

**ORDINANCE NO. 6  
SERIES 2016**

**AN ORDINANCE AMENDING TITLE 5 OF THE VAIL TOWN CODE BY  
THE ADDITION THERETO OF A NEW CHAPTER 15 CONCERNING  
THE REGULATION OF UNMANNED AIRCRAFT SYSTEMS (DRONES)**

WHEREAS, Unmanned Aircraft Systems ("UAS"), commonly known as drones, are devices that are used or are intended to be used for flight in the air with no onboard pilot;

WHEREAS, there has been considerable increase in the use and popularity of UAS by a variety of users and for a variety of recreational and other purposes;

WHEREAS, the Town Council finds that UAS, when operated within the Town and particularly in populated areas, present an appreciable risk to public safety in the air and to persons and property on the ground;

WHEREAS, the United States Federal Aviation Administration ("FAA") has released guidance recognizing the importance of local jurisdictions in deterring, detecting, investigating and enforcing unauthorized or unsafe UAS operations; and

WHEREAS, the Town Council, pursuant to its authority to protect and secure the public health, safety and welfare of its citizens, desires to enact regulations for the use and operation of UAS in the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VAIL, COLORADO, THAT:**

Section 1. Title 5 of the Vail Town Code is hereby amended by the addition of a new Chapter 15 to read as follows:

**Chapter 15  
UNMANNED AIRCRAFT SYSTEMS**

**5-15-1: DEFINITIONS:**

For purposes of this Chapter, the following terms shall have the following meanings:

UNMANNED AIRCRAFT SYSTEM (UAS) means an aircraft, powered aerial vehicle, or other device without a human pilot aboard, the flight of which is controlled either autonomously by onboard computers or by the remote control of a pilot operator on the ground or in another vehicle or aircraft, and all associated equipment and apparatus.

FAA means the United States Department of Transportation, Federal Aviation Administration.

OPERATE means to use, fly, launch, land, employ, control or engage the functionality of UAS in any manner.

TOWN AIRSPACE includes all airspace above the territorial boundaries of the Town, to the full extent such airspace can legally be regulated by the Town.

#### **5-15-2: COMMERCIAL OR BUSINESS USE PROHIBITED:**

It is unlawful to operate UAS for any commercial or business purpose within the Town or Town Airspace without current proof of all necessary FAA aircraft and operator authorizations, certifications and registration as required by federal law or FAA regulation. As used herein, commercial or business purpose means any use that is not solely for a hobby or recreational purpose.

#### **5-15-3: REQUIREMENTS FOR UAS:**

It is unlawful for any person to operate UAS for a hobby or recreational purpose within the Town or Town Airspace, except in conformance with the following:

A. UAS shall be flown below a maximum altitude of four hundred (400) feet above the ground.

B. UAS shall weigh no more than fifty-five (55) pounds at the time of operation, inclusive of equipment, payload and fuel.

C. UAS shall be flown within the visual line of sight of the individual person operating the UAS. Visual line of sight means the UAS must be visible at all times to the operator of the UAS, the operator must use his or her own natural vision to observe the UAS, and persons other than the operator may not be used in lieu of the operator for maintaining visual line of sight. The operator's own natural vision may include vision corrected by standard eyeglasses or contact lenses.

D. UAS shall not be operated over any person not directly involved in the operation. UAS shall not be flown near pedestrians, bicyclists, motorists, roadways, parking lots, playgrounds, stadiums, sporting events, festivals or other open air assembly of persons, or areas or special events subject to an FAA notice of temporary flight restriction.

E. UAS shall remain clear of and not interfere with manned aircraft operations or other UAS.

F. UAS shall not be flown within five (5) miles of an airport or heliport, unless the operator has contacted the airport or heliport control tower or flight service station before flying.

- G. UAS shall be operated during daylight hours only.
- H. UAS shall not be operated from a moving vehicle or other aircraft.
- I. UAS shall be operated with proof of valid registration in the national drone registry, as required by federal law or FAA regulation.

#### **5-15-4: RECKLESS OR CARELESS OPERATION:**

It is unlawful to operate UAS in a reckless or careless manner so as to endanger the health, safety or well-being of persons or property. A person shall not operate UAS if he or she knows or has reason to know of any physical or mental condition that would interfere with the safe operation of UAS, or if he or she knows or has reason to know that UAS equipment is not in proper working order. In addition to the penalty set forth in Section 5-14-7, UAS that is operated in a careless or reckless manner may be immediately impounded in the interest of public safety.

#### **5-15-5: TOWN PROPERTY:**

A. UAS may be operated from upon or above property owned, operated, leased or maintained by the Town only with the express written authorization of the Town. The Town shall require the operator to indemnify and hold harmless the Town, its employees and agents for all liability claims arising out of the event. The operator shall have an insurance policy currently in effect with general liability coverage of not less than the maximum limit established by the Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S., as amended, and must name the Town as an additional insured on the policy.

B. By determination of the Town Manager, the Town may allow the operation of UAS from within or above any Town park or open space area and may designate such area or areas within Town parks and open space where the operation of UAS is allowed subject to the requirements of this Chapter and posted park regulations.

#### **5-15-6: USE BY LAW ENFORCEMENT/EMERGENCY SERVICES:**

Nothing in this Chapter is intended to prohibit the use of UAS for lawful purposes and in a lawful manner by any law enforcement agency of the Town or other local, state or federal government, or emergency services personnel.

#### **5-15-7: VIOLATION AND PENALTY:**

It is unlawful to violate any provision of this Chapter. A person who is convicted of a violation of any provision of this Chapter shall be punished as provided in Section 1-4-1 of this Code.

Section 2. Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

Section 3. Retroactivity. The amendment of any provision of the Town Code as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

Section 4. Repeal. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 19<sup>th</sup> day of April, 2016 and a public hearing for second reading of this Ordinance is set for the \_\_\_\_\_ day of \_\_\_\_\_, 2016, in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

\_\_\_\_\_  
Dave Chapin, Mayor

ATTEST:

\_\_\_\_\_  
Patty McKenny, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Dave Chapin, Mayor

ATTEST:

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Patty McKenny, Town Clerk