

ORDINANCE 2016-04

AN ORDINANCE OF THE BOROUGH OF BEACHWOOD, OCEAN COUNTY, NEW JERSEY ADOPTING CERTAIN REGULATIONS OF DRONE TECHNOLOGY AND UNMANNED AIRCRAFT FOR THE BOROUGH

WHEREAS, the Borough of Beachwood (hereinafter “Borough”) deems it appropriate, necessary, and proper for the good government, order, the protection of persons and property, and for the preservation of the public health, welfare, and safety of its inhabitants to adopt certain regulations pertaining to the use of drone technology and unmanned aircraft in the Borough; and

WHEREAS, drone technology includes “drones,” which are unmanned aircraft that can fly under the control of a remote pilot or via a geographic positions system (GPS) guided autopilot mode, can fly at altitudes below the navigable airspace (generally 400’), and are equipped with surveillance technologies (e.g., high definition cameras, night vision cameras, and infrared-see-through scopes); and

WHEREAS, as a result of its declining cost, drone technology and unmanned aircraft have become increasingly available to private citizens for personal, recreational, and other potential uses; and

WHEREAS, drones and unmanned aircraft can be used to fly above areas where people may congregate, above residences, in the backyard of residences, to hover outside residences, and to fly above roads and through traffic in a manner that is inherently dangerous to the public health, welfare, and safety; and

WHEREAS, it is event that the rapid development, implementation, and use of drone technology and unmanned aircraft throughout the United States, as set forth herein, poses a serious threat to the privacy rights of the Borough’s inhabitants, seasonal population, and visitors in general; and

WHEREAS, the Federal Aviation Administration (“FAA”) is presently scheduled to adopt drone technology regulations in the near future; and

WHEREAS, approximately forty states and local governments in the United States have adopted regulations of drone technology and unmanned aircraft to date despite the prospect of potential federal preemption issues.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Beachwood, County of Ocean, State of New Jersey, that:

STATEMENT OF PURPOSE

The purpose of this Ordinance is to adopt certain and specific regulations of drone technology and unmanned aircraft in the Borough to protect the public health, welfare, and safety and to protect the privacy rights of Borough inhabitants.

ARTICLE I

DRONE AND UNMANNED AIRCRAFT REGULATIONS

Section 1. Definitions

“Data collection” means the acquisition of information by use of one or more sensing devices.

“Drone” means an unmanned aircraft that can fly under the control of a remote pilot or by a geographic positions system (“GPS”) guided autopilot mechanism, and that is equipped with any sensing device or capable of any data collection.

“Sensing device” means a device capable of acquiring data from its surroundings. Sensing devices include, but are not limited to, cameras, microphones, thermal detectors, chemical detectors, radiation gauges, and wireless receivers in any frequency (including cellular, WiFi, or other data frequencies).

“Unmanned aircraft” means an unmanned vehicle or device of any size that is capable of remote-control flight by any means and that does not possess any sensing device and is not capable of any data collection.

Section 2. Regulations

- A. Except as otherwise provided in Section 3, drones are prohibited from flying in any airspace below 400 feet within the Borough of Beachwood.
- B. Except as otherwise provided in Section 3, unmanned aircraft are prohibited from flying in any airspace below 400 feet within the Borough of Beachwood in:
 - 1. the airspace over any residential or commercial zoned area in the Borough of Beachwood;
 - 2. the airspace over any roads within the Borough of Beachwood; and
 - 3. the airspace over any government or public buildings, property, or parks within the Borough of Beachwood.

Section 3. Exceptions

- A. This Chapter shall not prohibit the constitutional use of drones and unmanned aircraft by any law enforcement agency or emergency services organization of or servicing the Borough of Beachwood, the State of New Jersey, or the United States of America for lawful purposes and in a lawful manner.
- B. This Chapter shall not prohibit any federal, state, county or municipal agency from the use of drones and unmanned aircraft for any lawful and authorized purpose pursuant to applicable regulation.
- C. This Chapter shall not prohibit individuals and entities from the use of drones during daylight hours for business purposes in the airspace within the boundary lines of private commercial or residential property with the property owner’s consent, except that data collection shall be limited to data collection of and relating to the properties that provide consent thereto alone.
- D. Notwithstanding the provisions of this Chapter, the authorized and lawful operation and use of drones for commercial, business, educational, scientific, re- search, environmental, and personal purposes pursuant to and in accordance with specific FAA regulations, if any.
- E. This Chapter shall not prohibit the use of unmanned aircraft by:
 - 1. any federal, state, county or municipal agency, including, but not limited to, law enforcement and emergency services agencies, for lawful purposes and in a lawful manner; or
 - 2. an owner of private property in the Borough of Beachwood in the airspace within the boundary lines of that property or in the airspace within the boundary lines of private property in Beachwood with that property owner’s consent.

Section 4. Violations and penalties.

A violation of this Chapter shall be punishable by a maximum fine of \$1,000.00 and/or up to ninety (90) days in jail.

Section 5. Repealer.

All ordinances, or parts of ordinances, inconsistent with this Chapter are hereby repealed to the extent of such inconsistency.

Section 6. Severability.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Section 7. Effective date.

This Ordinance shall take effect after final passage, adoption and publication according to law.

Introduced February 17, 2016

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilman Cairns</i>			X			
<i>Councilwoman Clayton</i>			X			
<i>Councilman Feeney</i>	X		X			
<i>Councilman Komsa</i>			X			
<i>Councilman LaCrosse</i>			X			
<i>Councilman Zakar</i>		X	X			

I do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Mayor and Borough Council of the Borough of Beachwood on February 17, 2016.

Susan A. Minock, RMC

Municipal Clerk – Borough of Beachwood

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Borough Council of the Borough of Beachwood, in the County of Ocean, held on the 17th day of February, 2016 and will be considered for second reading and final passage at a regular meeting of said governing body to be held on the 16th day of March, 2016 at 7:00 p.m. at the Beachwood Municipal Complex, 1600 Pinewald Road, Beachwood, New Jersey at which time and place any person desiring to be heard upon the same will be given an opportunity to be so heard.

SUSAN A. MINOCK, RMC
Municipal Clerk

Adopted March 16, 2016 Roll Call

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilman Cairns</i>			X			
<i>Councilwoman Clayton</i>						X
<i>Councilman Feeney</i>			X			
<i>Councilman Komsa</i>			X			
<i>Councilman LaCrosse</i>	X		X			
<i>Councilman Zakar</i>		X	X			

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SUSAN A. MINOCK, RMC
Municipal Clerk

Dated March 16, 2016

Attested by:

Ronald F. Roma, Jr., Mayor

Susan A. Minock, RMC
Municipal Clerk