



Legislation Text

File #: 2021-0626, **Version:** 1

To: Sonoma County Board of Supervisors

Department or Agency Name(s): County Administrator Office, Sheriff's Office, County Counsel

Staff Name and Phone Number: Holly Rickett, Petra Bruggisser - 565-2421

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Unlawful Operation of Small Unmanned Aircraft (Aka "Drones") which Interfere with Government Operations and Response During Emergencies and/or Public Safety Events in the Unincorporated County

Recommended Action:

- A) Consider an ordinance to amend Chapter 19 of the Sonoma County Code, Miscellaneous Offenses, and to add a new Article V - Unlawful Operation of Small Unmanned Aircraft Which Interfere with Government Operations and Response During Emergencies and/or Public Safety Events.
- B) Adopt a resolution introducing, reading the title of, and waiving further reading of a proposed ordinance amending Chapter 19 of the Sonoma County Code, Miscellaneous Offenses, and adding a new Article V - Unlawful Operation of Small Unmanned Aircraft Which Interfere with Government Operations and Response During Emergencies and/or Public Safety Events.

Executive Summary:

This action is to amend Chapter 19 of the Sonoma County Code ("SCC"), Miscellaneous Offenses, and to add a new Article V as identified above with the intent to reasonably regulate the use of unmanned aircraft and unmanned aircraft systems (aka drones or UAS) in the unincorporated county to prevent private drone operators from interfering with government operations and response to local emergencies and public safety events so to ensure the safety and security of government operations and response during public safety events, such as fires, floods, law enforcement operations, crime scenes, search and rescue operations, detention facility operations, and utility and infrastructure operations, etc. This ordinance establishes new options to issue civil citations to gain immediate compliance in urgent public safety situations.

Discussion:

The private use of small unmanned aircraft and unmanned aircrafts systems (UAS), commonly called drones, has increased exponentially in recent years. Technology innovation and advancements have made them widely available for commercial reasons, and hobbyists fly UAS for recreational purposes. Existing rules regulate the lawful use of UAS at the federal and state levels. This Board item introduces a new countywide ordinance to fill a gap that currently exists for enforcement at the local level when a UAS interferes with government operations and response related to public safety events such as emergencies, firefighting, search and rescue, law enforcement, detention, and utility and infrastructure operations etc. This ordinance establishes new options to issue civil citations to gain immediate compliance in urgent public safety situations through the already existing County's administrative citation program in SCC Chapter 1, Section 1.-7.6.

FAA Rules

The Federal Aviation Administration (FAA) generally permits the operation of UAS for recreational purposes if the aircraft is flown below 400 feet of uncontrolled airspace (or controlled airspace with identified special authorization), and remains within the visual line of sight of the operator on the ground. FAA safety rules prohibit the operation of UAS in a reckless or unsafe manner, around airplanes and helicopters, and within certain distances from airports. Despite these rules, the FAA has reported increased incidents of UAS causing safety hazards to people or property, and raised concerns due to the potential for crashes or near misses involving hobbyist operators flying in violation of aviation safety regulations.

The enforcement of FAA rules falls within the FAA's civil administration safety enforcement function and requires a complaint report to the FAA. FAA violations typically do not allow for swift on-the-ground enforcement actions, as FAA aviation safety inspectors are unable to immediately travel to the location of an incident. The FAA recognizes that local law enforcement agencies are often in the best position to make first contact with UAS operators and to notify the FAA of unauthorized incidents. Although the FAA retains the responsibility for enforcing its regulations, the FAA relies on law enforcement agencies to deter and pursue enforcement actions under their existing authorities to stop unauthorized UAS operations.

California Regulations

Several state laws currently regulate the lawful use of UAS. For example, Penal Code § 402 makes it a misdemeanor for a UAS operator to impede firefighters, police officers, or emergency personnel at the scene of an emergency; Government Code § 853 and Civil Code § 43.101 provide immunities to local public agencies and emergency responders if a UAS is damaged when the UAS was interfering with emergency services; Penal Code § 4577 prohibits the operation of a UAS on or above grounds of detention facilities; Civil Code § 1708.8 makes a UAS operator liable for invading a person's privacy for commercial gain. In addition, numerous CA state and regional parks have banned the use of UAS within park boundaries, many sports stadiums prohibit the flying of UAS, and several municipalities have enacted specific local rules.

Enforcement of these laws falls to local jurisdictions and is primarily focused on criminal prosecution or private civil actions unless municipal ordinances have been adopted to provide alternative options. In Sonoma County, enforcement of unauthorized actions by private UAS pilots is currently limited to either reporting aviation violations to the FAA, pursuing criminal prosecution of penal code violations with the District Attorney, or initiating private rights of action for civil violations. These options fall short of providing adequate tools for swift on-the-ground enforcement actions when a UAS interferes or impedes a government response during a public safety event. Currently, Sonoma County does not have a local enforcement option available to provide warnings and/or civil citations on the spot in urgent public safety situations that require immediate action to stop the unauthorized actions of the UAS pilot. This new ordinance proposes to fill that gap.

Proposed County Ordinance

The proposed new ordinance seeks to allow, in the unincorporated area, civil enforcement against certain private and/or commercial UAS operations and operators, by reasonably regulating the safe use of UAS which interfere with government operations and response during emergencies and around defined public safety events, and by establishing new options to issue civil citations to gain immediate compliance in these urgent public safety situations. In addition, by providing citation authority under the County's already existing administrative citation program promotes alternative enforcement options against UAS operators for low level offenses that do not warrant criminal prosecution.

This ordinance allows for regulation of the use of UAS that interfere during public safety events to ensure the safety and security of government operations during these events. The ordinance makes it unlawful for a person to operate UAS in a manner that impedes, obstructs and/or interferes with government operations and response related to a public safety event. Considering the multitude of emergencies Sonoma County has experienced in recent years, public safety event is broadly defined to include events, conditions or situations where impediment, obstruction and/or interference by a UAS may cause injury to persons or damage to property, or endanger persons, property or public agency operations in connection with, but not limited to: law enforcement operations; crime scenes; search and rescue operations; detention facility operations; fires; explosions; aircraft, rail or vehicle accidents; flooding; storms; earthquakes; chemical or biological spills; acts of terrorism; utility or infrastructure operation related to water, sewer, gas, telecommunications, broadband, or electrical power.

The ordinance declares any violation to be a public nuisance, and provides options for the County to prosecute violations as a misdemeanor, a public nuisance, or via an administrative citation for fines and penalties pursuant to SCC Chapter 1, Sections 1.-7 through 1.-7.6. Administrative citations are administered pursuant to the County's administrative citation program in SCC Chapter 1, Section 1.-7.6. Fines for administrative citations start at \$100.00 per violation and can increase to \$500.00 for repeat violations. Enforcing officers are defined either by state law or in the administrative citation section of the SCC.

Utilizing the already existing SCC administrative citation program for UAS enforcement actions provides a tool for County enforcing officers to respond immediately to dangers posed by UAS operating in interference of public safety events. Enforcement officers can educate UAS operators at the scene about the ordinance and prohibited UAS operations, and/or issue citations if necessary. This allows for low level offenses to be handled without requiring arrests and criminal prosecution. In addition, the administrative citation program provides an established process to pay or appeal citations and allows for a streamlined and transparent process.

The enforcement options outlined in the ordinance are non-exclusive, and are meant to supplement otherwise existing federal, state and local laws. In addition to utilizing the enforcement options in the ordinance, violations and violators may also be reported to the FAA, charged and prosecuted as criminal offense and/or pursued as civil actions, depending on the nature and seriousness of the violation.

Strategic Goals

The ordinance aligns with the Board's strategic goals to promote resiliency, strengthen public safety, and foster organizational excellence by making use of an established and effective civil citation program to provide for urgent enforcement actions to ensure safe and secure government operations during emergencies and public safety events.

Stakeholder Input Outreach and Outreach/Education

This ordinance was developed in cooperation with several county departments and agencies who provided valuable insight regarding the need and potential utilization of this ordinance, including Transportation and Public Works, Sonoma Water, the Sonoma County Sheriff's Office and Permit Sonoma. These departments are often the first responders to public safety events and have to provide essential services during the emergency, which may include operating their own UAS or helicopter to assess the situation and/or damage. Preventing private UAS operators from interfering with their operations is critical to ensure the safety and security of

personnel and equipment on the ground and in the air.

In addition, an outreach and education plan has been developed with the County’s communications teams to inform and educate the public and other agencies in the County about the new ordinance.

Recommendation:

Staff recommends amending Chapter 19 of the Sonoma County Code, Miscellaneous Offenses, and adding a new Article V - Unlawful Operation of Small Unmanned Aircraft Which Interfere with Government Operations and Response During Emergencies and/or Public Safety Events, to reasonably regulate the safe use of private and commercial unmanned aircraft and unmanned aircraft systems during emergencies and public safety events, and to add enforcement options under the County’s existing administrative citation program. Staff further recommends adopting a resolution introducing, reading the title of, and waiving further reading of the proposed ordinance.

Prior Board Actions:

None. This is the first Ordinance regulating the Unlawful Operation of Small Unmanned Aircraft in Sonoma County.

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY 22-23 Projected	FY 23-24 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

Minimal increase for staff workload to administer any appeals may be necessary; however, increased staffing costs may be partially offset by potential income to the County from payment of administrative citations.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

There are no known fiscal impacts.

Attachments:

Attachment A - Board Resolution

Attachment B - Draft Ordinance to Amend Chapter 19 of the Sonoma County Code, Miscellaneous Offenses, and to add a new Article V - Unlawful Operation of Small Unmanned Aircraft Which Interfere with Government Operations and Response During Emergencies and/or Public Safety Events

Related Items "On File" with the Clerk of the Board:

n/a