



421 Aviation Way
Frederick, Maryland 21701

T. 301-695-2000
F. 301-695-2375

www.aopa.org

July 22, 2013

Mr. Marc A. Ott
Austin City Manager
301 W 2nd St, 3rd Floor
Austin, TX 78701

Re: The Austin City Council considering ordinance to restrict aerial advertising.

Dear Mr. Ott,

The Aircraft Owners and Pilots Association (AOPA) represents nearly 400,000 pilots and aircraft owners nationwide and 28,525 who live in the State of Texas. AOPA recently learned that the City of Austin is considering an ordinance that would prohibit aerial advertising over the city and determining legal barriers to implementing such an ordinance. AOPA offers the following input on those legal barriers and the authority granted to the Federal Aviation Administration (FAA) in managing the nation's airspace.

As was acknowledged by the Austin City Council, the United States Court of Appeals for the Ninth Circuit determined that banning aerial advertising does not violate the articles of free speech of the Constitution. However, while these bans do not violate the constitution, they are in direct contradiction to United States Code 49 § 40103 - Sovereignty and use of airspace. Regulation of the National Airspace System is the responsibility of the FAA and as such, the FAA holds the regulatory authority to control the use of navigable airspace and regulate civil and military operations in that airspace in the interest of the safety and efficiency of the public.

Allowing the FAA to uphold this mandate is crucial to the effective and free use of airspace across the country and should not be preempted by state or local legislation. AOPA would ask that the council reconsider drafting any ordinance that would restrict aerial advertising over the city, and recognize the FAA's authority and obligation to regulate navigable airspace as Congress intended. We appreciate the opportunity to provide input and would encourage the City to look to the FAA as the primary resource in all airspace management and authority.

Sincerely,

Melissa McCaffrey
Senior Government Analyst
Air Traffic Services