



Peace and Justice Commission

ACTION CALENDAR  
December 18, 2012

To: Honorable Mayor and Members of the City Council  
From: Peace and Justice Commission  
Submitted by: George Lippman, Chairperson, Peace and Justice Commission  
Subject: Proclaim Berkeley a No Drone Zone and Enact an Ordinance to that Effect

RECOMMENDATION

Adopt a Resolution and Proclamation proclaiming:

1. Berkeley a No Drone Zone and instructing the City Attorney to perform the necessary legal tasks to transform this declaration of a No Drone Zone into an Ordinance for the City of Berkeley wherein drones are hereby banned from airspace
2. That drones will not be purchased, leased, borrowed, tested or otherwise used by any agency of the City of Berkeley over the City of Berkeley, including drones in transit.
3. That exemptions will be made for hobbyists to continue to fly remote controlled model aircraft in specified areas, away from dwellings and the urban cityscape of people and buildings as long as those devices are not equipped with any kind of camera or audio surveillance equipment.

Copies of this Resolution shall be sent to Governor Jerry Brown, California Attorney General Kamala Harris, State Senator Loni Hancock, Assemblymember Nancy Skinner, the Alameda County Sheriff, Senator Dianne Feinstein, Senator Barbara Boxer, Representative Barbara Lee, President Barack Obama, the Federal Bureau of Investigation, the Department of Homeland Security, and the Department of Defense.

FISCAL IMPACTS OF RECOMMENDATION

Unknown.

CURRENT SITUATION AND ITS EFFECTS

At its regular meeting on September 10, 2012, the Peace and Justice Commission adopted the following recommendation:

Adopt a Resolution and, by Proclamation, proclaim Berkeley a No Drone Zone, and instruct the City Attorney to perform the necessary legal tasks to transform this declaration of a No Drone Zone into an Ordinance for the City of Berkeley wherein drones are hereby banned from airspace over the City of Berkeley, including drones in transit. Under that Ordinance, flying of a drone within the airspace of the City of Berkeley shall be considered a misdemeanor carrying a maximum penalty of up to one year in jail and a fine not to exceed \$10,000. Each offense that is more than one offense of flying a drone within said airspace will be considered to be an additional misdemeanor, with jail time and fines based on the number of violations.

M/S/C: (Meola/Bohn)

Ayes: Bohn; El-Quolaq; Haney, Kenin, Lippman; Meola; Siegel; Sochet

Noes: Maran.

Abstain: None.

Absent: Nicely (unexcused)

#### RATIONALE FOR RECOMMENDATION

The Peace and Justice Commission, consistent with its mandate to promote peace and justice, locally, nationally and internationally, recommends that the Council support this Resolution and adopt this Proclaiming Berkeley a No Drone Zone banning drones from Berkeley airspace and instructing the City Attorney to present an Ordinance with such a ban for City Council adoption.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

The City Manager takes no position on the Commission's recommendations or the contents of its Report.

#### CONTACT PERSON

Robert Meola, Commissioner, Peace and Justice Commission, 510-644-1102  
Eric Brenman, Secretary, Peace and Justice Commission, 510-981-5114

Attachments:

1. Resolution (*with footnotes and links*)
2. Additional Information

RESOLUTION NO.       –N.S.

PROCLAIM BERKELEY A NO DRONE ZONE AND ENACT AN ORDINANCE TO  
THAT EFFECT

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070); and

WHEREAS, Berkeley has a history of standing up for peace, justice, civil liberties, and the welfare of people; and

WHEREAS, United States airspace is the busiest in the world, with up to 87,000 flights per day, including commercial airliners and freight haulers, air taxis and private and military aircraft; and

WHEREAS, "Statistics show unmanned aircraft have an accident rate seven times higher than general aviation and 353 times higher than commercial aviation;"<sup>1</sup> and

WHEREAS, Unmanned Aerial Vehicles, also known as Drones, are not now allowed in United States general airspace because of the threat they present to other aircraft and under the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012 the FAA is directed to create regulations that will enable drones to fly throughout United States airspace by September, 2015; and

WHEREAS, small drones, 25 pounds or under, are now permitted to fly in general airspace below 400 feet for the use of police and first responders, with FAA permission; and

WHEREAS, drones have limitations in "vision" compared to the vision of human pilots, do not have the same capability to avoid other aircraft as aircraft piloted by humans, and there has been at least one instance outside the United States of a drone collision with an aircraft with a human pilot on board and another incident, as well, of a near miss and these instances occurred in airspace much less crowded than that of the United States<sup>2</sup>; and

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<sup>1</sup> <http://www.startribune.com/local/163304886.html?refer=y>  
Spies in the sky signal new age of surveillance

<sup>2</sup> [Midair Collision Between a C-130 and a UAV | Defense Tech](http://www.salon.com/2012/05/18/denvers_drone_near_disaster/singleton/German_Army_Luna_UAV_vs._Ariana_Afghan_Airlines_Airbus_A300B4_-_YouTube)  
[http://www.salon.com/2012/05/18/denvers\\_drone\\_near\\_disaster/singleton/German Army Luna UAV vs. Ariana Afghan Airlines Airbus A300B4 – YouTube](http://www.salon.com/2012/05/18/denvers_drone_near_disaster/singleton/German_Army_Luna_UAV_vs._Ariana_Afghan_Airlines_Airbus_A300B4_-_YouTube)  
[Drones Most Accident-Prone U.S. Air Force Craft: BGOV Barometer – Bloomberg](http://www.bloomberg.com/news/2012-05-18-drones-most-accident-prone-u-s-air-force-craft-bgov-barometer.html)

WHEREAS, drones have at times gotten out of human control, in at least one instance having to be shot down<sup>3</sup>, and drones are susceptible to electronic interference and having control seized electronically by unauthorized operators; and

WHEREAS, drones have the capability of carrying a variety of weapons, including 12-gauge shot guns, tear gas, rubber bullet guns, bombs and missiles, but drones have significant limitations in identifying specific individuals and groups; and

WHEREAS, Unmanned Aerial vehicles (drones) have the capability to watch individuals, groups and populations on a 24-hour basis, following and recording their movements for days and weeks in an unprecedented way; and

WHEREAS, drones have the capability to continuously monitor cell-phone and text messaging of individuals, groups and populations; and

WHEREAS, drones are being developed that will use computerized facial images to target individuals and, once launched, to operate, autonomously, without further human involvement, to locate and kill those individuals; and

WHEREAS, drones would present an unreasonable and unacceptable threat to public safety in the air and to persons and property on the ground in the City of Berkeley, due to limitations in drone “vision”, capability to avoid other aircraft and adequate control; and

WHEREAS, armed drones and surveillance drones would present an unreasonable and unacceptable threat to the rights of individual privacy, freedom of association and assembly, equal protection and judicial due process in the City of Berkeley.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley, with this Resolution and by Proclamation proclaims Berkeley a No Drone Zone, and instructs the City Attorney to perform the necessary legal tasks to transform this declaration of a No Drone Zone into an Ordinance for the City of Berkeley wherein drones are hereby banned from airspace over the City of Berkeley, including drones in transit. Under that Ordinance, flying of a drone within the airspace of the City of Berkeley shall be considered a misdemeanor carrying a maximum penalty of up to one year in jail and a fine not to exceed \$10,000. Each offense that is more than one offense of flying a drone within said airspace will be considered to be an additional misdemeanor, with jail time and fines based on the number of violations.

BE IT FURTHER RESOLVED that drones will not be purchased, leased, borrowed, tested or otherwise used by any agency of the City of Berkeley.

BE IT FURTHER RESOLVED that exemptions will be made for hobbyists to continue to fly remote controlled model aircraft in specified areas, away from dwellings and the

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<sup>3</sup> [Out-of-control drone shot down by US jet plane before it flew into Tajikistan | World news | guardian.co.uk](http://www.guardian.co.uk)

urban cityscape of people and buildings as long as those devices are not equipped with any kind of camera or audio surveillance equipment.

BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Jerry Brown, California Attorney General Kamala Harris, State Senator Loni Hancock, Assemblymember Nancy Skinner, the Alameda County Sheriff, Senator Dianne Feinstein, Senator Barbara Boxer, Representative Barbara Lee, President Barack Obama, the Federal Bureau of Investigation, the Department of Homeland Security, and the Department of Defense.<sup>4</sup>

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<sup>4</sup> USAF reports on drone crashes that likely would not have happened had there been a pilot on board. This is just from skimming crash reports, and there likely are more.

[http://usaf.aib.law.af.mil/ExecSum2011/MQ-1B\\_AOR\\_ExecSum\\_%205%20May%202011.pdf](http://usaf.aib.law.af.mil/ExecSum2011/MQ-1B_AOR_ExecSum_%205%20May%202011.pdf)  
[http://usaf.aib.law.af.mil/ExecSum2010/MQ9A\\_31%20Aug%202010.pdf](http://usaf.aib.law.af.mil/ExecSum2010/MQ9A_31%20Aug%202010.pdf)

ADDITIONAL DRONE ARTICLES RELEVANT TO A BERKELEY NO DRONE ZONE

<http://www.wired.com/threatlevel/2012/08/faa-documents-raise-questions-about-safety-of-drones-in-u-s-airspace/all/>

<https://www.eff.org/deeplinks/2012/06/help-eff-find-out-how-your-local-police-agency-using-drones>

[http://www.slate.com/blogs/future\\_tense/2012/07/03/auvsi\\_issues\\_domestic\\_drone\\_code\\_of\\_conduct.html](http://www.slate.com/blogs/future_tense/2012/07/03/auvsi_issues_domestic_drone_code_of_conduct.html)

[http://www.washingtonpost.com/world/national-security/drone-operations-over-somalia-pose-danger-to-air-traffic-un-report-says/2012/07/24/gJQALvnf7W\\_story.html](http://www.washingtonpost.com/world/national-security/drone-operations-over-somalia-pose-danger-to-air-traffic-un-report-says/2012/07/24/gJQALvnf7W_story.html)

<http://usahitman.com/nycndz/> NY Claiming 'No Drone Zone', Hopefully More States Will Follow

[http://www.salon.com/2012/06/12/hatred\\_what\\_drones\\_sow/](http://www.salon.com/2012/06/12/hatred_what_drones_sow/)

[http://www.salon.com/2012/06/19/drones\\_spur\\_debt\\_and\\_polio/singleton/](http://www.salon.com/2012/06/19/drones_spur_debt_and_polio/singleton/)

[http://www.salon.com/2012/06/14/rand\\_paul\\_stop\\_the\\_drones/singleton/](http://www.salon.com/2012/06/14/rand_paul_stop_the_drones/singleton/)The Kentucky senator wants to curb unmanned flights, but the Air Force tells Salon about its plans to expand them

[http://www.salon.com/2012/06/07/un\\_rights\\_chief\\_calls\\_for\\_drone\\_probe/singleton/](http://www.salon.com/2012/06/07/un_rights_chief_calls_for_drone_probe/singleton/)

[http://www.salon.com/2012/06/05/electing\\_an\\_assassin\\_in\\_chief/singleton/](http://www.salon.com/2012/06/05/electing_an_assassin_in_chief/singleton/)

[http://www.salon.com/2012/06/01/another\\_right\\_wing\\_drone\\_skeptic/singleton/](http://www.salon.com/2012/06/01/another_right_wing_drone_skeptic/singleton/)

[http://www.salon.com/2012/05/31/losing\\_yemeni\\_hearts\\_and\\_mind/singleton/](http://www.salon.com/2012/05/31/losing_yemeni_hearts_and_mind/singleton/)

[http://www.salon.com/2012/05/30/states\\_fight\\_for\\_drone\\_biz/singleton/](http://www.salon.com/2012/05/30/states_fight_for_drone_biz/singleton/)

[http://www.salon.com/2012/05/29/the\\_face\\_of\\_collateral\\_damage/singleton/](http://www.salon.com/2012/05/29/the_face_of_collateral_damage/singleton/)

[http://www.salon.com/2012/05/21/who\\_will\\_drones\\_target\\_who\\_in\\_the\\_us\\_will\\_decide/singleton/](http://www.salon.com/2012/05/21/who_will_drones_target_who_in_the_us_will_decide/singleton/)

[http://www.salon.com/2012/05/22/drones\\_new\\_weapon\\_p\\_r/singleton/](http://www.salon.com/2012/05/22/drones_new_weapon_p_r/singleton/)

[http://www.salon.com/2012/05/17/conservatives\\_turn\\_on\\_drones/singleton/](http://www.salon.com/2012/05/17/conservatives_turn_on_drones/singleton/)Right-wing writers, from Charles Krauthammer to Matt Drudge, join the left in criticizing domestic drone use

[http://www.salon.com/2012/05/15/faa\\_approves\\_bigger\\_drones/singleton/](http://www.salon.com/2012/05/15/faa_approves_bigger_drones/singleton/)The FAA has decided to allow larger drones to fly in U.S. airspace

[http://www.salon.com/2012/05/10/drone\\_war\\_defensive/singleton/](http://www.salon.com/2012/05/10/drone_war_defensive/singleton/)

[http://www.salon.com/2012/05/08/fear\\_the\\_zombie\\_drone/singleton/](http://www.salon.com/2012/05/08/fear_the_zombie_drone/singleton/)How do you safely launch thousands of new aircraft into already crowded skies? The safety concerns of domestic UAVs

[http://www.salon.com/2012/05/01/drones\\_on\\_campus/singleton/](http://www.salon.com/2012/05/01/drones_on_campus/singleton/)Universities are buying drones faster than police departments -- and the military is helping foot the bill

[http://www.salon.com/2012/04/30/drone\\_victims\\_defender\\_speaks/singleton/](http://www.salon.com/2012/04/30/drone_victims_defender_speaks/singleton/)  
[http://www.salon.com/2012/04/24/drones\\_for\\_urban\\_warfare/singleton/](http://www.salon.com/2012/04/24/drones_for_urban_warfare/singleton/)Manufacturers are targeting U.S. police forces for sales, as drones move from the Middle East to Main Street

[http://www.salon.com/2012/04/19/petraeus\\_and\\_the\\_signature\\_of\\_u\\_s\\_terror/singleton/](http://www.salon.com/2012/04/19/petraeus_and_the_signature_of_u_s_terror/singleton/)

[http://www.salon.com/2012/04/05/air\\_force\\_ramps\\_up\\_drone\\_war/singleton/](http://www.salon.com/2012/04/05/air_force_ramps_up_drone_war/singleton/)

[http://www.salon.com/2011/12/05/in\\_iowa\\_occupiers\\_picket\\_a\\_drone\\_factory/singleton/](http://www.salon.com/2011/12/05/in_iowa_occupiers_picket_a_drone_factory/singleton/)

[http://articles.nydailynews.com/2012-06-17/news/32285738\\_1\\_drones-unmanned-aerial-vehicles-faa](http://articles.nydailynews.com/2012-06-17/news/32285738_1_drones-unmanned-aerial-vehicles-faa)

[http://www.washingtonpost.com/world/national-security/drone-operations-over-somalia-pose-danger-to-air-traffic-un-report-says/2012/07/24/gJQALvnf7W\\_story.html](http://www.washingtonpost.com/world/national-security/drone-operations-over-somalia-pose-danger-to-air-traffic-un-report-says/2012/07/24/gJQALvnf7W_story.html)

[http://articles.nydailynews.com/2012-06-17/news/32285738\\_1\\_drones-unmanned-aerial-vehicles-faa](http://articles.nydailynews.com/2012-06-17/news/32285738_1_drones-unmanned-aerial-vehicles-faa)

<http://www.gao.gov/assets/650/648348.pdf> UNMANNED AIRCRAFT SYSTEMS



The domestic use of drones has been steadily expanding. >

### **Look up in the sky and see a drone**

MALOU INNOCENT AND MEDEA BENJAMIN

Sunday, June 17, 2012

Ready or not, drones are coming to a law enforcement agency near you.

Unmanned Aerial Vehicles, or drones, have been primarily used for surveillance and targeted killings in wars in faraway lands. Now, with apparently minimal debate, local police departments have begun using them for surveillance directed at American citizens.

To us, this is a grim illustration of the post-9/11 militarization of America. While drones can serve valid purposes, like monitoring forest fires, surveying land and search-and-rescue missions, they pose a threat to our freedoms.

Their domestic use should be strictly controlled, and current legal standards updated to reflect this powerful new technology.

Instead, it has been authorized largely outside the public eye.

The Federal Aviation Administration began issuing permits for the domestic experimental use of drones in 2006. A lawsuit by the Electronic Frontier Foundation forced the FAA to start releasing the names of government agencies, companies and universities that have been granted permits. The FAA has issued about 750 permits, some 300 of which are still active.

The FBI, the Department of Homeland Security and Customs and Border Protection applied for these permits, as did local police departments from small towns like Gadsden, Ala., to big cities like Houston. Many police departments received Homeland Security grants to buy drones and train their police forces to use them. Facing slowing business as the wars in Iraq and Afghanistan wind down, drone manufacturers solicited the help of the 58-member Congressional Unmanned Systems Caucus to speed up the pace of the FAA permit process.

In February, Congress passed sweeping legislation that forces the FAA to fully integrate drones into our national airspace by 2015, and sooner for government agencies. By May, the FAA waived the application process for police use of drones weighing up to 25 pounds, and is now streamlining the approval process for larger drones.

As the Electronic Privacy Information Center explains, enhanced drone technology is capable of “peering inside high-level windows, and through solid barriers, such as fences, trees, and even walls.”

Worse, drones could move from surveillance to offensive action. The Montgomery County sheriff's office in Texas used a \$300,000 Homeland Security grant to buy a helicopter drone. The CEO of Vanguard Defense, the company that sold the drone, said

it is designed to be weaponized and could easily be outfitted with tasers and stun batons.

This is a slippery slope. If confronted with a stand-off similar to the one at the Branch Davidian compound in Waco in 1993, will authorities resort to drones?

When FBI Director Robert Mueller was asked at a congressional hearing in March if Americans could be targeted for assassination by drones here at home, he simply said that he did not know. That's not very reassuring.

All Americans should be asking their elected officials about the limits of the use of drones — before it's too late.

One option is to eliminate federal grants that subsidize drones for police departments. Another is to mandate that police obtain a warrant in circumstances where drones can surveil a private residence or anywhere else citizens have a reasonable expectation of privacy.

Militarization at home, as the Founding Fathers argued centuries ago, is inconsistent with the values of a free society.

Since 9/11, some in Washington seem to have forgotten that a free society depends on a citizenry whose natural rights are protected by a limited and accountable government — not by a government that uses high-tech, stealth video cameras to constantly surveil the public wherever and whenever it wants.

Innocent is a foreign policy analyst at the Cato Institute. Benjamin is the author of "Drone Warfare: Killing by Remote Control."

<http://www.knowdrones.com/>

**Video Clip:** <http://www.latimes.com/vidoe/gallery/71178113/News/Congress-Domestic-drones-pose-potential-threats>

**Congress: Domestic drones pose potential threats**

The House Homeland Security Subcommittee held a hearing Thursday about the domestic use of drones. Rep. Michael McCaul expressed concern that drones not only could be hijacked and flown against a target, but also pose other safety issues. (July 19)

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[As far as the need to use drones for certain purposes, I would quote Mayor Bates' comment quoted in "Berkeleyside" on July 5th regarding the need for the Berkeley Police to have an armored vehicle: "'It's highly unlikely it will be needed very often if at all,' Bates said. ]

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