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A model for Cities

Ordinance for the Promotion of Drone Innovation & Accountability

The National League of Cities' model ordinance is designed to be flexible enough to foster innovation – and comprehensive enough to keep citizens safe. It empowers local leaders to implement solutions tailored to the needs of their community; ensures the safety of residents; avoids an undue burden on drone operators and the cities where they fly; and harnesses the transformative power of drones to improve our lives.

Taken together, the components of this model ordinance create an efficient and effective system of accountability for drones operating in cities.

Ordinance for the Promotion of Drone Innovation & Accountability

AN ORDINANCE TO ENCOURAGE INNOVATIVE AND SAFE USES OF UNMANNED AIRCRAFT WHILE ADDRESSING CONCERNS ABOUT ACCOUNTABILITY.

Section 1 – Purpose.

The City encourages the safe and responsible use of Unmanned Aircraft. This ordinance is designed to empower innovation while protecting and promoting the health, safety, and welfare of its citizens.

Section 2 – Definitions.

An "Unmanned Aircraft" shall mean an aircraft operated without the possibility of direct human intervention from within or on the aircraft. This definition includes devices commonly referred to as drones, remote controlled aircraft, and model aircraft.

Section 3 – Development of Rules.

In addition to the specific requirements set forth below, the City directs and delegates to its City Manager the authority to develop rules for the operation of Unmanned Aircraft within the City limits, consistent with this ordinance. The City Manager must publish such rules on the City's website, or through other equivalent internet accessible systems, and must periodically report to the Council at least once per year on the implementation of such rules, including information regarding enforcement actions and the costs associated with implementing and enforcing such rules. The rules developed by the City Manager must be consistent with the following:

A. The City Manager may adopt reasonable restrictions on the time, place, and manner in which a person may land, launch, or otherwise operate an Unmanned Aircraft so as not to interfere with the health, safety, and welfare of City residents. Such

restrictions may not place an undue burden on recreational or commercial operation of Unmanned Aircraft. To ensure that restrictions are easily accessible by Unmanned Aircraft operators, such restrictions should be published on the City's website or through other equivalent internet accessible systems.

B. The City Manager may require certain conditions be fulfilled prior to the take-off, landing, or operation of an Unmanned Aircraft from certain designated lands within the boundaries of the City.

Section 4 – Notice of Intended Operation.

A. To ensure operations are accountable, no Unmanned Aircraft weighing more than 250 grams shall take-off from, land upon, or be operated from any land within the boundaries of the City without the operator first notifying the City electronically of the intended operation through an internet accessible system to be provided by the City Manager. The electronically filed notice may contain any or all of the following information as required by the City Manager:

1. The name, address, and telephone number of the person or corporation filing the notice and the telephone number at which the operator can be contacted during the operation;

2. The take-off and landing location of the operation;

3. The expected start and end time of the operation (if the operator intends to take-off and land multiple times in the same location, one notice for multiple operations may suffice, so long as the duration of the combined operations does not exceed 4 hours, after which a new notice must be filed);

4. The purpose of the operation;

5. A statement affirming that the operator has consulted relevant City rules and intends to abide by them;

6. Such other information as the City Manager shall deem reasonably necessary to inform the City whether the take-off, landing, or operation will endanger the health, safety, or welfare of persons located within the City, and if such use is inconsistent with this ordinance.

B. Once notice has been electronically filed consistent with this Section 4, the operation may commence without any need for action or approval by the City, so long as such operation is consistent with City rules as outlined in Section 3.

C. Notice pursuant to Section 4 above shall not apply to an operation where the take-off, landing, and operation takes place from an operator's own private property. Such operation may still be subject to nuisance, privacy, and trespass law violations. See [cross-reference to applicable sections of the municipal code].

D. The City Manager may designate areas where notice pursuant to this Section 4 above is not required. Examples of such areas may include locations where operations may be encouraged, such as certain parks and/or model aircraft fields.

E. The City Manager will provide a paper-based procedure as an alternative to the electronic system specified in this Section 4, such system will collect information identical to that specified in this Section 4 (A)(1-6).

Section 5 – No Reckless Operation.

No person may operate an Unmanned Aircraft in a reckless manner so as to create (a) a substantial risk of serious physical injury to another or (b) a substantial risk of damage to the property of another.

Section 6 – Penalties.

A person who operates an Unmanned Aircraft without first filing notice, may be punished by a fine, not to exceed $100.

A person found guilty of a reckless operation or operation out of compliance with this ordinance (except for operation without first filing notice), including but not limited to operating an Unmanned Aircraft in violation of any rules developed by the City Manager, may be punished by a fine not to exceed $500.

OPTIONAL PROVISIONS

Exemption regarding public use.

The below language may be included if a City (a) is contemplating its own use of drones, (b) has developed a policy governing City use, and (c) would like to address City use in a separate ordinance that delineates particular restrictions tailored to City use cases.

Section [#]—Exceptions.

This Ordinance does not apply to an Unmanned Aircraft that is operated by the City, or by any other public agency for government related purposes in compliance with all federal laws and regulations and operated in compliance with City policies.

FINDINGS AND WHEREAS CLAUSES

Any of the following findings and whereas clauses can be used to support the introduction of the model ordinance, to the extent required by the particular concerns of a given city.

WHEREAS, unprecedented advances in Unmanned Aircraft technology have empowered realtors, inspectors, biologists and preservationists, farmers and agricultural researchers, photographers and others to document the world around them in ways that oftentimes replace more hazardous operations; and

WHEREAS, the City supports innovation, STEM education and new technology, and wants to be a home to innovative companies; and

WHEREAS, after studying various alternatives for the regulation of safety, privacy, nuisance, trespass, and related police power and zoning issues raised by Unmanned Aircraft, and taking account the approaches adopted by cities across the nation, which include criminalizing or prohibiting the use of Unmanned Aircraft; and

WHEREAS, the City recognizes that legitimate concerns raised by drones regarding safety, privacy, nuisance, and trespass, can be addressed largely through existing laws; and

WHEREAS, the difficulty of identifying drones operators raises concerns regarding enforcement of existing laws and tying Unmanned Aircraft operators to their devices; and

WHEREAS, the City has exclusive authority over land use and zoning decisions within the City, and multiple court precedents protect the ability of cities to regulate such activities that take place upon City land, including the take-off and landing of aircraft; and

WHEREAS, Unmanned Aircraft are part of an Unmanned Aircraft System that is operated from land; and

WHEREAS, the FAA has declared that State and local governments have historically been able to regulate the take-offs and landings of aircraft within their boundaries;[1] and

WHEREAS, the FAA's MicroUAS (flight over people) task force has recommended that Unmanned Aircraft operators coordinate with State and local officials;[2] and

WHEREAS, the FAA has declared that, depending on the specific nature of the small Unmanned Aircraft operation, the remote pilot in command may need to comply with State and local trespassing rules;[3] and

WHEREAS, the FAA has declared that "laws traditionally related to State and local police power—including land use, zoning, privacy, trespass, and law enforcement operations—generally are not subject to Federal regulation";[4] and

WHEREAS, the FAA has declared that the operation Unmanned Aircraft near or over the perimeter or interior of certain locations may violate State or local trespassing laws;[5] and

WHEREAS, the FAA has declared that they lack the resources and willingness to investigate drone related accidents involving less than $500 worth of damage or injuries that do not require hospitalization; and

WHEREAS, the National Telecommunications and Information Administration (NTIA) best practices for UAV transparency and accountability recommend drone operators should Unmanned Aircraft operations over or within private property without consent of the property owner or without appropriate legal authority;[6] and

WHEREAS, public safety professionals have expressed significant concerns regarding the risks posed by Unmanned Aircraft to, and the difficult of identifying drone operators who interfere with, public safety operations; and

WHEREAS, advances in technology now allow a means to balance innovation and address all of the above stated land use, safety, nuisance, privacy, and trespass concerns.

Endnotes

1 Final Rule for Operation and Certification of Small Unmanned Aircraft Systems ("Part 107"), 14 C.F.R. Part 107, available online at http://www.faa.gov/uas/media/RIN_2120-AJ60_Clean_Signed.pdf
2 Final Report, Micro Unmanned Aircraft Systems (UAS) Aviation Rulemaking Committee, available online at http://www.faa.gov/uas/resources/uas_regulations_policy/media/Micro-UAS-ARC-FINAL-Report.pdf (The ARC recommends that the industry consensus standard include the requirement of a preparation of risk mitigation plan that must address, at a minimum: (a) operator qualifications; (b) the method of approval and compliance with the risk mitigation plan, including the possibility of engagement with appropriate local entities.)
3 Part 107, available online at http://www.faa.gov/uas/media/RIN_2120-AJ60_Clean_Signed.pdf
4 Part 107, available online at http://www.faa.gov/uas/media/RIN_2120-AJ60_Clean_Signed.pdf
5 Part 107, available online at http://www.faa.gov/uas/media/RIN_2120-AJ60_Clean_Signed.pdf
6 "Voluntary Best Practices for UAS Privacy, Transparency, and Accountability," National Telecommunications and Information Administration ("NTIA"), https://www.ntia.doc.gov/files/ntia/publications/voluntary_best_practices_for_uas_privacy_transparency_and_accountability_0.pdf

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