

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADDING
CHAPTER 36 TO TITLE 4 OF THE OAKLEY MUNICIPAL CODE REGARDING
THE USE OF UNMANNED AIRCRAFT SYSTEMS (UAS) ALSO KNOWN AS
DRONES**

The City Council of the City of Oakley does ordain as follows:

Section 1. Chapter 36 of Title is hereby added to the Oakley Municipal Code to read as follows:

“4.36.102 Purpose.

The purpose of this chapter is to provide local safety requirements on the operation of unmanned aircraft systems (UAS) consistent with Federal Aviation Administration rules and State law to mitigate risks to the public associated with the operation of UAS.

4.36.104 Definitions.

For purposes of this chapter, the following definitions shall apply:

“Unmanned Aircraft” is an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft. This definition includes, but is not limited to, “drones”, “remote controlled aircraft”, and “model aircraft”.

“Unmanned aircraft system” (also referred to as “UAS”) is an Unmanned Aircraft and associated elements, including, but not limited to, any communication links and components that control the Unmanned Aircraft that carries an apparatus or any other recording device that captures still (photographs) or moving images (videos).

“Person” shall mean any individual, partnership, corporation, or joint-venture.

4.36.106 Operating Requirements and Restrictions.

No person shall operate any UAS in a manner that is prohibited by any federal, state or local regulations. The following shall apply to the operation of any UAS within the City of Oakley:

- a. No person shall operate any UAS in the City beyond the visual line of sight of the person operating the UAS. The person operating the UAS must use his or her own natural vision to observe the UAS. Visual line of sight means that the person operating the UAS has an unobstructed view of the

UAS. The use of vision-enhancing devices, such as binoculars, night vision goggles, powered vision magnifying devices, goggles or other devices designed to provide a "first-person view" from the UAS, do not constitute the visual line of sight of the person operating the UAS.

- b. No person shall operate any UAS other than daylight hours, defined as between official sunrise and official sunset for local time.
- c. No person shall operate any UAS more than four hundred (400) feet above the earth's surface and no faster than 20 mph unless written proof of authorization to do so by the Federal Aviation Administration is provided to the City and verified.
- d. Excluding takeoff and landing, no person shall operate any UAS closer than twenty-five (25) feet to any individual, except the operator or operator's helper(s).
- e. No person shall operate a UAS while under the influence of alcohol or any other drugs, intoxicating compound or any combination thereof.
- f. No person shall operate any UAS in a careless or reckless manner as to endanger, threaten injury or damage the safety and welfare of the life, property, livestock or animals of another or wildlife. The standard for what constitutes careless and reckless operation under this section shall be the same standard set forth in any federal statutes or regulations governing aeronautics including but not limited to Public Utilities Code Section 21407 and Federal Aviation Rule 91.13.
- g. No Person shall operate any UAS in a manner that violates an individual's reasonable expectation of privacy, as set forth by all applicable state laws, including but not limited to, recording or transmitting any visual image, sound recording, or other physical impression of any person or private real property located in the City under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy, including, but not limited to, inside a private residence, office or hotel room, inside an enclosed yard and exterior decks.
- h. No person shall operate a UAS in a manner that directly interferes with the lawful efforts of any emergency personnel, paid or volunteer, to respond to or provide emergency services.
- i. No Person shall operate any UAS which contains, or has affixed or attached to it, hazardous materials, a weapon, gun, firearm, handgun, rifle, bb device, assault weapon, bomb, grenade, rocket, rocket-propelled projectile, any device or container assembled for the purpose of causing

an explosion, or any other weapon or item that may be considered a weapon.

- j. No person shall operate any UAS in a way that interferes with manned aircraft and shall always yield to any manned aircraft.
- k. No Person shall operate any UAS within the City in violation of any temporary flight restriction or "Notice to Airmen" issued by the Federal Aviation Administration.

4.36.108 Law Enforcement, Public Safety Agency and City Use of UAS.

- a. This chapter shall not prohibit the use of any UAS by law enforcement or public safety agencies, provided that the law enforcement or public safety agency has a current Certificate of Authorization (COA) from the FAA to operate within the airspace of the City.
- b. This chapter shall not prohibit the use of any UAS lawfully owned or operated by City personnel or by City-contracted agents in the course of City business, including, but not limited to, surveying and mapping property, inspecting infrastructure, monitoring traffic and recording local public events.

4.36.110 Areas Where UAS Operation Requires Written Consent

- a. No Person shall operate a UAS within the airspace above any open air assembly area, school, school yard, place of worship, police station, sheriff's station, fire station, public building, public facility, water facility, sewage facility or electric generating facility, without the property owner's written consent, and subject to any restrictions that the property owner may place on such operation.
- b. No person shall operate a UAS within twenty-five feet of any cell tower, overhead wire, cable, conveyor or similar equipment for the transmission of sounds or signal, or of heat, light or power, or data, upon or along any public way within the City, without the facility or equipment owner's written consent, and subject to any restrictions that the facility or equipment owner may place on such operation.
- c. This chapter shall not prohibit the use of any UAS which is flown in compliance with Section 336 of the Federal Aviation Administration Modernization and Reform Act of 2012 and which does not transmit or record visual images or audio recordings of any person or real property located in the City without the person or property owners' written consent.

4.36.112 Violation.

Violation of any provision of this chapter is a misdemeanor and shall be punishable as set forth in Section 1.5.002 of this code. Equipment flown in violation of this chapter may be confiscated.”

Section 2. Severability.

In the event that any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 3. California Environmental Quality Act (“CEQA”) finding.

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that this ordinance will not have a significant effect on the environment; therefore it is not subject to CEQA.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force and effect thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the office of the City Clerk at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2017 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date