

ORDINANCE 57-15-O

AN ORDINANCE RESTRICTING THE USE OF UNMANNED AERIAL VEHICLES (ALSO KNOWN AS “DRONES”) BY INDIVIDUALS AND BUSINESSES OVER THE AIRSPACE ABOVE ANY CITY-OWNED PROPERTY , ABOVE ANY CITY RIGHT-OF-WAY, AND ABOVE ANY EASEMENT GRANTED IN FAVOR OF THE CITY; EXEMPTIONS AND REQUIREMENTS THEREOF; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the rapid implementation of technology concerning Unmanned Aerial Vehicles (hereinafter referred to as “UAVs”), also commonly-known as “Drones” (also referred to as an unpiloted aerial vehicle and a remotely piloted aircraft (RPA) by the International Civil Aviation Organization (ICAO), also referred to as an aircraft without a human pilot aboard), throughout the United States poses a serious threat to the privacy and constitutional rights of the American people, including the residents and businesses of the City of Celina, Ohio; and

WHEREAS, "Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft; and

WHEREAS, "Unmanned Aerial Vehicle" means an unmanned aircraft and associated elements, including communication links, cameras, and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system and can use a geographic positions system (GPS) guided autopilot mechanism; and

WHEREAS, UAVs have become increasingly available to private citizens for personal and recreational uses due to their declining costs; and

WHEREAS, UAVs can fly at altitudes below the navigable airspace, generally at Four Hundred (400) Feet, which is generally under the jurisdiction, regulation and control of the Federal Aviation Administration (FAA); and

WHEREAS, while the *FAA Modernization and Reform Act of 2012* set a deadline of September 30, 2015, for the FAA to establish regulations to allow the use of commercial drones, the same is anticipated to be extended until approximately mid-2016. In the meantime, the FAA claims it is illegal to operate commercial UAVs, but approves non-commercial flights under Four Hundred (400) feet if they follow Advisory Circular 91-57, Model Aircraft Operating Standards, published in 1981.

WHEREAS, some UAVs are equipped with high definition cameras, night vision cameras, infrared-see-through scopes, and City Council desires to protect the privacy interests of Celina residents and businesses in the areas above any City-owned property, above any City-owned or City-controlled right-of-way, and above any easement granted in favor of the City of Celina, Ohio; and

WHEREAS, some UAVs can be equipped with anti-personnel devices, meaning any projectile, firearm, chemical, electrical, directed-energy (visible or invisible), or other device designed to harm, incapacitate, or otherwise negatively impact an individual, livestock, or property; and

WHEREAS, there are no existing regulations regarding who may purchase a UAV, which presents a safety risk to residents in that UAVs may be purchased by sex offenders, and other persons with certain criminal backgrounds, such as but not limited to: domestic violence, theft, burglary, breaking and entering, trespass, and assault.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Celina, County of Mercer, State of Ohio, that:

SECTION ONE

DEFINITIONS:

- A. "Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.
- B. "Unmanned Aerial Vehicle" (hereinafter referred to as "UAV"), commonly known as a drone and also referred to as an unpowered aerial vehicle and a remotely piloted aircraft (RPA) by the International Civil Aviation Organization (ICAO), means an unmanned aircraft and associated elements, including communication links, cameras, and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system and can use a geographic positions system (GPS) guided autopilot mechanism.

SECTION TWO

PROHIBITION:

UAVs that weigh more than ounces are prohibited from taking off, flying or landing in any airspace below Four Hundred (400) feet within the City Parks, any City-owned property, any Right-of-Way and/or any easement granted to or otherwise in favor of the City of Celina, Ohio, unless otherwise exempt under this Ordinance.

SECTION THREE

EXEMPTIONS:

- A. This Ordinance shall not prohibit the use of UAVs by any law enforcement agency of the City of Celina, Ohio, and/or any City, State or Federal government for lawful purposes and in a lawful manner.
- B. This Ordinance shall not prohibit the use of UAVs by any individual or business (with the applicant being at least twenty-one (21) years of age at the time of application) who obtains written permission from the City of Celina, Ohio, through the City's Safety-Service Director personally and in writing, prior to operating a UAV within the corporation limits described in Section Two of this Ordinance of the City of Celina, Ohio, subject to the following conditions:
 - 1. It shall be the sole discretion of the Safety-Service Director to grant or deny permission to said individual or business, subject to and in accordance with the requirements set forth in the permit for the same, as amended from time-to-time, which current version is attached hereto, labeled as "Exhibit A" and which is fully-incorporated herein by reference, including but not limited to each applicant being subject to passing a criminal background check as set forth in "Exhibit A".

2. Said permission must be obtained by said individual or business wishing to operate a UAV within the corporation limits described in Section Two of this Ordinance and/or wishing to land or take off within the corporation limits described in Section Two of this Ordinance of the City of Celina, Ohio.
3. The City of Celina, Ohio reserves the right to revoke any permission granted to an individual or business for any reason or no reason and at the sole discretion of the City of Celina, Ohio, by and through the Safety-Service Director.
4. Any individual or business obtaining permission to operate a UAV shall be liable for any and all damages and/or injury caused by him, her, or it in the operation of a UAV within the corporation limits described in Section Two of this Ordinance.
5. Said individual or business shall execute a release and indemnity agreement and obtain a written permit at the City of Celina, Ohio before said individual or business shall be allowed to operate a UAV as permitted in this Ordinance, in a form similar to the attached "Exhibit B" which is fully-incorporated herein by reference.
6. Said individual or business shall follow all rules and requirements stated in said written permit.

SECTION FOUR

VIOLATIONS:

Any person who violates the aforementioned ordinance, requirements and conditions under Section Three above, is guilty of a minor misdemeanor and may be subject to a fine of One Hundred Fifty Dollars and Zero Cents (\$150.00) for each violation.

SECTION FIVE

SEVERABILITY:

The Council of the City of Celina, Ohio declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

SECTION SIX

EFFECTIVE DATE:

This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed this _____ day of _____, 2015.

Jason King, President of Council

Draft #4
10-7-2015

ATTEST:

Joan S. Wurster, Clerk of Council

APPROVED:

Jeffrey S. Hazel, Mayor

DRAFTED BY:

George Erik Moore, Esq., City Law Director