

ORDINANCE NO. 21-17

AN ORDINANCE REGULATING THE OPERATION OF UNMANNED AIRCRAFT SYSTEMS IN THE CITY OF WEST LAFAYETTE, TIPPECANOE COUNTY, INDIANA

WHEREAS, new innovation in unmanned aircraft system technology, also known as drones, have become increasingly more popular and affordable; and

WHEREAS, the City of West Lafayette (the “City”) recognizes the multiple positive purposes to which unmanned aircraft systems (“UAS”) can be put, including leisure, commercial, and governmental uses; and

WHEREAS, the City also notes UAS may, in some situations, be detrimental to the personal safety, privacy rights, and welfare of the City’s inhabitants; and

WHEREAS, the Federal Government, through the Federal Aviation Administration (“FAA”), regulates airspace; and

WHEREAS, the FAA has promulgated rules governing the use of UAS; and

WHEREAS, in accordance with FAA rules, the City wishes to promote the ability of hobbyists and commercial users to operate unmanned aircraft within the City, while recognizing the need to protect the safety and privacy of the citizens and visitors to the City; and

WHEREAS, currently no federal or state law expressly prohibits or preempts municipalities from establishing laws concerning UAS usage that address nuisance and trespass issues within the municipalities’ specific borders; and

WHEREAS, the City Council determines that it is in the best position to regulate and enforce UAS operations within its jurisdiction, subject to the jurisdiction of the FAA; and

WHEREAS, the City Council wishes to enact regulations for the flight of UAS within the corporate limits of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, TIPPECANOE COUNTY, INDIANA that:

This ordinance is added to the West Lafayette City Code as a new section, effective upon due passage:

Unmanned Aircraft Systems.

Purpose and Intent.

The purpose of this Article is to establish regulations pertaining to the operation of UAS within the jurisdictional borders of the City. It is the purpose of this Article to be interpreted in conformance with any existing or future federal or state laws or regulations addressing the operation of UAS.

Definitions.

- (a) *Unmanned Aircraft System (“UAS”).* A UAS is an unmanned aircraft and the equipment necessary for the safe and efficient operation of that aircraft. An unmanned aircraft is a component of a UAS. An unmanned aircraft is defined as an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.
- (b) *Recreational or Hobby Use.* The flying of a UAS for enjoyment and not work, business purposes, or for compensation or hire. Use for hobby is a pursuit outside one’s regular occupation engaged in especially for relaxation. Recreational use is for refreshment of strength and spirit after work, or a means of refreshment or for diversion.
- (c) *Non-recreational Use.* The flying of a UAS for work, business, commercial, or governmental purposes.
- (d) *Operator.* An individual who is responsible for the operation and safety of the UAS when it is in flight and/or manipulates the flight controls of the UAS.
- (e) *Public Property.* Property owned by a government, or one of its agencies, divisions, or entities. This includes playgrounds, streets, railroads, sidewalks, schools, libraries, fire stations, etc.
- (f) *Private Property.* Land and/or buildings owned by a person, persons, or entity.

Exemption from Regulation.

The following operations of UAS are exempt from the regulations contained within this Article:

- (a) Any local, state, or federal government agency lawfully operating UAS for a government purpose or function.
- (b) Any commercial operator lawfully operating a UAS and authorized by the FAA to operate UAS, as evidenced by a valid certificate of authorization or exemption issued by the FAA.

Registration.

- (a) **Registration.** An operator of a UAS weighing over 0.55 pounds shall register the UAS as provided in this section prior to operating the UAS within City Airspace. The City may accept a federal registration in lieu of City registration of a specific UAS only if the federal registration program enables the City to confirm a registration number for such UAS and to obtain substantially the same application information as required by the City in subsection (b) below. The City Council may establish other registration requirements by resolution.
- (b) **Application Form.** Application for registration of a UAS shall be made on a form provided by the City Clerk, which form shall include but not be limited to the following: (a) name, address, and telephone number of owner of the UAS; (b) type, model of the UAS; and (c) weight of the UAS.
- (c) **Registration Fee.** The registration fee shall be Twenty-Five Dollars (\$25.00) for each UAS, which fee must be paid to the City at the time of submission of the registration form. The City Council may increase or decrease the registration fee by resolution as codified in the City's comprehensive fee schedule.
- (d) **Registration Identification.** Upon receipt of a completed application and required registration fee, the City will issue a registration number for each UAS properly registered by the City. The designated City or federal registration number shall be prominently displayed on the UAS before and as a condition of its operation within the City or City Airspace.

UAS Regulations for Recreational or Hobby Use.

Recreational or Hobby Use of a UAS within the City is subject to the following:

- (a) UAS operated for Recreational or Hobby use must weigh no more than fifty-five (55) pounds at the time of operation, inclusive of equipment, payload, and fuel.
- (b) The unmanned aircraft must remain within the visual line-of-sight of the remote pilot in command and the person manipulating the flight controls of the UAS.
- (c) Without express prior written authorization from the Police Chief or designee, no person may operate a UAS on or over any public property.
- (d) No person shall enter, hover, launch or land a UAS on or over another person's property without the prior consent of the property owner. Such unauthorized entry onto another's property shall be deemed a trespass.
- (e) Flights must remain below fifty (50) feet.

- (f) Operation of a UAS in a reckless or careless manner so as to endanger or cause reasonable risk of harm or actual harm to persons, property, or any domestic animal or livestock is prohibited.
- (g) The dropping or dispensing of anything from the drone, including but not limited to liquids, pamphlets, or projectiles is prohibited.

UAS Regulations for Non-Recreation Use.

Non-recreational use of UAS weighing less than fifty-five (55) pounds within the City is subject to the following:

- (a) The operator must receive FAA authority to fly the UAS.
- (b) Proof of FAA Certificate of Authorization shall be recorded with the City prior to flight.
- (c) The dropping or dispensing of anything from the drone, including but not limited to liquids, pamphlets, or projectiles is prohibited.
- (d) Operators must be bonded if operating their UAS outside of property they own.

Parental Liability.

Pursuant to Ind. Code 34-31-4, the parent of a minor defendant who has custody of the minor defendant and with whom the minor defendant is living shall be liable for not more than five thousand dollars (\$5,000) in actual damages arising from harm to a person or damage to property knowingly, intentionally, or recklessly caused by the parent's child in violation of Ind. Code 34-31-4.

Penalty.

Violation of this Chapter shall be punishable by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). The minimum fine for any second or subsequent violation shall be Two Hundred Dollars (\$200.00).