

AN ORDINANCE AMENDING CHAPTER 96: NOISE
CONTROL AND OTHER SENSORY CONTROL OF THE
CITY OF FORT WAYNE CODE OF ORDINANCES.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE
CITY OF FORT WAYNE, INDIANA:

SECTION 1. That CHAPTER 96: NOISE CONTROL AND OTHER
SENSORY CONTROL of the City of Fort Wayne, Indiana, Code of Ordinances be
amended as follows:

AMEND SECTION 96.30 Regulation of Unmanned Aircraft Systems

ADD NEW DEFINITIONS TO (B) Definitions.

FORT WAYNE INTERNATIONAL AIRPORT (FWA) Aerial District. A circular area with a radius of 13,200 feet (2.5 miles) out from a center point located at the ATC tower with GPS coordinates of 40.972124, -85.187764, commonly known as 3817 Winters Rd., Fort Wayne, Indiana.

SMITH FIELD AIRPORT (SMD) Aerial District. A circular area with a radius of 5,500 feet out from a center point with GPS coordinates of 41.143317, -85.153226, commonly known as 902 W Ludwig Rd., Fort Wayne, Indiana.

PARKVIEW RANDALLIA Aerial District. A circular area with a radius of 2,500 feet out from a center point with GPS coordinates of 41.096241, -85.109989, commonly known as 2200 Randallia Dr., Fort Wayne, Indiana.

DUPONT HOSPITAL Aerial District. A circular area with a radius of 2,500 feet out from a center point with GPS coordinates of 41.175260, -85.108885, commonly known as 2520 E Dupont Rd., Fort Wayne, Indiana.

LUTHERAN HOSPITAL Aerial District. A circular area with a radius of 2,500 feet out from a center point with GPS coordinates of 41.038972, -85.249764, commonly known as 7950 W Jefferson Blvd., Fort Wayne, Indiana.

ARMY RESERVE FACILITY Aerial District. A circular area with a radius of 2,500 feet out from a center point with GPS coordinates of 41.052473, -85.168455, commonly known as 2233 Nuttman Ave., Fort Wayne, Indiana.

**AMEND SECTION (D) PROHIBITED UNMANNED AIRCRAFT SYSTEM ACTIVITIES,
(3), (4)**

(3) No Person shall operate any UAS within the city in a manner that is prohibited by any federal statute or regulation governing aeronautics.

1 (4) For UAS takeoff and landing within the city, it shall be unlawful for a person to
2 operate an UAS in a **careless or reckless manner so as to endanger the life or**
3 **property of another. The standard for what constitutes careless or reckless**
4 **operation under this section shall be the same as the standard set forth in any**
5 **federal statutes or regulations governing aeronautics including but not limiting to**
6 **Federal Aviation Rule 91.13.** If law enforcement has reasonable suspicion to believe
there is unsafe UAS operation occurring, the city may immediately prohibit any UAS
use. Within twenty-four (24) hours of prohibiting such use, law enforcement shall
document the basis for the reasonable suspicion and actions taken.

7 **AMEND SECTION (F) NOTIFICATION PROCESS**

8 (F) Notification process. Persons wishing to operate a UAS within 5,500 feet of the
9 Downtown Aerial District, 2.5 miles of FWA, 5000 feet of SMD, 2500 feet of Parkview
10 Randallia/Lutheran/Dupont Hospital(s), 2500 feet of the Army Reserve Facility, and/or
11 within a five-hundred (500) yard radius of, or anywhere above, a public event, shall
provide the following information to the city before the operation:

12 **SECTION 2.** That this Ordinance is in full force and effect from and after its
13 passage and any and all necessary approval by the Mayor.

14
15 _____
Council Member

16 APPROVED AS TO FORM AND LEGALITY

17
18
19 _____
Carol Helton, City Attorney

UNMANNED AIRCRAFT SYSTEMS

96.30 REGULATION OF UNMANNED AIRCRAFT SYSTEMS.

(A) Purpose. The regulations set forth in this section seek to promote the ability of noncommercial and commercial users to operate Unmanned Aircraft Systems safely within the City of Fort Wayne while recognizing the need to protect citizens and public safety personnel in designated areas and circumstances where heightened safety concerns are present.

(B) Definitions.

COMMERCIAL USE. The flying of an unmanned aircraft system for work, business or commercial purposes.

DOWNTOWN AERIAL DISTRICT. A circular area with a radius of 5,500 feet out from a center point with the GPS coordinates of 41.080325, -85.140652, commonly known as the 100 block of W. Main St., Fort Wayne, Indiana.

FORT WAYNE INTERNATIONAL AIRPORT (FWA) Aerial District. A circular area with a radius of 13,200 feet (2.5 miles) out from a center point located at the ATC tower with GPS coordinates of 40.972124, -85.187764, commonly known as 3817 Winters Rd., Fort Wayne, Indiana.

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ARMY RESERVE FACILITY Aerial District. A circular area with a radius of 2,500 feet out from a center point with GPS coordinates of 41.052473, -85.168455, commonly known as 2233 Nuttman Ave., Fort Wayne, Indiana.

PRIVATE SPACE. Any indoor or outdoor property owned or controlled by a private individual or entity.

PUBLIC EVENT. Any event, game, practice, contest, parade, rally, celebration or other gathering in either private space or public space, to which the public is invited or attends and for which a permit has been issued by the city.

PUBLIC SPACE. Any indoor or outdoor property (including streets and sidewalks) owned or controlled by federal, state or local government, or an instrumentality of federal, state or local government.

NONCOMMERCIAL USE. The flying of an Unmanned Aircraft System for enjoyment, recreation, hobby and not work, business purposes, or for compensation of hire.

UNMANNED AIRCRAFT SYSTEM ("UAS"). An aircraft without a human pilot onboard which is controlled from an operator on the ground, often referred to as a "drone."

(C) Applicability. This sub-chapter shall not interfere with the authority of the Federal Aviation Administration ("FAA"). All UAS operators within the city must obey FAA and Indiana laws, rules and regulations as may be amended from time to time.

(D) Prohibited unmanned aircraft system activities.

(1) For UAS takeoff and landing within the city, it shall be unlawful without prior notification to the city for a person to use or operate an UAS within five hundred (500) yard horizontal radius of, or anywhere above, a public event.

(2) For UAS takeoff and landing within the City, it shall be unlawful without prior notification to the city for a person to use or operate an UAS anywhere above an aerial district.

(3) No Person shall operate any UAS within the city in a manner that is prohibited by any federal statute or regulation governing aeronautics.

(4) For UAS takeoff and landing within the city, it shall be unlawful for a person to operate an UAS in a careless or reckless manner so as to endanger the life or property of another. The standard for what constitutes careless or reckless operation under this section shall be the same as the standard set forth in any federal statutes or regulations governing aeronautics including but not limiting to Federal Aviation Rule 91.13. If law enforcement has reasonable suspicion to believe there is unsafe UAS operation occurring, the city may immediately prohibit any UAS use. Within twenty-four (24) hours of prohibiting such use, law enforcement shall document the basis for the reasonable suspicion and actions taken.

(E) Non-applicability. Subsections (D)(1), (D)(2), and (D)(4) do not apply to:

(1) Employees of the city operating an UAS in the regular course of their duties.

(2) Individuals under contract with the city operating an UAS for the purposes of promotion, resource management, development, mapping or utility management and repair.

(3) Any local, state or federal government agency lawfully operating UAS for a government purpose or function.

(F) Notification process. Persons wishing to operate a UAS within 5,500 feet of the Downtown Aerial District, 2.5 miles of FWA, 5000 feet of SMD, 2500 feet of Parkview Randallia/Lutheran/Dupont Hospital(s), 2500 feet of the Army Reserve Facility, and/or within a five-hundred (500) yard radius of, or anywhere above, a public event, shall provide the following information to the city before the operation:

(1) Name, address and telephone number of UAS the operator, any assisting persons during the flight, and any affiliated company name, if applicable;

(2) Purpose of the UAS operation as either noncommercial recreational or commercial use;

- (3) FAA-issued Registration Certificate Number(s) of any UAS to be operated;
- (4) UAS operator's FAA-issued Remote Pilot Certificate Number(s) and date(s) of issue authorized under 14 CFR 5107, if applicable;
- (5) Document numbers and dates of issue and expiration for FAA-issued certificate(s), waiver(s), or authorization, or Section 333 Exemption, applicable to the operation of the UAS;
- (6) Policy information with dates of issue and expiry of any certificate(s) of liability insurance, if applicable;
- (7) Proposed area and time of UAS operation;
- (8) Location where the UAS will be operated from; and
- (9) Name, address and telephone number of any owner(s) granting permission for UAS operation over any private space.

(Ord. G-10-19, passed 5-14-19) Penalty, see § 96.99

96.31 ENFORCEMENT.

The Fort Wayne Police Department shall be charged with enforcing all provisions of this chapter.

(Ord. G-15-07, passed 6-12-07; Am. Ord. G-15-08, passed 12-9-08; Am. Ord. G-4-17, passed 3-14-17; Am. Ord. G-10-19, passed 5-14-19)

96.99 PENALTY.

(A) Whoever violates any provisions of this chapter, upon conviction thereof, shall be fined not less than \$150 or more than \$500 for each offense. Each day any violation shall continue shall constitute a separate offense.

(B) Any person who violates any of the provisions of § 96.30 of this chapter may be subject to a fine that shall not exceed \$500 for each such violation.

(C) In addition to the penalty specified above for violation of § 96.30, any UAS and control box operated in violation of § 96.30 may be impounded for a period of time not to exceed three business days in the interests of public safety.

(Ord. G-21-93, passed 6-8-93; Am. Ord. G-4-17, passed 3-14-17; Am. Ord. G-10-19, passed 5-14-19)

Council Members,

The Fort Wayne Police Department Air Support Unit is writing you to request an update/change revision & improvement to the current City ordinance governing drone flights 96.30 (Regulation of Unmanned Aircraft Systems). The current ordinance requires that individuals wishing to fly a drone in the "downtown aerial district" fill out an informational form before conducting said drone flight to make the Police Department and other City entities aware of the operation should some sort of incident/accident occur that could pose a threat to the safety of the community and individuals in the area. The Police Department and the City of Fort Wayne do not grant or deny permission to fly in the "downtown aerial district" with this informational form however if an individual does not fill out the form before flying, they could receive a written warning, citation, or in extreme cases if the drone flight is deemed careless or reckless and endangers the lives of persons within the "downtown aerial district", the drone can be confiscated for a period of up to three days.

Our proposed changes to the drone ordinance would add several new "aerial districts" to include:

- Parkview Randallia Hospital
- Dupont Hospital
- Lutheran Hospital
- Smith Field Airport
- Fort Wayne International Airport
- Army Reserve Facility (Nuttman Ave)

The above locations are deemed critical infrastructure and have a high frequency of aircraft (helicopter and fixed wing aircraft) coming to and from their locations. The exception being the Army Reserve Facility on Nuttman Ave which does not have aircraft flights but contains highly sensitive military equipment. There would be no change to the potential penalties if the form is not filled out. The purpose of adding these new aerial districts is not to restrict persons from being able to fly their drones but is intended to add a layer of safety and security to the community to try and prevent a major incident or accident from occurring. Imagine what would happen if a drone collided with a small aircraft operated by a pilot trainee as part of the Sweet Aviation flight school flying near Smith Field Airport over the schools and housing additions, or restricting the safe decent or ascent of a large airliner taking off or landing from Fort Wayne International Airport with one hundred people on board, or hindering a medical helicopter trying to land with a critically injured person on board.

The Fort Wayne Police Department Air Support Unit appreciates your time in considering this urgent matter. For further context, please feel free to reach out to myself whenever convenient.

Officer Michael Hickman
Northwest operations uniform patrol officer / Air Support Unit (ASU) sUAS Pilot
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