

## ORDINANCE NO. 16-0002

### AN ORDINANCE OF THE CITY OF MANHATTAN BEACH ADDING CHAPTER 3.70 (UNMANNED AIRCRAFT SYSTEMS) TO TITLE 3 (PUBLIC SAFETY) OF THE MANHATTAN BEACH MUNICIPAL CODE

**WHEREAS**, the operation of unmanned aircraft such as model aircraft and civil unmanned aircraft systems (UASs) can at times pose a hazard to full-scale aircraft in flight and to persons and property on the ground; and

**WHEREAS**, 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 Administration rules is necessary to mitigate such risks and to protect the public from the hazards associated with the operation of unmanned aircraft.

**THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:**

SECTION 1. The City Council hereby adds Chapter 3.70 to Title 3 as follows:

#### **“Chapter 3.70. UNMANNED AIRCRAFT SYSTEMS.**

##### **3.70.010 Definitions.**

For purposes of this Chapter:

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.

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

3. **“Person”** shall have the same meaning as set forth in Section 1.08.130 of this Code.

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

5. **“Civil UAS”** shall mean an Unmanned Aircraft or Unmanned Aircraft System 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.

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

### **3.70.020 Operation of Model Aircraft and Unmanned Aircraft Systems.**

A. The following shall apply to the operation of any Model Aircraft within the City:

1. No Person shall operate any Model Aircraft within the City and within five miles of an airport without the prior express authorization of the airport air traffic control tower.

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

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

4. No Person shall operate any Model Aircraft within the City other than during daylight hours defined as between official sunrise and official sunset for local time.

5. No Person shall operate any Model Aircraft within the City more than 400 feet above the earth's surface.

6. Excluding takeoff and landing, no Person shall operate any Model Aircraft within the City closer than 25 feet to any individual, except the operator or the operator's helper(s).

B. The following shall apply to the operation of any Model Aircraft or Civil UAS within the City:

1. No Person shall operate any Model Aircraft or Civil UAS within the City in a manner that is prohibited by any federal statute or regulation governing aeronautics.

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

3. No Person shall operate any Model Aircraft or Civil UAS within the City in a careless or reckless manner so as to endanger 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.

4. No Person shall operate any Model Aircraft or Civil UAS which contains, or has affixed or attached to it, a weapon, gun, firearm, handgun, rifle, bb device, assault weapon, bomb, grenade, rocket, rocket-propelled projectile, any device or container assembled for the purpose of causing an explosion, or any other weapon.

C. It shall be unlawful for any Person to violate or fail to comply with this Section. Any Person violating the provisions of this Section shall be guilty of a misdemeanor.

D. This Section shall not apply to any Public UAS operated pursuant to, and in compliance with, the terms and conditions of any current and enforceable authorization granted by the Federal Aviation Administration.

**3.70.030 Prohibition Against Using an Unmanned Aircraft to Record or Transmit Visual or Audio Recordings.**

A. No person shall use an Unmanned Aircraft to record or transmit any visual image or audio recording of any person or private real property located in the City under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy (including, but not limited to, inside a private residence or office, and inside an enclosed yard).

B. This Section shall not prohibit the use of any Model Aircraft, which is flown in compliance with section 336 of the FAA Modernization and Reform Act of 2012 and which does not transmit or record visual images or audio recordings of any person or real property located in the City.

C. This Section shall not prohibit the use of any Unmanned Aircraft by law enforcement or public safety agencies:

1. If a warrant is issued authorizing the use of an Unmanned Aircraft;  
or

2. For the purpose of providing emergency management, fire, or police protection services in response to a life threatening emergency, or for surveying the condition of persons or property during a duly declared state of emergency; or

3. Under circumstances where a warrant would not otherwise be required by law.

SECTION 2. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentence, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 3. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 5. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

PASSED, APPROVED AND ADOPTED \_\_\_\_\_, 2016.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
MARK BURTON  
Mayor

ATTEST:

\_\_\_\_\_  
LIZA TAMURA  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
QUINN M. BARROW  
City Attorney