

First Reading: March 9, 2020  
Second Reading: March 16, 2020  
Final Adoption: March 16, 2020  
Published: March 19, 2020  
Effective Date: April 8, 2020

## **ORDINANCE NO. 20-03-01**

### **AN ORDINANCE AMENDING CHAPTER 10 – AVIATION OF THE ABERDEEN CITY CODE REGARDING DRONES**

**WHEREAS**, the Aberdeen City Council reaffirms the rationale and purposes for Ordinance No. 15-12-04 as set forth therein; and

**WHEREAS**, pursuant to its home rule power, the City of Aberdeen may exercise any power and perform any function relating to its government and affairs, including the power to regulate for the protection of the public health, safety, morals, and welfare; and

**WHEREAS**, the City Council has determined that the following ordinance will protect the health, safety, and property of Aberdeen citizens and visitors and further their reasonable privacy interests, and advance the interests of the City of Aberdeen.

### **BE IT ORDAINED BY THE CITY OF ABERDEEN THAT THE FOLLOWING CHANGES AND ADDITIONS SHALL BE MADE TO THE ABERDEEN CITY CODE:**

1. Sec. 10-2 of Chapter 10 – *Aviation* shall be amended as follows:

#### **Sec. 10-2. – Operating regulations.**

The airport manager authorizes limited drone operation in city airspace for hobby or recreational purposes only, except that it shall be unlawful to exceed such authorization by operating a drone:

- (1) within one (1) mile of the Aberdeen Regional Airport and within the 10,000 feet non-precision approach areas to its runways. The protected airspace hereafter shall be referred to as the “Airport Drone No Fly Zone”. A map of such Airport Drone No Fly Zone shall be displayed at the airport and filed with the finance office;
- (2) over any person who is not involved in the operation of the drone, without such person’s consent;
- (3) over vehicular traffic;
- (4) over property that the operator does not own, unless the property owner consents and subject to any restrictions that the property owner may place on such operation;

- (5) over property owned, leased, or operated by the city, including but not limited to airports, parks, lakes, public swimming pools, trails, parking lots, and buildings, *except* drones may be operated in conformity with this section:
  - (a) to temporarily cross from one authorized property to another authorized property over streets, roads, and alleys outside the Airport Drone No Fly Zone via the most direct route; and
  - (b) over the following city properties, subject to any restrictions thereon imposed by the city:
    - (i) Northwestern holding pond nature area (near 24<sup>th</sup> Avenue Northwest);
    - (ii) Baird Park (near 24<sup>th</sup> Avenue Northeast);
    - (iii) Riverside Memorial Park holding pond area; and
    - (iv) Kuhnert Arboretum on Dakota Street South; and
    - (v) Moccasin Creek Soccer Complex from Melgaard Road north to the lateral line of 12<sup>th</sup> Avenue Southeast and from South Cochrane Street west to Moccasin Creek;
- (6) by a child under 13 years of age when not accompanied by the child's parent or guardian or an adult designated by the child's parent or guardian. The failure of a parent or designated adult to supervise an underage child's operation of a drone shall be a violation by the parent or designated adult;
- (7) at an altitude higher than 400 feet above ground level;
- (8) outside the visual line of sight of the operator. The operator shall use his or her own natural vision, which includes vision corrected by standard eyeglasses or contact lenses, to maintain at all times an unobstructed view of the drone, without the use of vision-enhancing devices, such as binoculars, night vision goggles, powered vision magnifying devices, and goggles designed to provide a "first person view" from the model or similar devices;
- (9) in a manner that interferes with, or fails to give way to, any manned aircraft or moving vehicle;
- (10) during the period between sunset and sunrise;
- (11) whenever weather conditions impair the operator's ability to operate the drone safely;
- (12) over any open air assembly unit, school, school yard, hospital, swimming pool, place of worship, or law enforcement building, without the property owner's consent, and subject to any restrictions that the property owner may place on such operation;
- (13) within 500 feet of any electric generating facility, substation, or control center, or within 100 feet of any electric transmission facility, or within 25 feet of any electric distribution facility or of any overhead wire, cable, conveyor, or similar

equipment for the transmission of sounds or signal, or of heat, light or power, or data, upon or along any public way within the city, without the facility or equipment owner's consent, and subject to any restrictions that the facility or equipment owner may place on such operation;

- (14) for the purpose of conducting surveillance, unless expressly permitted by law;
- (15) with 0.08 percent or more by weight of alcohol in that person's blood or while under the influence of alcohol, any drug, any intoxicant, or any combination thereof, as set forth in SDCL 32-23-1, which renders that person incapable of safely operating such drone;
- (16) that is equipped with a firearm or other weapon;
- (17) with intent to use such drone or anything attached to it to cause harm to persons or property; or
- (18) in a reckless or careless manner.

**State law references** – Driving under the influence prohibited, SDCL 32-23-1; public nuisance, SDCL 21-10-3; ~~ownership of air space, SDCL 50-13-3; overflight of lands and waters, SDCL 50-13-4.~~

2. Sec. 10-4 of Chapter 10 – *Aviation* shall be amended as follows:

**Sec. 10-4. – Penalty.**

(a) ~~A violation of this article by an adult is a Class 2 misdemeanor. Any adult who violates this article shall be fined not less than \$120.00 nor more than \$500.00 for each offense, nor jailed for more than 30 days, or both. Each day that a violation continues shall constitute a separate and distinct offense.~~

(b) A violation of this article by a minor is a petty offense.

(c) A law enforcement officer may seize a drone as evidence of a violation of this article. The drone thereafter shall be disposed of in accordance with state law for disposition of seized property.

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Travis Schaunaman, Mayor

ATTEST:

  
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Karl Alberts, Finance Officer



