

ORDINANCE NO. 623

**ORDINANCE OF THE TOWN OF ATHERTON ADOPTING A NEW CHAPTER 9.06
OF THE ATHERTON MUNICIPAL CODE REGARDING
UNMANNED AIRCRAFT SYSTEMS**

THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES ORDAIN as follows:

A new Chapter 9.06 of the Atherton Municipal Code regarding regulation of unmanned aircraft systems is hereby adopted to read as follows:

**Chapter 9.06
UNMANNED AIRCRAFT SYSTEMS**

Sections:

- 9.06.010 Title.**
- 9.06.020 Purpose and intent.**
- 9.06.030 Definitions.**
- 9.06.040 Model Aircraft Operation.**
- 9.06.050 UAS Operation Generally.**
- 9.06.060 UAS Operation in Holbrook-Palmer Park.**
- 9.06.070 Violations.**
- 9.06.080 Compliance with Federal and State Law.**
- 9.06.090 Severability.**

9.06.010 Title.

This Chapter shall be known as the "Unmanned Aircraft Systems Ordinance" or "UAS Ordinance" and may be so cited.

9.06.20 Purpose and intent.

The operation of unmanned aircraft systems (herein known as "UAS") can pose a hazard to piloted aircraft in flight and to persons and property on the ground. In addition to safety concerns, UASs also raise serious privacy and trespass concerns. It is therefore the intent of this ordinance to impose community-based safety requirements on the operation of Model Aircraft and to restrict the operation of all UASs consistent with Federal Aviation Rules and state law in order to mitigate such risks, to respect privacy and trespass issues, and to protect the public from the hazards associated with their operation.

9.06.030 Definitions.

As used in this Chapter:

- A. "Unmanned aircraft" shall mean 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."
- B. "Unmanned aircraft system," (also referred to as "UAS") shall mean an unmanned aircraft and associated elements, including, but not limited to, any communication links and components that control the unmanned aircraft.

- C. "Person" shall mean any individual, partnership, corporation, or joint-venture.
- D. "Model Aircraft" shall mean a UAS operated by any person for hobby or recreational purposes.
- E. "Civil unmanned aircraft system" shall mean a UAS operated by any person for any purposes other than strictly hobby or recreational purposes, including, but not limited to, commercial purposes or in furtherance of, or incidental to, any business or media service or agency. It shall not include Public unmanned aircraft systems as defined below.
- F. "Public unmanned aircraft system" shall mean a UAS operated by any public agency for government-related purposes.
- G. "Visual Line of Sight" means that the operator of a UAS has an unobstructed view of the UAS without use of any vision-enhancing devices, other than prescription eyewear, such as binoculars, night vision goggles, or anything designed to provide a "first-person" view from the UAS.

9.06.040 Model Aircraft Operation.

In addition to all regulations set forth by the FAA and/or state law, the following shall apply to the operation of any Model Aircraft within the Town of Atherton:

1. No Person shall operate any Model Aircraft within five (5) miles of an airport without prior notification of the airport air traffic control tower identifying the location where the Model Aircraft will be operated.
2. No Person shall operate any Model Aircraft in a way that interferes with manned aircraft and shall always give way to any manned aircraft.
3. No person shall operate any Model Aircraft beyond the Visual Line of Sight.
4. No person shall operate any Model Aircraft other than during daylight hours, defined as between official sunrise and official sunset for local time.
5. No person shall operate any Model Aircraft more than four hundred (400) feet above the earth's surface at the location where the Aircraft is operated.
6. No person shall operate any Model Aircraft closer than 25 feet to any individual, except for during takeoff and landing.
7. No person shall operate any Model Aircraft to which is attached any device *capable* of receiving, recording and/or transmitting visual images or sound, including but not limited to any still or video camera.

9.06.050 UAS Operation Generally.

The following shall apply to the operation of any Model UAS, Civil UAS, or Public UAS operation within the Town of Atherton:

1. No Person shall operate any UAS in a manner that is prohibited by any federal, state, or local regulations.
2. No Person shall operate any UAS in a careless or reckless manner so as to endanger or threaten injury or damage to the life or property of another. The standard for what constitutes careless and reckless operation under this section shall be the same as the standard set forth in any federal statutes or regulations governing aeronautics including but not limited to Federal Aviation Rule 91.13.
3. 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.

9.06.060 UAS Operation in Holbrook-Palmer Park.

The following shall apply to all Model UAS and Civil UAS operation within Holbrook-Palmer Park:

A. No Model UAS operation in Holbrook-Palmer Park.

No person shall operate any Model UAS in Holbrook-Palmer Park.

B. Permit Required for Civil UAS Operation in the Park.

Any person intending to operate a Civil UAS in the Park must first obtain an operating permit from the Town. An application for a Civil UAS operating permit shall be on a form provided by the Town and show:

1. Name and phone number of the operator;
2. Make, model and serial or N-number of the UAS;
3. Proof of registration, insurance, and compliance with FAA requirements for Civil UASs

4. Description of proposed flight activity including whether filming, taking of images, and/or sound recording will occur;

5. Signature of operator.

An operating permit shall be issued to persons meeting the requirements of this chapter upon payment of the fee required therefor.

9.06.070 Violations.

It is unlawful for any person to violate or fail to comply with this chapter. Any person violating the provisions of this chapter shall be subject to the provisions of Chapter 1 of this Code and may be cited criminally or administratively.

9.06.080 Compliance with Federal and State Law.

This chapter is intended to supplement rules and regulations and terms and conditions set forth by the Federal Aviation Administration and the State of California, particularly in the area of Model Aircraft operation. This chapter is not intended to place restrictions on the use of Public UASs operated pursuant to, and in compliance with, all rules and regulations and the terms and conditions set forth by any current and enforceable authorization granted by the Federal Aviation Administration.

9.06.090 Severability.

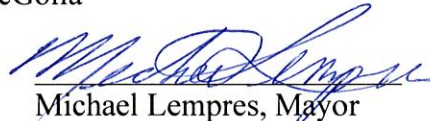
If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held to be unconstitutional or otherwise invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council of the Town of Atherton hereby declares that it would have adopted the remainder of this chapter, including each section, subsection, sentence, clause, phrase, or portion irrespective of the invalidity of any other article, section, subsection, sentence, clause, phrase, or portion.

* * * * *


Introduced at a regular meeting of the City Council held on February 15, 2017, and passed and adopted by the City Council of the Town of Atherton on the 15th day of March, 2017 by the following roll call vote, to wit:

AYES: 3
NOES: 1
ABSENT:
ABSTAIN:1


COUNCIL MEMBERS: Lewis, Lempres, Wiest
COUNCIL MEMBERS: Widmer
COUNCIL MEMBERS:
COUNCIL MEMBERS: DeGolia


Michael Lempres, Mayor
Town of Atherton

ATTEST:


Theresa DellaSanta
City Clerk

APPROVED AS TO FORM:


William B. Conners
City Attorney