



City of Miami

Legislation

Ordinance

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File Number: 15-01513

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION CREATING CHAPTER 37-12 TO CHAPTER 37 "OFFENSES - MISCELLANEOUS", OF THE CODE OF THE CITY OF MIAMI, FLORIDA, ENTITLED "PUBLIC SAFETY AND UNMANNED AIRCRAFT SYSTEMS ("UAS") COMMONLY KNOWN AS DRONES", FOR THE PROTECTION OF CITIZENS ENGAGING IN LARGE PUBLIC VENUE EVENTS FROM UAS AND REGULATING THE FLYING OF UAS IN CERTAIN AREAS OF THE CITY OF MIAMI BY CREATING REQUIREMENTS FOR REGISTRATION, AND PERMITTING OF UAS, AND ENFORCEMENT OF VIOLATIONS FOR UAS; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, unmanned aircraft systems ("UAS"), also commonly referred to as Drones, can fly under the control of a remote controlled pilot, a first person view ("FPV"), or via a global positioning system ("GPS") guided autopilot mode; and

WHEREAS, due to the declining cost of new technology UAS have become increasingly popular and available to private citizens and hobbyists; and

WHEREAS, UAS can be equipped with high definition cameras, night vision cameras, and infrared scopes, as well as with combustive or explosive composites and materials; and

WHEREAS, the flying of UAS over or near heavily populated areas can create an unnecessary risk of accident, opportunity for counter surveillance, the delivery of harmful substances, or a terror attack in a densely populated area; and

WHEREAS, the City of Miami ("City") intends to promote public safety and protect people participating in large public venue events, as well as the public at large; and

WHEREAS, in consideration of these concerns, the City is regulating the use of UAS within a half-mile radius around and/or over large venue special events in public parks and public facilities, including but not limited to parks, stadiums, open spaces, plazas, streets, etc., that attract large groups of people; and

WHEREAS, all restrictions are intended to protect persons gathered in groups where a UAS incident would cause greater harm and risk of injury due to a greater number of people gathered in a close proximity; and

WHEREAS, this Ordinance does not prohibit the use of UAS by any law enforcement agency for lawful purposes and in a lawful manner; and

WHEREAS, it is not intended to restrict legitimate hobbyists operating UAS in compliance with FAA rules and any applicable laws, and outside of the prohibited areas; and

WHEREAS, this Ordinance is not intended to preempt FAA rules, but to operate in conjunction with those rules to promote public safety while recognizing the limitations in the FAA's enforcement capabilities; and

WHEREAS, the Miami City Commission now desires to regulate the use of UAS to ensure the public's safety at sporting, entertainment, and public events within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted and incorporated as if fully set forth in this Section.

Section 2. Chapter 37 of the Code of the City of Miami, Florida, as amended, is amended in the following particulars: {1}

"CHAPTER 37

OFFENSES - MISCELLANEOUS

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Sec. 37-12. - Public Safety and Unmanned Aircraft Systems, commonly known as Drones.

(a) Purpose and intent. This Section is intended to promote public safety and protect people attending large venue public events from the flying of unmanned aircraft systems ("UAS") in and over such large public events. The City Commission wishes to regulate the use of UAS within a half-mile radius around stadiums and sport facilities when these devices are in use, and over other large venue special events in public parks, public facilities, streets, plazas, open spaces and the like that will attract large groups of people. All restrictions are intended to protect persons gathered in groups where a UAS incident would cause greater harm and risk of injury due to a greater number of people gathered in a close proximity. It is not intended to restrict legitimate hobbyists operating UAS in compliance with FAA rules and any other applicable laws, and outside of the prohibited areas. This Section is not intended to preempt FAA rules, but rather to operate in conjunction with those rules to promote public safety while recognizing the limitation in the FAA's enforcement capabilities.

(b) Definitions.

1. "Applicant/Permittee" shall mean the person or corporation that applies for the permit and ultimately may receive the permit after all the requirements in the code have been met.
2. "Large venue special event" shall mean any event held in a public space, open space, plaza, street, park, stadium, or any open-air facility or closed-air facility that is open to the public, ticketed and/or non-ticketed audience and is an event intended to attract people. A large venue special event includes but is not limited to, a sporting event, concert, festival, protest, etc.
3. "Unmanned Aircraft Systems" ("UAS") shall mean an unmanned aircraft or unmanned aircraft system that can fly under the control of a remote pilot or by global positioning system (GPS) guided autopilot mechanism. UAS are more commonly known as "drones."

(c) Prohibitions.

1. Unless otherwise exempt under this Section, UAS are prohibited from being deployed, launched or flown in any airspace within or over any sporting and/or large venue special event, including but not limited to, over and within a half-mile radius of Bayfront Park, Marlins Ballpark, Miami Marine Stadium, or the Calle Ocho Festival when it is in use during a large venue special event, and over public parks and public facilities during large venue special events.
2. In all other areas of the City, the following restrictions shall apply:
 - A. UAS may not be larger than five (5) pounds including any attachments, and may not be equipped with detachable cargo, releasable payload, or any device equipped to carry a weapon. Any modifications to a UAS must be pursuant to FAA approval and registered via the City's permitting process.
 - B. UAS over five (5) pounds may be operated only by a registered member of the Academy of Model Aeronautics (AMA), if the operator is subjected to and compliant with AMA rules. Notwithstanding the weight limit, all other provisions of this Section shall apply.
 - C. Conditions in 2A and B above shall be included as conditions in the permitting process.

(d) Permitting.

1. Permits are required for certain activities so that City officials and employees can regulate activities which would tend to damage private/public property, endanger the public or event attendees, or which are likely to create an atmosphere which would discourage use of City owned property, other locations or venues for their intended purpose.
 - A. The application form shall be completed by the applicant.
 - B. The application shall be processed and approved by the appropriate City official (s) and departments as is accustomed through the City's regular special event and temporary event process as established in the City Code in Chapters 54 and 62 prior to issuance of any permit referred to by this Article.
 - C. The applicant's form shall require the name of applicant, valid governmental issued identification, current address and phone number(s) of applicant, photograph of UAS to be registered, UAS name and serial number or product number, and statement of purpose for request of permit.
 - D. Applications must be made at least 14 days prior to requested usage time of UAS to ensure proper review of application by City officials.
 - E. The City Manager is authorized to establish fees for all permits issued. Thereafter, the City Manager shall set and annually revise and adjust said fees, if necessary, prior to the first day of September, and such revised fees shall become effective the first day of October of each fiscal year via an administrative memorandum. In reviewing the existing schedule of fees to determine whether or not to revise and adjust the same, the City Manager shall take into consideration any one, or all of the following criteria: (i) purpose and type of event(s) or program(s) conducted at the City-owned properties or at the large venue special events, including benefits to the community; (ii) operating expenses of the permitting scheme described herein; (iii) and/or other factors deemed appropriate by the City Manager. At any time, the City Manager shall be authorized to negotiate the fee for all permits to use UAS above should it be determined that the current schedule of fees does not properly address a particular type of event.
 - F. Same-Rules and conditions.

The following rules and conditions shall apply to permits issued pursuant to this Section:

 - i. They are issued on a first come, first served basis.

- ii. Permits are nontransferable, and are valid only on the date specified thereon.
- iii. The permittee shall be held responsible for any damage and be liable to any third party.
- iv. The permittee shall observe, obey and comply with the rules and regulations established by this Section, as well as all applicable City, county, state and federal laws, rules and regulations.
- v. The permittee shall assume all risk in the use of the UAS and shall be solely responsible and answerable in damages for all accidents and injury to person or property, as well as fines in connection with violations of this Ordinance or other applicable law.
- vi. Special conditions related to safety may be imposed for particular large venue special events depending upon occupancy or other safety considerations.

(e) Exemptions.

This Section shall not prohibit the use of UAS by a permittee under this Section or by any law enforcement or fire rescue agency for lawful purposes and operated in a lawful manner.

(f) Enforcement.

1. Penalty. Any person in violation of any provision of this Section shall be subject to the penalty as provided in Section 1-13; however, in addition to, or in lieu of any criminal prosecution, the City shall have the power to sue in civil court and to enforce the provisions of this Article before its code enforcement board established in Chapter 2, Article X of the Code of the City of Miami as amended. In addition to the penalties referenced above, a UAS operated in violation of this Chapter will be impounded and held until the conclusion of the Court or Code Enforcement proceedings.
2. Release and disposal. Following the City's receipt of the request for an adversarial hearing by the owner of the UAS, the City shall schedule such hearing to take place before a hearing officer within 45 days. The hearing officer shall conduct a full adversarial hearing, and will render a decision in writing at the conclusion of the hearing. At the hearing, it shall be the City's burden to demonstrate a violation of this Section. If the hearing officer finds that the City has not met this burden, it shall relinquish possession of the UAS to the owner. Formal rules of evidence shall not apply at the hearing and hearsay and circumstantial evidence shall be admissible. Title to any unclaimed UAS lawfully impounded pursuant to this Section in the custody of the City shall vest permanently in the City sixty (60) days after the conclusion of the proceeding in accordance with Section 705.105, Florida Statutes, as amended.

(g) Liability and insurance.

1. Prior to the issuance of a permit, the permittee/operator shall furnish to the City a signed statement, approved by the city attorney, that the permittee/operator shall hold-harmless, indemnify and defend the city, its elected officials, officers, and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit.
2. Permittee shall furnish and maintain such public liability and property damage insurance to protect from all claims and damage to property or bodily injury which may arise from operations under the permit or in connection therewith subject to an assessment by Risk Management.

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Section 3. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. It is the intention of the City Commission that the provisions of this Ordinance shall become and may be made a part of the Code of Ordinances of the City of Miami, Florida, which provisions may be renumbered or relettered and that the word "ordinance" may be changes to "section", "article," or other appropriate word to accomplish such intention.

Section 5. This Ordinance shall take effect immediately after final reading and adoption thereof.{2}

Footnotes:

{1} Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

{2} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.