



AGENDA REPORT

Meeting Date: October 21, 2014

Item Number: D-7

To: Honorable Mayor & City Council

From: Laurence S. Wiener, City Attorney

Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS ADDING SECTION 5-6-604 TO THE BEVERLY HILLS MUNICIPAL CODE TO PROHIBIT THE USE OF UNMANNED AIRCRAFT TO RECORD OR TRANSMIT VISUAL IMAGES OR AUDIO RECORDINGS OF PERSONS OR PRIVATE PROPERTY LOCATED IN THE CITY OF BEVERLY HILLS.

Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends that the City Council move to waive the full reading and adopt the ordinance, as amended, entitled "ORDINANCE OF THE CITY OF BEVERLY HILLS ADDING SECTION 5-6-604 TO THE BEVERLY HILLS MUNICIPAL CODE TO PROHIBIT THE USE OF UNMANNED AIRCRAFT TO RECORD OR TRANSMIT VISUAL IMAGES OR AUDIO RECORDINGS OF PERSONS OR PRIVATE PROPERTY LOCATED IN THE CITY OF BEVERLY HILLS".

INTRODUCTION

This ordinance generally prohibits the use of private unmanned aircraft (drones) within the City of Beverly Hills to record or transmit any visual image or audio recording of any person or private real property in the City under circumstances where the subject person or owner of the subject property has a reasonable expectation of privacy.

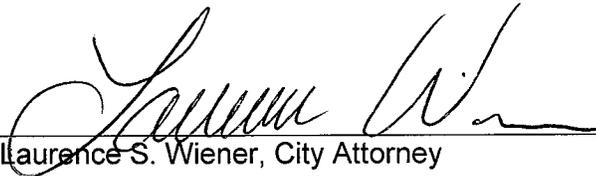
DISCUSSION

At its meeting of October 7, 2014, the City Council conducted a first reading and introduced this ordinance. At that meeting, the City Council made two changes to the draft ordinance presented to the City Council. First, the City Council removed a provision of the ordinance that specifically exempted from the City's regulation unmanned aircraft that are recording or transmitting audio or images at the specific request of the subject person or owner of the subject property. Secondly, the City Council deleted "exigent circumstances" as a basis for allowing public safety use of unmanned aircraft to record or transmit images in a manner that would otherwise be prohibited by the ordinance. These changes have been incorporated into the ordinance being presented to the City Council for adoption.

Also at the meeting of October 7, the Council requested that staff report back to the Council regarding the plan for enforcement of this ordinance. The Beverly Hills Police Department reports that it will respond to complaints concerning violations of this ordinance as a routine call for service. The Police Department also indicates that no additional resources appear to be necessary at this time. As of this writing, the Department has not received any complaints about unmanned aircraft.

FISCAL IMPACT

The fiscal impact is unknown at this time and will depend on the need for future enforcement of the ordinance.



Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 14-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS ADDING SECTION 5-6-604 TO THE BEVERLY HILLS MUNICIPAL CODE TO PROHIBIT THE USE OF UNMANNED AIRCRAFT TO RECORD OR TRANSMIT VISUAL IMAGES OR AUDIO RECORDINGS OF PERSONS OR PRIVATE PROPERTY LOCATED IN THE CITY OF BEVERLY HILLS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS
AS FOLLOWS:

Section 1. Section 5-6-604 is hereby added to Article 6 of Chapter 6 of Title 5 of the Beverly Hills Municipal Code to read as follows:

"5-6-604: PROHIBITION AGAINST USING AN UNMANNED AIRCRAFT TO RECORD OR TRANSMIT VISUAL OR AUDIO RECORDINGS:

- A. No person shall use an unmanned aircraft to record or transmit any visual image or audio recording of any person or private real property located in the City under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy (including, but not limited to, inside a private residence or office, and inside an enclosed yard).
- B. This section shall not prohibit the use of any model aircraft, which is flown in compliance with Section 336 of the FAA Modernization and Reform Act of 2012 and which does not transmit or record visual images or audio recordings of any person or real property located in the City.
- C. This section shall not prohibit the use of any unmanned aircraft by law enforcement or public safety agencies:
 1. If a warrant is issued authorizing the use of an unmanned aircraft;
or
 2. For the purpose of providing emergency management, fire, or police protection services in response to a life-threatening emergency, or for surveying the condition of persons or property during a duly declared state of emergency; or

3. Under circumstances where a warrant would not otherwise be required by law.
- D. For the purpose of this section, an “unmanned aircraft” is a device that flies and is operated without the possibility of direct human intervention from within or on the aircraft.”

Section 2. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the prohibition would not have the potential for causing a significant effect on the environment.

Section 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 4. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

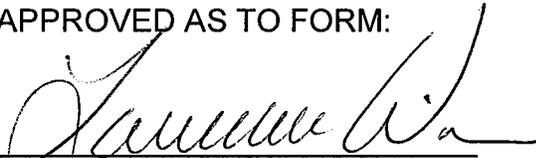
Section 5. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

LILI BOSSE
Mayor
City of Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager