



National Press Photographers Association

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VIA ELECTRONIC MAIL (Buddy.Dyer@cityoforlando.net)

January 22, 2017

Hon. Buddy Dyer
City Hall
400 South Orange Avenue
Orlando, FL 32801-3272

Re: Oppose - Proposed Ordinance No. 201687

Dear Mayor Dyer:

As general counsel for the National Press Photographers Association (NPPA), I write to express our opposition to the proposed Orlando Ordinance No. 2016-87, regulating drone use by imposing flight restrictions along with permitting requirements on such activity.

NPPA is one of the leading advocates for the use of drones for newsgathering. We are extremely concerned with the vague and overly broad language criminalizing the operation of a UAS “with the intent to offend, annoy, abuse, threaten, or harass any person.”

We fear these “offenses” may be misinterpreted to conflate the subjective intent of the operator with the subjective perception of those opposed to drone use. As anticipated in the legislative intent, that in turn will involve the additional subjective determination by a police or code enforcement officer as to any number of enumerated violations and further criminal prosecution.

Additionally, we are alarmed by the overreaching language found in Paragraph 10, subjecting any UAS “operated in violation of this ordinance” to seizure as contraband. The authority to seize equipment, including cameras used for newsgathering purposes, not only violates the protections of the First (press and speech), Fourth (search and seizure) and Fourteenth (due process and equal protection) Amendments; but also, the subpoena requirements found in the Privacy Protection Act of 1980 (42 U.S.C. § 2000aa et seq.). Such enabling language also runs counter to the protections found in the Florida “Journalist’s Privilege” Statute (§ 90.5015, Fla. Stat. (2016)), which protects newsgathering material, including unpublished material, from automatic compelled disclosure and indeed such action may be viewed as a prior restraint upon the press.

We are also very concerned that the hyperbole contained in the fourth “Whereas” regarding “unmanned aircraft to travel at speeds 100 miles per hour, carry payloads, and fly more than a mile away from the operator at heights of over 3000 feet” adds to the public hysteria surrounding the

use of drones, especially when the Federal Aviation Administration (FAA) “Small Unmanned Aircraft Regulations (Part 107)” specifically restricts operation to, among other things, 400’ AGL, at under 100mph and within visual line-of-sight of the operator.

As an organization, we have worked for many years with the FAA along with the National Telecommunication and Information Administration (NTIA) to (respectively) help establish commonsense and least restrictive guidelines regarding the safe integration of small unmanned aircraft systems (sUAS) into the national airspace; as well as best practices addressing privacy, transparency, and accountability issues regarding commercial and private use of unmanned aircraft systems (UAS).

We believe the proposed bill poses a serious risk to innovative use of drones by journalists to gather and disseminate information and images on matters of public concern as well as the public’s right to receive news, as guaranteed by the First Amendment to the U.S. Constitution and Article 1, Section 4 of the Florida Constitution. The chilling legal repercussions of this bill will tax an overburdened court system and thwart the federal government’s efforts, in which we are participating, to bring about a sensible regulatory regime for this new technology.

Therefore, we urge that you not enact this ordinance to allow time to further evaluate sound UAS policy while taking into consideration the full legal and detrimental impact of such restrictive and constitutionally suspect measures.

Thank you for your attention and consideration in this matter.

Very truly yours,

Mickey H. Osterreicher

Mickey H. Osterreicher
NPPA General Counsel

cc (via electronic mail): City Attorney Moore and City Council members