BILL 2016-51
Agenda Item

TO: Mayor and City Council

FROM: Mark S. Gaugh, City Manager

DATE: February 6, 2017

RE: Drone Ordinance

Issues

The Public Safety Committee met last week to discuss the proposed drone ordinance. The City has a section under its code, concerning harassment, which is generally worded. Chief Bashor thinks we can enforce misuse under the existing City Code, Harassment Section 8.36-1. As far as the airport, the FAA would have authority to restrict drone usage there. We can re-visit the issue in the future and develop a more specific ordinance if necessary.

Recommendation

The Public Safety Committee recommends that the City Council remove the ordinance from the agenda for now. We can monitor drone use and place the enforcement of drone misuse under our current nuisance code. If, after a period of time, it appears that we need to draft a special ordinance, we can do it at that time.

Bill 2016-51

AN ORDINANCE FOR THE CITY OF CAMERON, CLINTON AND DeKALB COUNTIES, MISSOURI ADDING ARTICLE VII. SMALL UNMANNED AIRCRAFT SYSTEMS TO CHAPTER 8, OFFENSES - MISCELLANEOUS IN THE CODE OF THE CITY OF CAMERON MISSOURI RELATING TO THE OPERATION OF UNMANNED AIRCRAFT SYSTEMS

WHEREAS, the responsible and safe use of Unmanned Aircraft Systems, more commonly known as drones, is an increasingly popular recreational activity and promotes technological innovation, economic growth, and job creation; and

WHEREAS, the unregulated use of the Unmanned Aircraft Systems throughout the City poses a threat to the public health, safety, and welfare and has created public health, safety, and welfare concerns, including, but not limited to, privacy, nuisance, and trespass concerns; and

WHEREAS, the Federal Aviation Administration has promulgated Part 107 of the Federal Aviation Regulations and Section 333 of the FAA Modernization and Reform Act of 2012, regulating the use of Small Unmanned Aircraft Systems but allows for local regulations using the local government's police power; and

WHEREAS, the City desires to promote the responsible and safe use of Unmanned Aircraft Systems while ensuring that the public health, safety and welfare is protected.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMERON, CLINTON AND DeKALB COUNTIES, MISSOURI AS FOLLOWS:

Section 1. Chapter 8, **OFFENSES - MISCELLANEOUS** of the City Code is hereby amended by adding Article VII. Small Unmanned Aircraft Systems as follows:

ARTICLE VII. Small Unmanned Aircraft Systems.

Sec. 8-231. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the content clearly indicates different meaning:

Aircraft means any contrivance invented, used, or designed to navigate or fly in the air.

City Airspace means the airspace above the land, water, and waterway within the jurisdiction of the City.

~Tabled~

Harassing Manner means a knowing and intentional course of conduct directed toward a specific person or property that seriously alarms, annoys, torments or terrorizes the person, and serves no legitimate purpose, including, but not limited to, any course of conduct carried out through the use of a Unmanned Aircraft System over or near any dwelling, occupied vehicle, or other place where one may reasonably expect to be safe from uninvited instruction or surveillance.

Hobby or recreational purposes means a pursuit engaged in for relaxation, and not for commercial purposes, compensation, or hire.

Open air assembly place means any structure, enclosed area, or other demarcated space used for the assembly of persons in the open air, including, but not limited to, amusement parks, stadiums, athletic fields, outdoor public swimming pools, street festivals, or parade routes.

Operate means to pilot, steer, direct, fly or manage a small unmanned aircraft through the air remotely. The term "Operate" include managing or initiating a computer system that pilots, steers, directs, flies, or manages a small unmanned aircraft.

Small Unmanned Aircraft means an aircraft that:

i. is operated without the possibility of direct human intervention from within or on the aircraft, and
ii. weighs less than 55 pounds at the time of the operation, including the weight of any payload or fuel.

Surveillance means the gathering, without permission and in a manner that is offensive to a reasonable person, of visual images, physical impressions, sound records, data, or other information involving the private, personal, business or familiar activities of another person business or entity, or that otherwise intrudes upon the reasonable expectancy of privacy, solitude, or seclusion of another person, business, or entity, regardless of whether a physical trespass onto real property, owned, leased, or otherwise lawfully occupied by such other person, business or entity, or into the airspace above real property owned, leased, or otherwise lawfully occupied by such other person, business, or other entity, occurs in connection with such surveillance.

Weapon means any instrument, article, or substance that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or physical or serious physical injury.

Sec. 8-231. Operating Regulations.

Except as otherwise provided herein or preempted by the Federal Aviation Administration in Part 107 of the Federal Aviation Regulations or Section 333 of the FAA Modernization and Reform Act of 2012, no person shall operate for hobby or recreational purposes any Small Unmanned Aircraft in city airspace:

(a) Directly over any person who is not involved in the operation of the Small Unmanned Aircraft, without the person's consent;

~Tabled~

(b) Over property that the operator of the Small Unmanned Aircraft does not own, without the proper owner's consent, subject to any restrictions that the property owner may place on such operation;

(c) By a child under 13 years of age when not accompanied and supervised by the parent of the child or designated adult;

(d) At an altitude higher than 400 feet above ground level;

(e) Outside the visual line of sight of the operator. The operator shall use his or her own natural vision, which include vision corrected by standard eyeglasses or contact lenses, to maintain at all times an unobstructed view of all small unmanned aircraft, without the use of vision-enhancing devises, such as binoculars, night vision goggles, powered vision magnifying devices, goggles designed to provide a "first person view" from the model of similar devices;

(f) Within one (1) mile of the Cameron Municipal Airport, unless the airport manager and the airport air traffic control tower consent after prior notice of the operation;

(g) In a manner that interferes with, or fails to give way to, any manned aircraft;

(h) Between dusk and dawn;

(i) Whenever weather conditions impair the operator's ability to operate the Small Unmanned Aircraft safely;

(j) Over any open air assembly unit, school, school yard, hospital, place of worship, prison, police station, without the property owner's consent, and subject to any restrictions that the property owner may place on such operation;

(k) Within 500 feet of any water intake facility or any electric generating facility, substation or control center, or within 100 feet of any electric transmission facility, or within 25 feet of any electric distribution facility or any overhead wire, cable, conveyor or similar equipment for the transmission of sounds or signal, or of heat, light or power, or data, upon or along any public right away within the city, without the facility or equipment owner's consent and subject to any restrictions that the facility or equipment owner may place on such operation;

(l) For the purpose of conducting surveillance, unless expressly permitted by law;

(m) While under the influence of alcohol, or other drug or drugs, intoxicating compound or compounds or any combination thereof;

(n) That is equipped with a weapon;

~Tabled~

(o) With the intent to use such Small Unmanned Aircraft or anything attached to it to cause harm to persons or property;

(p) In a reckless or careless or harassing manner; or

(q) In violation of any Federal or State law, including, but not limited to, Part 107 of the Federal Aviation Regulations or Section 333 of the FAA Modernization and Reform Act of 2012.

Sec. 8-232. Construction of Section.

(a) Operations authorized by the FAA – exception. Nothing in this section shall be constructed to prohibit, limit or otherwise restrict any person who is authorized by the Federal Aviation Administration to operate a Small Unmanned Aircraft in city air space, pursuant to Part 107 of the Federal Aviation Regulations or Section 333 of the FAA Modernization and Reform Act of 2012 or a certificate of waiver, certificate of authorization or airworthiness certificate under Section 44704 of Title 49 of the United States Code or other Federal Aviation Administration grant of authority for a specific flight operation(s), from conducting such operation(s).

(b) Operations prohibited by the FAA – clarification. Nothing in this section shall be construed to authorize the operation of any Small Unmanned Aircraft in city airspace in violation of any Federal statute or rules promulgated thereunder.

(c) Operations by the City in general – exception. Nothing in this section shall be construed to prohibited any person who is permitted by the City Council, the City Manager, the public works director, or the parks and recreation director to operate a Small Unmanned Aircraft in city airspace from conducting such operations in accordance with the terms of such authorization and Federal or State law.

(d) Operations by the Law Enforcement or Safety Agency – exception. This section shall not prohibit the use of any Small Unmanned Aircraft by law enforcement or public safety agencies:

i. If a warrant is issued authorizing the use of an unmanned aircraft; or
ii. 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 person or property during a duly declared state of emergency; or
iii. Under circumstances where a warrant would not otherwise by required by law.

Sec. 8-233. Violation - Penalty.

Tabled

(a) Any person who violates this section shall be fined not less than $120.00 nor more than $500.00 for each offense.
(b) A law enforcement officer may seize an Unmanned Aircraft System as evidence of a violation of this section. The Unmanned Aircraft System thereafter shall be disposed of in accordance with State law for the disposition of seized property.

Section 2. If this ordinance, or any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional or preempted, such decision shall not affect the validity of the remaining portions.

Section 3. The Mayor is hereby authorized to sign this Ordinance on behalf of the City of Cameron.

Section 4. The City Clerk is hereby directed to attest to the Mayor's signature.

Section 5. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

Section 6. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Passed and approved on first reading this 7th day of November 2016.
Passed and approved on second reading this _____ day of November 2016.
Passed and approved on third and final reading this _____ day of _____ 2016.

_____
Mayor Jerri Ann Eddins

ATTEST

_____
City Clerk/Finance Clerk

~Tabled~