

ORDINANCE NO. 1500

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA MUNICIPAL CODE PERTAINING TO THE REGULATION OF UNMANNED AIRCRAFT SYSTEMS (UAS)

WHEREAS, the Federal Aviation Administration (FAA) is vested with authority to regulate in the area of airspace use, and recognizes that local governments retain police power authority to regulate the use of unmanned aircraft systems (UAS), or drones, in a consistent manner; and

WHEREAS, the City's police power authority allows for regulations that promote the public health, morals, safety or general welfare of the community; and

WHEREAS, the City's extensive public park and forest system provides wildlife habitat and unique opportunity for public recreational opportunities associated with the wildlife attracted to this habitat, in particular the Arcata Marsh and Wildlife Sanctuary and Arcata Bay Lands where resident and migratory bird populations can be especially sensitive to the use of UAS; and

WHEREAS, in addition, the operation of drones, can, at times, pose a significant threat to public safety or privacy when operated at some community gatherings or City-authorized events; and

WHEREAS, imposing community based safety requirements consistent with FAA rules regarding UAS is necessary to mitigate such risks to the public health, morals, safety and general welfare of the community; and

WHEREAS, this ordinance is intended to operate in conjunction with FAA rules to promote public health, morals, safety and general welfare of the community while recognizing the limitations of the FAA's enforcement capabilities.

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

Section 1: Chapter 5, titled "Regulation of Unmanned Aircraft Systems," is hereby created in Title III—Public Safety, of the Arcata Municipal Code and shall consist of the following Sections 3850–3853:

Title III—Public Safety Chapter 5—Regulation of Unmanned Aircraft Systems

SEC. 3850. Definitions

Unless explicitly defined otherwise, the following words and phrases are defined as follows:

A. "Film permit" means a City of Arcata Photography/Motion Picture Permit issued for use of City parks, buildings, or grounds for the staging or shooting of commercial motion or television pictures or photography.

B. “Special Event” means any of the following: (1) any event, parade, exposition, fair or procession staged in or upon public places or sidewalks for which City services are required because of interference with normal vehicular traffic, pedestrian traffic or which will reasonably be expected to generate an extraordinary need for City services; (2) any event which has received a permit pursuant to Title X of this Code; or (3) any sporting contest, theatrical or musical performance or exhibition held in any City facility, building or on City grounds pursuant to a valid agreement or permit which reserves said place for the event.

C. “Unmanned Aircraft System” or “UAS” shall mean a device that is used or intended to be used for flight in the air, operated without the possibility of direct human intervention from within or onboard the device. The device includes but is not limited to devices commonly known as drones.

SEC. 3851. Prohibitions

Unless otherwise permitted under this Chapter, persons are prohibited from taking off, operating, or landing a UAS in any airspace or area within or over the following areas of the City:

A. Flights over public streets and sidewalks, where a UAS is operated in a careless or reckless manner so as to endanger the life or property of another, or in violation of any applicable Federal Aviation Administration regulation, including but not limited to, 14 CFR Part 107;

B. Special Event or Film Permit locations during the time period of the Special Event or Filming Permit, unless the property owner, Special Event or Film Permit applicant, and Arcata Police Department all provide advance approval in writing; or

C. City Hall, the City corporation yard, City water storage facilities, and electric transmission facilities.

D. Within the boundaries of the Arcata Marsh and Wildlife Sanctuary, defined as that area bordered by Jolly Giant Creek to the north, G Street to the east, the Humboldt Bay to the south, and McDaniel Slough to the west.

E. Within the boundaries of the Arcata Bay Lands defined as U.S. 101 to the west, Samoa Boulevard to the north, Bayside Cutoff to the south and Old Arcata Road to the east.

SEC. 3852. Exemptions

This Chapter shall not apply to the use of an Unmanned Aircraft System as follows:

A. By any law enforcement agency for lawful purposes and in a lawful manner.

B. By the City or City-contracted agent/agency engaging in City business, including, but not limited to, surveying and mapping property, inspecting infrastructure, monitoring traffic, and recording local events.

SEC. 3853. Violation, Penalty

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 guilty of an infraction or misdemeanor in the discretion of the City Attorney and subject to the fines and penalties provided in Section 1200 of this Code.

Section 2. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility this regulation may have a significant effect on the environment.

Section 4. This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: April 4, 2018

ATTEST:

APPROVED:

/s/ Bridget Dory
City Clerk, City of Arcata

/s/ Sofia Pereira
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1500, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California, held on the 4th day of April, 2018, by the following vote:

AYES: **PEREIRA, ORNELAS, PITINO, WINKLER**
NOES: **NONE**
ABSENT: **WATSON**
ABSTENTIONS: **NONE**

/s/ Bridget Dory
City Clerk, City of Arcata