

ORDINANCE NO. 16-1363

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AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, ADDING A NEW CHAPTER 9.38 TO THE HERMOSA BEACH MUNICIPAL CODE TO REGULATE DRONES, UNMANNED AIRCRAFT AND MODEL AIRCRAFT

THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.38 is hereby added to Title 9 (Public Peace, Morals and Welfare) of the Hermosa Beach Municipal Code to read as follows:

Chapter 9.38 Drones, Unmanned Aircraft and Model Aircraft

9.38.010 Purpose and Findings.

The operation of Unmanned Aircraft such as Model Aircraft and Civil Unmanned Aircraft Systems (“UAS”), commonly known as drones, can at times pose a hazard to full-scale aircraft in flight and to persons and property on the ground. Imposing community-based safety requirements on the operation of Model Aircraft and imposing restrictions on the operation of both Model Aircraft and Civil UASs consistent with Federal Aviation Rules and state law is necessary to mitigate such risks and to protect the public from the hazards associated with the operation of Unmanned Aircraft.

9.38.020 Definitions.

The following words, phrases and terms as used in this chapter shall have the meanings indicated as follows:

1. “Unmanned Aircraft” shall mean an aircraft, including, but not limited to, an aircraft commonly known as a drone, that is operated without the possibility of direct human intervention from within or on the aircraft.

1 2. “Unmanned Aircraft System” shall mean an Unmanned Aircraft and associated
2 elements, including, but not limited to, any communication links and components that control the
3 Unmanned Aircraft.

4 3. “Person” shall mean any individual, partnership, corporation, or joint-venture.

5 4. “Model Aircraft” shall mean an Unmanned Aircraft or Unmanned Aircraft
6 System operated by any Person strictly for hobby or recreational purposes.

7 5. “Civil UAS” shall mean an Unmanned Aircraft or Unmanned Aircraft System
8 operated by any Person for any purposes other than strictly hobby or recreational purposes,
9 including, but not limited to, commercial purposes or in furtherance of, or incidental to, any
10 business or media service or agency.

11 6. “Public UAS” shall mean an Unmanned Aircraft or Unmanned Aircraft System
12 operated by any public agency for government related purposes.

13 **9.38.030 Operating Permit Required.**

14 A. *Generally.* An operating permit shall be required for every Unmanned
15 Aircraft and Unmanned Aircraft System operated in the City. No Person shall operate an
16 Unmanned Aircraft or Unmanned Aircraft System in the City without first obtaining an operating
17 permit and obtaining an identification number assigned by the City and submission of a copy of
18 the Certificate of Aircraft Registration/Proof of Ownership issued by the Federal Aviation
19 Administration.

20 B. *Applications.* An application for a UAS operating permit shall be on a form
21 provided by the City and show:

- 22 1. Name and phone number of the operator;
- 23 2. Make, model and serial or N-number of UAS to be permitted;
- 24 3. A description of proposed flight activity, including whether filming,
25 taking of visual images and/or sound recording will occur;
- 26 4. Copy of Certificate of Aircraft Registration/Proof of Ownership issued
27 by the Federal Aviation Administration;

1 5. A signed statement certifying that the applicant knows how to operate the
2 UAS and is aware of and agrees to operate it in full compliance with its operating instructions and
3 with the provisions of this chapter and any other federal or state laws governing its operations;

4 6. A signed statement acknowledging that only the applicant may operate
5 the UAS in the City;

6 7. A signed indemnification clause protecting the City from liability;

7 8. Such other information as may be requested by the City; and

8 9. Payment of an application filing fee in an amount as set forth in the City's
9 master fee resolution. The filing fee for a UAS found to be operating in the City without a permit
10 shall be trebled.

11 C. *Placement.* The permit sticker and identification number shall be placed on
12 the body of the Unmanned Aircraft or Unmanned Aircraft System in a conspicuous location on the
13 earth-facing surface of the device and in a manner clearly visible from the ground. Placement of
14 stickers shall be subject to approval of the City or performed by the City.

15 D. *Issuance of permit.* The permit will include a copy of the operating rules set
16 forth in this chapter. Permits will be issued for a period of one year and may be renewed annually
17 upon filing of a renewal application and payment of a renewal fee as set forth in the City's master
18 fee resolution. A permit shall not be issued if the applicant is found to have operated the UAS in
19 violation of Section 9.38.040 or renewed if grounds exist for revocation.

20 E. *Assignment.* The permit is not assignable. No person other than the applicant
21 may operate the UAS within the City.

22 F. *Revocation.* The permit may be suspended or revoked if the City Manager,
23 or his/her designee finds based on a preponderance of the evidence, after the permittee is afforded
24 notice and an opportunity to be heard, that the permittee has violated any provision of this chapter.
25 A decision by the City Manager may be appealed to the City Council; the decision of the Council
26 shall be final.

27 **9.38.040 Operating Requirements and Restrictions.**

1 A. No Person shall operate any Model Aircraft or Civil UAS within the City in a
2 manner that interferes with manned aircraft, and Model Aircraft shall always give way to any
3 manned aircraft.

4 B. No Person shall operate any Model Aircraft within the City beyond the visual
5 line of sight of the person operating the Model Aircraft. The operator must use his or her own
6 natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to
7 observe the Model Aircraft. People other than the operator may not be used in lieu of the operator
8 for maintaining visual line of sight. Visual line of sight means that the operator has an
9 unobstructed view of the Model Aircraft. The use of vision-enhancing devices, such as
10 binoculars, night vision goggles, powered vision magnifying devices, and goggles or other devices
11 designed to provide a “first-person view” from the model, do not constitute the visual line of sight
12 of the person operating the Model Aircraft.

13 C. No Person shall operate any Model Aircraft or Civil UAS within the City
14 other than during daylight hours defined as between official sunrise and official sunset for local
15 time, unless proof of authorization to do so by the Federal Aviation Administration is provided to
16 the City.

17 D. No Person shall operate any Model Aircraft within the City more than 400
18 feet above the earth’s surface, unless proof of authorization to do so by the Federal Aviation
19 Administration is provided to the City.

20 E. Excluding takeoff and landing, no Person shall operate any Model Aircraft or
21 Civil UAS within the City closer than 25 feet to any individual, except the operator or the
22 operator’s helper(s).

23 F. No Person shall operate any Model Aircraft or Civil UAS within the City in a
24 manner that is prohibited by any federal or state statute or regulation governing aeronautics,
25 including but not limited to Public Utilities Code Section 24107 and Federal Aviation Rule 91.13.

1 G. No Person shall operate any Model Aircraft or Civil UAS within the City in
2 violation of any temporary flight restriction or notice to airmen issued by the Federal Aviation
3 Administration.

4 H. No Person shall operate any Model Aircraft or Civil UAS within the City to
5 capture, record or transmit any visual image or audio recording of any person or private real
6 property located in the City under circumstances in which the subject person or owner of the
7 subject real property has a reasonable expectation of privacy (including, but not limited to, inside
8 a private office and inside a hotel room). This provision is intended to supplement, rather than
9 duplicate, the prohibition against trespassing into the air space above the land of another person in
10 order to capture any type of visual image or sound recording of a person engaging in a private,
11 personal, or familial activity in a manner that is offensive to a reasonable person, pursuant to
12 California Civil Code Section 1708.8.

13 I. Unless authorized by federal law, no person shall knowingly and intentionally
14 operate any Model Aircraft or Civil UAS on the grounds of, or less than 350 feet above ground
15 level within the airspace overlaying, a public school in the City providing instruction in
16 kindergarten or grades 1 to 12, inclusive, during school hours and without the written permission
17 of the school principal or higher authority, or his or her designee, or equivalent school authority.

18 J. Unless authorized by federal law, no person shall knowingly and intentionally
19 use any Model Aircraft or Civil UAS to capture images of public school grounds in the City
20 providing instruction in kindergarten or grades 1 to 12, inclusive, during school hours and without
21 the written permission of the school principal or higher authority, or his or her designee, or
22 equivalent school authority.

23 K. No person shall operate any Model Aircraft or Civil UAS in a manner that
24 interferes with firefighting, police activity or emergency response activity as detailed in California
25 Penal Code Sections 148.2 and 402.

1 L. No person shall operate any Model Aircraft or Civil UAS within the airspace
2 overlaying the Civic Center complex or a City park or the beach during a scheduled special event
3 unless authorized to do so in the special event permit.

4 M. No person shall operate any Model Aircraft or Civil UAS within the City in a
5 manner designed, intended or which serves to harass, stalk, vex, annoy, disturb, frighten,
6 intimidate, injure, threaten, victimize or place in extreme mental or emotional distress any
7 particular person, whether that person is located on public or private property. The conduct
8 described in this paragraph includes, but is not limited to, using a Model Aircraft or Civil UAS to
9 follow and film, video-record, live-stream or photograph a person who has not consented to such
10 activity.

11 **9.38.050 Violations.**

12 It shall be unlawful for any Person to violate or fail to comply with this chapter. Any Person
13 violating the provisions of this chapter shall be guilty of a misdemeanor and subject to the
14 provisions of Chapter 1.04 of this Code. Any UAS or Model Aircraft found to be operated in
15 violation of this chapter may be impounded and held as evidence in any enforcement proceeding
16 brought under this chapter. An impounded UAS or Model Aircraft will be returned at the
17 conclusion of any enforcement proceeding upon payment to the City of an impound fee as set
18 forth in the City's master fee resolution.

19 **9.38.060 Exemptions.**

20 The permit requirement set forth in Section 9.38.030 of this chapter shall not apply to any Civil
21 UAS operated pursuant to and in compliance with the terms and conditions of a valid City-issued
22 film permit or special event permit with Federal Aviation Administration authorization or any
23 Public UAS operated pursuant to, and in compliance with, the terms and conditions of any current
24 and enforceable authorization granted by the Federal Aviation Administration.

25
26 **SECTION 2.** This Ordinance was assessed in accordance with the authority and criteria
27 contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the

1 Guidelines), and the environmental regulations of the City. The City Council hereby finds that
2 under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the
3 requirements of CEQA because it can be seen with certainty that the provisions contained herein
4 would not have the potential for causing a significant effect on the environment.

5
6 **SECTION 3.** If any section, subsection, subdivision, sentence, clause, phrase, or portion
7 of this Ordinance or the application thereof to any person or place, is for any reason held to be
8 invalid or unconstitutional by the final decision of any court of competent jurisdiction, the
9 remainder of this Ordinance shall remain in full force and effect.

10
11 **SECTION 4.** The City Clerk shall cause this Ordinance to be published at least once in a
12 newspaper of general circulation published and circulated in the City within fifteen (15) days after
13 its passage in accordance with Section 36933 of the Government Code, shall certify to the
14 adoption of this Ordinance, and shall cause this Ordinance and her certification, together with
15 proof of publication, to be entered in the Book of Ordinances of the Council of this City.

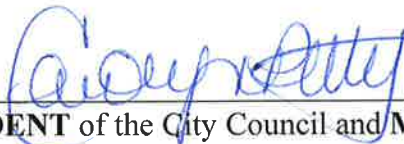
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17 **SECTION 5.** This ordinance shall become effective and be in full force and effect from
18 and after thirty (30) days of its final passage and adoption.

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20 **SECTION 6.** The City Council designated the City Attorney to prepare a summary of this
21 ordinance to be published pursuant to Government Code Section 36933(c)(1) in lieu of the full
22 text of said ordinance. The City Clerk caused said summary to be published on May 5, 2016 [five
23 (5) days before the adoption of the ordinance] in the Easy Reader, a weekly adjudicated
24 newspaper of general circulation, published and circulated in Hermosa Beach. Prior to the
25 expiration of fifteen (15) days after the date of adoption of the ordinance, the City Clerk shall
26 cause the summary to be re-published in the Easy Reader.

1 **SECTION 7.** The City Clerk shall certify to the passage of this ordinance, shall enter the
2 same in the book of original Ordinances of said city, and shall make minutes of the passage and
3 adoption thereof in the records of the proceedings of the City Council at which the same is passed
4 and adopted.

5 **PASSED, APPROVED and ADOPTED** this 10th day of May, 2016 by the following vote:


6 AYES: Armato, Duclos, Fangary, Mayor Petty
7 NOES: Massey
8 ABSENT: None
9 ABSTAIN: None

10 
11 _____
12 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

13 ATTEST:

13 APPROVED AS TO FORM:

14 
15 _____
16 City Clerk

14 
15 _____
16 City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF HERMOSA BEACH)

I, Elaine Doerfling, City Clerk of the City of Hermosa Beach, California, do hereby certify that the foregoing Ordinance No. 16-1363 was duly and regularly passed, approved and adopted by the City Council of the City of Hermosa Beach at a regular meeting held at the regular meeting place thereof on the 10th day of May, 2016, and a summary of said Ordinance will be published in the Easy Reader newspaper on May 19, 2016.

The vote was as follows:

AYES: Armato, Duclos, Fangary, Mayor Petty
NOES: Massey
ABSENT: None
ABSTAIN: None

DATED: May 10, 2016

WDS, DEPUTY
City Clerk