

LEGISTAR 51891 – Substitute Body

DRAFTER'S ANALYSIS: This proposal adopts certain provisions of state law relating to the regulation of drones, and creates civil forfeitures for violations of the provisions. This proposal prohibits the operation of a weaponized drone except by military personnel acting in their official capacity, based on Wis. Stat. § 941.292. It prohibits the use of a drone to photograph, record or otherwise observe a person in a location where the person has a reasonable expectation of privacy, except by a law enforcement officer authorized under Wis. Stat. § 175.55(2), and is based on Wis. Stat. § 942.10.

This proposal also adopts a provision of state law, Wis. Stat. § 114.04, which makes it unlawful to land a spacecraft or aircraft on the lands of another, without the person's consent, and makes it unlawful to fly a spacecraft or aircraft so low as to interfere with the existing use of the lands or water, or flying a spacecraft or aircraft so to be imminently dangerous or damaging to persons or property lawfully on the lands or water beneath.

This substitute increases the maximum forfeiture for operating a weaponized drone from the proposed \$2,000 to \$4,000 and increases the proposed bail deposit for possessing a weaponized drone from \$1,000 to \$2,000.

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 25.18 entitled "Regulation of Drones" of the Madison General Ordinances is created to read as follows:

"25.18 REGULATION OF DRONES.

- (1) Possession of a Weaponized Drone.
 - (a) In this subsection, "drone" means a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted remotely. A drone may be expendable or recoverable.
 - (b) Whoever operates any weaponized drone shall be subject to a forfeiture not less than five hundred dollars (\$500) and not ~~less~~ more than ~~two~~ four thousand dollars (~~\$2,000~~ 4,000). This subsection does not apply to a member of the U.S. armed forces or national guard acting in his or her official capacity.
- (2) Use of a Drone. Whoever uses a drone, as defined in Wis. Stat. § 175.55 (1) (a), with the intent to photograph, record, or otherwise observe another individual in a place or location where the individual has a reasonable expectation of privacy shall be subject to a forfeiture of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000). This subsection does not apply to a law enforcement officer authorized to use a drone pursuant to Wis. Stat. § 175.55 (2).

2. Subsection (10) entitled "Flying and Landing, Limitations" of Section 25.17 entitled "Regulation of Operation of Aircraft" of the Madison General Ordinances is created to read as follows:

- "(10) Flying and Landing, Limitations.
 - (a) Flight subject to Wis. Stats. §§ 114.105(3) and 175.55, and except as provided in Wis. Stats. §§ 114.045 and 942.10, flight of or in aircraft or spacecraft over the lands and waters of this City is lawful, unless at such a low altitude as to intentionally interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft or spacecraft on the lands or waters of another, without the person's consent, is unlawful, except in the case of a forced landing.
 - (b) Any person who violates Subdivision (a) shall be subject to a forfeiture of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000)."

3. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating therein the following:

<u>"Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Unlawful flying and/or landing of aircraft.	25.17(10)	\$750
Possession of weaponized drone.	25.18(1)	\$4000 <u>2000</u>
Unlawful use of drone.	25.18(2)	\$750"

EDITOR'S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. These deposits have been so approved,