

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 ENTITLED "ENVIRONMENT," BY ADDING ARTICLE VI ENTITLED "UNMANNED AIRCRAFT" TO PROVIDE PRIVACY AND SAFETY PROTECTIONS UNTIL SUCH TIME AS STATE OR FEDERAL REGULATIONS PREEMPT THIS ORDINANCE; ADDING SECTION 26-300, PURPOSE AND INTENT; ADDING SECTION 26-301, DEFINITIONS; ADDING SECTION 26-302, ~~REGISTRATION~~; ~~ADDING SECTION 26-303~~, PROHIBITIONS; ADDING SECTION ~~26-304~~ 26-303, ~~EXCEPTIONS~~; ~~ADDING SECTION 26-305~~, PENALTY; ADDING SECTION ~~26-306~~ 26-304, SUNSET PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission for the City of Key West finds that unmanned aircraft, otherwise known as drones, that are either fixed wing or rotor aircraft and can fly under the control of a remote pilot or via a geographic positions system (GPS) or guided autopilot mode, have become increasingly available to private citizens for personal and recreational use due to their declining costs; and

WHEREAS, drones can fly at altitudes below and within the manned navigable airspace (generally 500 feet) which is under the jurisdiction of the Federal Aviation Administration (FAA); and

WHEREAS, drones can, and have been used to fly above crowded public events and places, private residences and backyards within the City of Key West without the homeowner's knowledge or consent; and

WHEREAS, there has been at least two known crashes of a drone at a crowded public event in Key West. One in July, 2014 that resulted in an injury to a bystander, and another into a wedding ceremony; and

WHEREAS, there are no existing satisfactory regulations to address the recreational and business uses of drones over crowded public events or residential areas that will protect the life, safety and welfare of the citizens and visitors of the City of Key West,

WHEREAS, the operation of drones in the United States is expressly prohibited by the Federal Aviation Administration apart from local, club-based hobbyist model aviation organizations operating pursuant to the rules adopted by the Academy of Model Aeronautics, or unless one possesses a Certificate of Appropriateness or a Certificate of Exemption,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That Chapter 26, Article VI, entitled
"Unmanned Aircraft" is hereby added to the Code of Ordinances as
follows*:

Sec. 26-300. Purpose and Intent.

It is the purpose of this Article to provide the residents and
visitors of the City of Key West, protection from invasions of
privacy, and reckless operation over crowded areas, due to the
rapid implementation of drone technology ~~that has the capability
of capturing or transmitting audio, video, or still images,~~
being put into use by individuals and business entities until
such time as when the federal or state governments implement
regulations to integrate the use of drones so as to create
expressed or implied federal preemption in the area of unmanned
aircraft operation in all airspace. The unregulated use of
drones also poses a significant public safety concern to
individuals and property on the ground in the event of
malfunction, operator negligence, other nearby aircraft, loss of

*(Coding: Added language is underlined; deleted language is
struck through.)at first reading. Added language is double
underlined; deleted language is ~~double struck through~~ at second
reading.

control, or other inability to sustain flight as intended.

Nothing in this ordinance is intended to prevent, prohibit or regulate any type of drones or remote controlled model aircraft that are otherwise permitted by the FAA for recreational use as part of a local, organized club, or any operator who lawfully possesses a Certificate of Appropriateness or Letter of Exemption from the FAA.

Sec. 26-301 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Drone means any powered, aerial vehicle, that is either fixed wing or rotor-operated; that does not carry a human being; that uses aerodynamic forces to provide the vehicle with lift; that can fly autonomously or be piloted remotely; that can be expendable or recoverable.

~~Sec. 26-302 Registration, Permit, Insurance~~

~~Any drone operator that carries a recording device of any type (still images, video images, or audio), that is transmitted or recorded onboard, that operates over within the~~

~~jurisdictional limits of the City of Key West and within five hundred (500) vertical feet of the ground must;~~

~~a. Register said drone with the City of Key West Licensing Department and provide the name and address of the owner of the drone, detailed photographs and a complete, detailed description of the drone, including manufacturer and propulsion system(s);~~

~~b. Operator shall furnish and maintain liability and property damage insurance providing coverage for all claims and damage to property or bodily injury, including death which may arise from the operation of a drone under this ordinance. Such insurance shall provide coverage of not less than \$300,000.00 for bodily injury and property damage respectively, per occurrence. The city shall be named as an additional insured. All policies required under this ordinance shall provide such policies may not be terminated or cancelled without 30 days' written notice sent via certified mail to the licensing official for the City of Key West;~~

~~c. Proof of current registration with the Academy of Model Aeronautics. Any insurance therein shall be separate and apart from the requirement of 26-302(c);~~

~~d. A hold-harmless agreement releasing the city and its~~

~~agents and employees from all claims and actions arising out of the operation of drones within and over the City of Key West,~~

~~e. Submit a yearly registration fee shall be \$100.00. This amount may be changed by Resolution of the City Commission for the City of Key West.~~

~~f. All licensed drones must have the owner's name, address and telephone number located on the drone in legible print.~~

Section ~~26-303~~ 26-302 Prohibitions

No person may operate a drone, whether or not it has the capability of capturing or transmitting audio, video, or still images within the jurisdictional limits of the City of Key West unless the drone operator possesses either a Certificate of Appropriateness or a Certificate Letter of Exemption lawfully issued by the Federal Aviation Administration.

~~(1), within Over the jurisdictional limits of the City of Key West, above seventy (70) feet from the ground or above the nearest structure within 100 yards; whichever is lower, and within 500 vertical feet over the following areas without a permit pursuant to Sec. 26-304(c); :~~

~~(2) a. Any special event permitted and authorized by the City Commission for the City of Key West,~~

- ~~b. Any sporting event or practice,~~
- ~~c. Any school during hours of operation or activities, except for school-sponsored, educational activities,~~
- ~~d. Any playground or public park when occupied (excluding the drone operator and spotter),~~
- ~~e. The area commonly known as Southernmost Point,~~
- ~~f. The FAA navigational beacon near Higgs Beach,~~
- ~~g. Any military installation,~~
- ~~h. Any beach within the City of Key West,~~
- ~~h. Key West International Airport and its approaches bordered by Flagler Avenue to the north, Bertha Street to the west, South Roosevelt Boulevard to the south and east.~~

~~**Section 26-304 Exceptions; Permit**~~

~~This article does not prohibit the use or operation of a drone over the City of Key West where otherwise prohibited herein if:~~

- ~~a. A law enforcement agency first obtains a lawfully issued warrant by a court of competent jurisdiction authorizing its use, or by a law enforcement agency during the declaration of an emergency by the Governor of the State of Florida, or~~
- ~~b. Visual recordings are made of a single residence or~~

~~business with the owner's written permission, provided that the operator or property owner has registered the drone consistent with Sec. 26-302, has notified all of the neighbors within 300 feet of the subject property, and has at least one spotter, and,~~

~~c. A Drone Usage Permit is issued by the city manager or designee. Such single use permits will be issued to operators who provide relevant insurance coverage consistent with Sec. 26-302, a detailed description of what is to be filmed, and how long the drone would be in use, Drone Usage Permits shall be subject to restrictions such as no drone operations during the times and days that the Mosquito Control District is conducting airborne operations, no drone operations within the Key West International Airport no fly zone as described in Sec. 26-303(2)(h), and any other parameters of use deemed appropriate by the city manager to protect human life and property,~~

~~d. None of the provisions in this Article shall apply to any military drone operations within the jurisdictional limits of the City of Key West.~~

Section ~~26-305~~ 26-303 Penalty

There shall be one verbal or written warning for any first time offender of this article provided that compliance is immediately achieved. Subsequent violations of this article shall be punished consistent with Sec. 1-15 of the Code of Ordinances for the City of Key West.

Section ~~26-306~~ 26-304 Sunset Provision

This Article shall sunset on the effective date of any relevant federal regulation or Florida state statute that expressly or impliedly preempts this ordinance.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2014.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2014.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2015.

Filed with the Clerk _____, 2015.

Mayor Craig Cates	_____
Vice Mayor Mark Rossi	_____
Commissioner Teri Johnston	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____
Commissioner Tony Yaniz	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK