Burke Lakefront Airport; or

(3) Any area of the City of Cleveland that the Federal Aviation Administration determines to be a restricted area, either by way of a Notice to Airmen (NOTAM), Temporary Flight Restriction, No Drone Zone, or other means.

(c) Division (b) of this section shall not apply to any person who has previous approval from the Federal Aviation Administration to operate a UAS in a restricted area and is complying with all terms and conditions of their approval.

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Section 490.99 Violation; Penalties

Whoever violates division (a) of Section 490.03 of this chapter is guilty of a minor misdemeanor. Whoever violates division (b) of Section 490.03 of this chapter is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the second degree on the third and any subsequent offense. All violations will be forwarded to the Federal Aviation Administration and reviewed for possible violations of Federal civil and criminal statutes. The Department of Public Safety will enforce and ensure compliance with the provisions of this Chapter.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

JSM:nl
3-14-16

FOR: Director McGrath and Interim Director Szabo

**Department of Port Control
Department of Public Safety**

Ord. No.: 330-16

Division of Operations - CLE

EXECUTIVE SUMMARY

The Departments of Port Control and Public Safety are jointly requesting authority to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 490.01, 490.02, 490.03, and 490.99, relating to unmanned aircraft systems.

Background/Purpose: The operation of unmanned aerial systems have increased significantly in the recent past both locally and Nationally and numerous incidents have occurred involving UAS operations in restricted or highly populated areas without compliance with existing FAA regulatory guidance.

There is currently no legislation that regulates UAS operations in the City of Cleveland or provides specific enforcement authority to Police Officers. The Federal Aviation Administration (FAA) has issued regulatory guidance that defines two types of UAS users as either hobbyist or commercial operators. Although commercial use is regulated with specific limitations and requires prior FAA approval, a hobbyist can operate a UAS below 200 feet during daylight hours and weighing less than 55 lbs. without any current approvals or permit authority. This situation poses a significant enforcement issue for responding officers having to make that distinction in the field. There is a current FAA restriction that prohibits UAS operations within 5 miles of a regulated airport to include Hopkins and Burke Airports with prior FAA approval.

In addition to the need to ensure compliance with regulatory guidance, there is a serious security vulnerability associated with the operation of UAS in an urban environment. Several Federal law enforcement agencies including the Federal Bureau of Investigation and the U.S. Secret Service have reviewed UAS operations and are currently evaluating additional Federal regulation.

Several Federal agencies, particularly the FAA, are contemplating new regulatory guidance and any local Ordinances should include language that recognizes and implements new guidance.

Justification/Urgency: The ability of the Department of Port Control and Department of Public Safety to effectively regulate and enforce the operation of Unmanned Aerial Systems will address the current gap in regulating all types of UAS operations and provide local law enforcement with the authority to maintain public safety and ensure a safe airspace. The security issues related to the 2016 Republican National Convention will mandate added emphasis to provide law enforcement officers with an effective tool to manage this potential threat.

It is important to note that implementation of this proposed ordinance will not address similar regulatory issues in surrounding municipalities and that neighboring municipalities, particularly those adjacent to Cleveland Hopkins Airport should be encouraged to enact similar legislation.



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Imagery Date: 9/20/2015 41°27'01.77" N 81°43'50.40" W elev. 715 ft eye alt 2

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ImageV Date: 10/25/2015
Klat27/03.26° N 81.9655.08° W elev 818 ft
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