

CITY COUNCIL REPORT



Meeting Date: September 20, 2016
 General Plan Element: *Open Space and Recreation*
 General Plan Goal: *Provide high quality and ample quantities of open space*

ACTION

Model Aircraft (Drone) Operation in City Parks and Preserve Ordinance. Adopt Ordinance No. 4276, amending and adding regulations to Chapters 20 and 21 of the Scottsdale Revised Code regarding operation of model aircraft (drones) in City parks and the McDowell Sonoran Preserve.

BACKGROUND

During the most recent legislative session the Arizona State Legislature passed, and the Governor signed into law, Senate Bill 1449, which went into effect on August 6, 2016. This new legislation establishes violations and penalties relating to unmanned aircraft and generally prohibits cities, towns and counties from regulating unmanned aircraft except under certain circumstances. Specifically, a city, town or county may enact or adopt ordinances or rules that regulate the takeoff and landing of model aircraft in a city/town/county park or preserve if there are other parks or preserves within the city/town/county that are available for model aircraft operation. The term "model aircraft" includes drones. It is defined under state and federal law as "an unmanned aircraft that is (1) capable of sustained flight in the atmosphere; (2) flown within visual line of sight of the person operating the aircraft; and (3) flown for hobby or recreational purposes." An "unmanned aircraft" means "an aircraft, including an aircraft commonly known as a *drone*, that is operated without the possibility of direct human intervention from within or on the aircraft."

In accordance with this new legislation, the proposed ordinance amends Sections 20-31(b)(16) and 21-12(b)(22) of the Scottsdale Revised Code to remove the complete prohibition of gas-powered model aircraft operation in City parks and Scottsdale's McDowell Sonoran Preserve (Preserve) and to clarify that regulation of model aircraft in the Preserve is governed by Chapter 20, Article IX of the Scottsdale Revised Code.

In addition, the proposed ordinance adds a new Article IX to Chapter 20 of the Scottsdale Revised Code to regulate the takeoff and landing of model aircraft as permitted by state law. Specifically, the City seeks to prohibit the takeoff and landing of model aircraft, including drones, in City parks

and/or the Preserve when designated by the Director of the City Community Services division (Director) and provided there is at least one other park or preserve within the City that is available for model aircraft operation. The list of prohibited locations, as designated by the Director, will be on file with the City Clerk.

If this ordinance is adopted, the Director intends to designate the following parks/preserves as prohibited locations for the takeoff and landing of model aircraft for the time being:

- McDowell Sonoran Preserve
- Pinnacle Peak Park and Trailhead
- Mescal Park
- Stonegate Park

Concerns of public safety, welfare of the public and wildlife, and the preservation of natural area open space in critical areas drove the selection of these parks and the Preserve. The impact of use of these model aircraft on native wildlife and recreation users in the Preserve and Pinnacle Peak would be detrimental to the codified purpose and the management objectives of this preserved natural area open space. There is an additional concern for public safety in both the Preserve and City parks where equestrian use is permitted (Mescal Park and Stonegate Park) with any type of interaction between a model aircraft/drone and a horse/rider.

These regulations would not apply to City police personnel or other law enforcement officers, fire department personnel or other City employees in the course of their official duties. They also would not apply to people authorized by the City to perform inspection, repair or maintenance work, or to provide emergency, search and rescue, medical or veterinary services, or to others on City-related business, including research, when authorized by the Director.

Penalties for violating this ordinance would be a petty offense (with a fine of \$50-\$300) for a first violation and a class two misdemeanor (with a fine not less than \$300) for a second or subsequent violation within one year.

ANALYSIS AND ASSESSMENT

Recent Staff Action

Staff presented the topic of the proposed ordinance to the McDowell Sonoran Preserve Commission as an information item on July 14th, 2016, and to the Parks and Recreation Commission on September 7th, 2016, for a recommendation to the City Council on adoption of these ordinance changes.

Policy Implications

Impact to the public would be minimal. The restrictions are proposed only on such locations where model aircraft takeoff and landing impacts directly on public safety, welfare, wildlife, and/or preservation. At all times, at least one City park will be available for the takeoff and landing of model aircraft.

RESOURCE IMPACTS

Available Funding

Available City Community Services operation funds would be used to implement the signage and communication program.

Staffing, Workload Impact

Natural Resource Coordinators and Parks and Recreation staff would incorporate these regulations into existing functions. Scottsdale Police Department has been involved in discussions leading up to this ordinance and would be enforcing, if required.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Adopt Ordinance No. 4276 to amend and add regulations to Chapters 20 and 21 of the Scottsdale Revised Code regarding operation of model aircraft (drones) in City parks and the McDowell Sonoran Preserve.

Proposed Next Steps

If this action is approved, staff will immediately begin installing information signage communicating this message and implementing a communication strategy to be sure the public is aware of these regulations. This ordinance would go into effect October 20, 2016.

RESPONSIBLE DEPARTMENT(S)

Community Services Division, Parks & Recreation Department

STAFF CONTACT(S)

William B. Murphy, Community Services Director, bmurphy@scottsdaleaz.gov

Reed Pryor, Parks & Recreation Director, rpryor@scottsdaleaz.gov

APPROVED BY



Reed Pryor, Parks and Recreation Director
(480) 312-1011, rpryor@scottsdaleaz.gov

8/17/16
Date



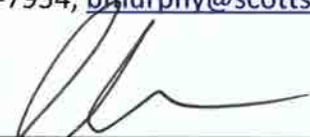
Kroy Ekblaw, Strategic Projects/Preserve Director
(480) 312-7064, kekblaw@scottsdaleaz.gov

8/17/2016
Date



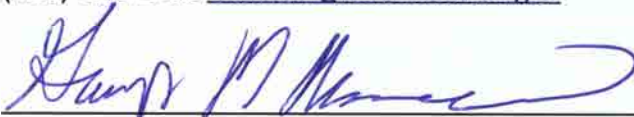
William B. Murphy, Community Services Director
(480) 312-7954, bmurphy@scottsdaleaz.gov

8/18/16
Date



Alan Rodbell, Chief of Police
(480) 312-1900 arodbell@scottsdaleaz.gov

8/18/16
Date



Gary Mascaro, Aviation Director
(480) 312-7735 gmascaro@scottsdaleaz.gov

8/18/16
Date

ATTACHMENTS

1. Ordinance No. 4276
2. List of Prohibited Parks/Preserve Locations for Model Aircraft Operation (to be on file with City Clerk's office)

ORDINANCE NO. 4276

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 20, PARKS, RECREATION AND CULTURAL AFFAIRS, AND CHAPTER 21, MCDOWELL SONORAN PRESERVE, OF THE SCOTTSDALE REVISED CODE, AND ADDING ARTICLE IX TO CHAPTER 20 OF THE SCOTTSDALE REVISED CODE TO AMEND AND ADD REGULATIONS REGARDING OPERATION OF MODEL AIRCRAFT IN CITY PARKS AND THE MCDOWELL SONORAN PRESERVE.

BE IT ORDAINED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. Scottsdale Revised Code, Chapter 20 (Parks, Recreation and Cultural Affairs), Article III (General Park Rules), Section 20-31 (General rules for use), Subsection (b)(16) is hereby amended as follows:

(16) ~~Gas powered model airplanes and incendiary model rockets~~ are prohibited. Model boats may be operated only in McKellips Lake and Indian School Park Lake and any other areas that may be designated by the city for such purpose. Model boats may be operated only between the hours of 9:00 a.m. and sunset.

Section 2. Scottsdale Revised Code, Chapter 20 (Parks, Recreation and Cultural Affairs) is hereby amended to add a new Article IX as follows:

ARTICLE IX. MODEL AIRCRAFT OPERATION IN CITY PARKS AND PRESERVE

Sec. 20-141. Definitions.

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

City parks mean all public parks within city limits including the Scottsdale Mall and Pinnacle Peak Park and Trail Head.

Director means the director of the Community Services division of the city, or designee.

Model aircraft has the same meaning prescribed in Section 336 of the FAA Modernization and Reform Act of 2012 (P.L. 112-95), as amended.

Preserve means the McDowell Sonoran Preserve.

Sec. 20-142. Prohibited Operation:

No person shall operate a model aircraft to take off or land in a city park or the preserve where the director has prohibited such operations. The director may prohibit such operations in certain city parks and the preserve provided there is at least one other park or preserve within the city that is available for model aircraft operation. The list of prohibited locations shall be on file with the city clerk.

Sec. 20-143. Exceptions:

The prohibitions set forth in section 20-142 shall not apply to: (i) city police personnel or other law enforcement officers, fire department personnel and other city employees in the course of their official duties; (ii) others authorized by the city to perform inspection, repair or maintenance work, or to provide emergency, search and rescue, medical or veterinary services; or (iii) vendors or others on city-related business when authorized by the director.

Sec. 20-144. Penalties:

(a) A first violation of this article is a petty offense and shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than three hundred dollars (\$300.00) per violation.

(b) A second or subsequent violation of this article within one (1) year is a class two misdemeanor and shall be punished, in addition to any other penalties authorized by law, by a fine of not less than three hundred dollars (\$300.00) per violation.

Section 3. Scottsdale Revised Code, Chapter 21 (McDowell Sonoran Preserve), Article III (General Rules), Section 21-12 (General rules for use), Subsection (b)(22) is hereby amended as follows:

(22) ~~Gas powered model aircraft and incendiary model rockets are prohibited in the preserve. The regulation of model aircraft in the preserve is governed by Chapter 20, Article IX of the Scottsdale Revised Code.~~

Section 4. This Ordinance shall be construed and enforced in accordance with federal and state law. If a conflict or ambiguity exists between this Ordinance and federal or state law related to the operation of model aircraft within a City park or preserve, the laws in the following order shall prevail and control: (i) federal, (ii) state, (iii) this Ordinance.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the code amendment adopted by this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 20th day of September, 2016.

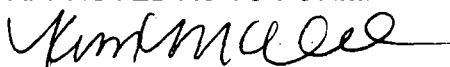
CITY OF SCOTTSDALE, an Arizona
municipal corporation

ATTEST:

Carolyn Jagger, City Clerk

W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:



Bruce Washburn, City Attorney

By: Kimberly McIntier, Assistant City Attorney



Community Services Division

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September 21, 2016

Re: Model Aircraft Operation – List of Prohibited Locations for City Parks and Preserve (Ordinance No. 4276)

To Whom It May Concern:

On September 20, 2016, the City Council passed and adopted Ordinance No. 4276, which was codified in part as Article IX of Chapter 20 of the Scottsdale Revised Code (S.R.C.). Through S.R.C. § 20-142, the Community Services Director or designee has the authority to prohibit the takeoff and landing of model aircraft (as defined in S.R.C. § 20-141) in a city park or preserve, provided there is at least one other park that is available for such operation. Specifically, it provides as follows:

No person shall operate a model aircraft to takeoff or land in a city park or the preserve where the director has prohibited such operations. The director may prohibit such operations in certain city parks and the preserve provided there is at least one other park or preserve within the city that is available for model aircraft operation. The list of prohibited locations shall be on file with the city clerk.

The takeoff and landing of model aircraft is prohibited in the following city parks and preserve locations (each as depicted in Exhibit A, attached hereto):

- McDowell Sonoran Preserve
- Mescal Park
- Pinnacle Peak Park
- Stonegate Park

This list of prohibited locations will be filed with the City Clerk. This list is effective as of the effective date of Ordinance No. 4276, and shall remain in effect until notification in writing by the Community Services Director.

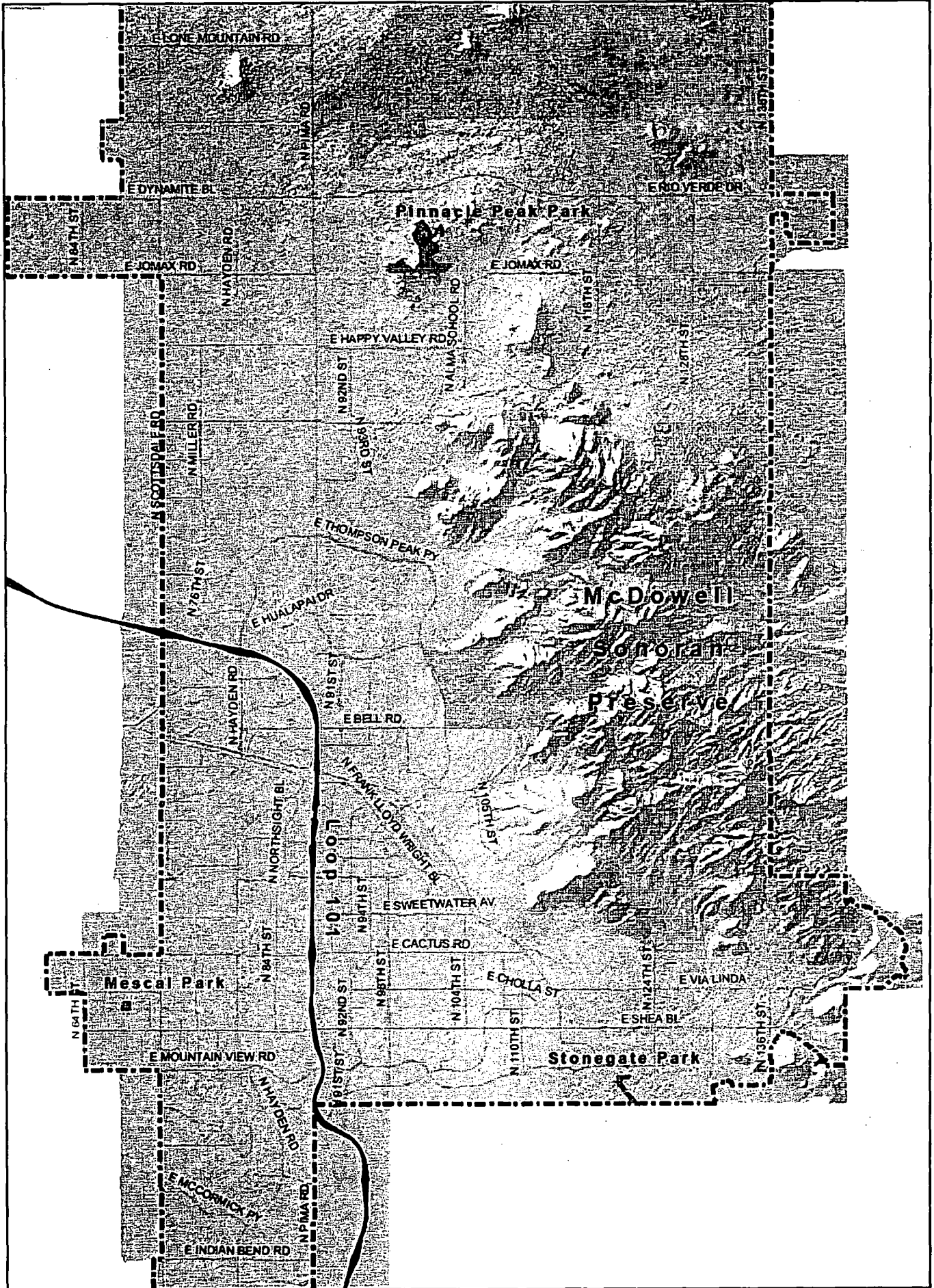
Respectfully Yours,

William B. Murphy
Community Services Director

cc: Carolyn Jagger, City Clerk

ATTACHMENT 2

EXHIBIT A



Unmanned Aircraft Systems

Sept. 2016

**Amendment to Chapter 20, Parks Recreation
and Cultural Affairs and Chapter 21 McDowell
Sonoran Preserve of the Scottsdale Revised
Code**

**Bill Murphy– Community Services Director
Jeff Walther – Assistant Chief - Uniformed
Services - Scottsdale Police Department**

Background

- ◎ State of Arizona 2016 legislation session approved Senate Bill 1449 which outlines how a city, town or county can enact or adopt ordinances or rules that regulate the model aircraft.
- ◎ It does allow for prohibiting take off/landings on public parks/preserves if other areas in the city available for this use.

Delete from both Parks and Preserve Ordinance

- ◎ Current language- Parks Ordinance Chapter 20 Article 111 Section 20-31 subsection (b)(16)
 - Gas powered model airplanes and incendiary model rockets are prohibited.
- ◎ Amended language-
 - Incendiary model rockets are prohibited
- ◎ Current language- Preserve Ordinance Chapter 21 Article 111 Section 21-12 subsection (b)(22)
 - Gas powered model airplanes and incendiary model rockets are prohibited in the preserve.
- ◎ Amended language-
 - Incendiary model rockets are prohibited. The regulation of model aircraft in the preserve is governed by Chapter 20, Article IX of the Scottsdale Revised Code.

Addition of Article in Chapter 20

◎ Model Aircraft Operation in City Parks and Preserve

- Provides definitions**
- Prohibited Operations**
 - No person shall operate a model aircraft to takeoff or land in a city park or the Preserve where the director has prohibited such operations. The director may prohibit such operation in certain parks and the preserve provided there is at least one other park or preserve within the city that is available for model aircraft operation. The list of prohibited locations shall be on file with the city clerk**

Prohibited Locations (Sept. 2016)

- ◎ McDowell Sonoran Preserve
- ◎ Pinnacle Peak Park and Trailhead
- ◎ Mescal Park
- ◎ Stonegate Park

Exceptions

- ◎ This prohibited operation does not apply to city police personnel or other law enforcement officers, fire department personal and other city employees in the course of their official duties.
- ◎ Others authorized by the city for inspection, repair, maintenance work or other city related business with authorized by the director.

Penalties

- ◎ **First violation is a petty offense (\$50-\$300)**
- ◎ **Second or subsequent within one year is a class two misdemeanor (not less than \$300)**

Schedule for Ordinance Amendment

- ◎ **McDowell Sonoran Preserve Commission
information item - July 14, 2016**
- ◎ **Scottsdale Parks and Recreation
Commission action item and approved
on September 7, 2016**
- ◎ **City Council – September 20, 2016**
- ◎ **If adopted would be in effect October 20**

Smith, Erica

From: abbottrm@comcast.net
Sent: Friday, September 09, 2016 4:43 AM
To: Agenda Item Comment
Subject: Agenda Item Comment for 09/20/16 - Item Item 14

Meeting Date: 09/20/16
Item Number: Item 14

Contact Information (if blank, user did not provide):

Name: Robert Abbott
Address: 25555 N. Windywalk Drive
C/S/Z: Scottsdale, AZ 85255
Phone:

Comment for 09/20/16 Item Item 14:

RE:Model Aircraft (Drone) Operation in City Parks and Preserve Ordinance.
Adopt Ordinance No. 4276,

Dear Council

I dont understand the reasoning for the proposed ban in all of the McDowell Sonoran Reserve in North Scottsdale....its a huge area especially in Tom's Thumb and Brown Ranch which have fewer users especially in remote areas...can be in either park and see no one in a matter minutes. This appears excessive. Responsible drone users and flying consistent with FAA registration guidelines should not constitute a hazard in areas where there are no other park users or visitors. Please consider exceptions for Tom's Thumb and and Browns's Ranch areas of the McDowell Sonoran Preserve in North Scottsdale.

Pinnacle Peak Park ban makes sense since lots of park users there 7 days a week.

Respectfully submitted.

Robert Abbott