

ORDINANCE NO. 33

Series 2017

AN ORDINANCE ADOPTING CHAPTER 14 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE CONCERNING UNMANNED AIRCRAFT SYSTEMS

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The Breckenridge Town Code is amended by the adoption of a new Chapter 14 of Title 5, to be entitled "Unmanned Aircraft Systems," which shall read in its entirety as follows:

CHAPTER 14

UNMANNED AIRCRAFT SYSTEMS

SECTION:

- 5-14-1: AUTHORITY
- 5-14-2: PURPOSE AND INTENT
- 5-14-3: DEFINITIONS
- 5-14-4: UNLAWFUL ACTS
- 5-14-5: UNLAWFUL TO LAUNCH, LAND, OR OPERATE A UAS FROM OR ON TOWN-OWNED REAL PROPERTY
- 5-14-6: UNLAWFUL TO HARASS OR ANNOY WILDLIFE
- 5-14-7: EXEMPTIONS
- 5-14-8: VIOLATION; PENALTIES
- 5-14-9: RULES AND REGULATIONS

5-14-1: AUTHORITY: The Town Council hereby finds, determines, and declares that it has the power to adopt this ordinance pursuant to: (i) Section 31-15-103, C.R.S. (concerning municipal police powers); (ii) Section 31-15-401, C.R.S.(concerning municipal police powers); (iii) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (iv) the powers contained in the Breckenridge Town Charter. Such powers are traditional local government powers.

5-14-2: PURPOSE AND INTENT: It is the purpose and intent of this Chapter to address the unregulated use of unmanned aircraft systems, sometimes known as "drones," throughout the Town. The unregulated use of unmanned aircraft systems: (i) pose threats to the public health, safety, and welfare of the residents and many visitors to the Town that include, but are not limited to, potential hazards to persons and property on the ground; and (ii) give rise to additional serious concerns that include, but are not limited to, privacy and law enforcement operations.

5-14-3: DEFINITIONS: For purposes of this Chapter, the following terms shall have the following meanings:

- CRITICAL INFRASTRUCTURE: Has the meaning provided in 18 U.S.C. §2339D<sup>1</sup>.
- DEADLY WEAPON: Has the meaning provided in Section 6-3-5 of this Code.
- FAA: The Federal Aviation Administration.
- FIREARM: Has the meaning provided in Section 6-3-5 of this Code.
- OPERATE: To pilot, steer, direct, fly, or manage a UAS through the air whether remotely or otherwise. The term "operate" includes managing or initiating a computer system that pilots, steers,

---

<sup>1</sup> "critical infrastructure" means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

directs, flies, or manages a UAS.

**SURVEILLANCE:** The gathering, without permission and in a manner that is offensive to a reasonable person, of visual images, physical impressions, sound recordings, data, or other information involving the private, personal, business, or familial activities of another person, business, or entity, or that otherwise intrudes upon the privacy, solitude, or seclusion of another person, business, or entity, regardless of whether a physical trespass onto real property owned, leased, or otherwise lawfully occupied by such other person, business, or entity, or into the airspace above real property owned, leased, or otherwise lawfully occupied by such other person, business, or entity, occurs in connection with such surveillance.

**UAS:** 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.

**5-14-4: UNLAWFUL ACTS:** It is unlawful to operate a UAS:

- A. In a reckless or careless manner so as to endanger the life or property of another. In any proceeding alleging a violation of this Section, the factfinder shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing UASs.
- B. If the UAS is equipped with a firearm or other deadly weapon.
- C. For the purpose of conducting surveillance, unless permitted by law.
- D. In a manner that interferes with law enforcement, firefighting, or any other government emergency operations.

**5-14-5: UNLAWFUL TO LAUNCH, LAND, OR OPERATE A UAS FROM OR ON TOWN-OWNED REAL PROPERTY:** It is unlawful to launch or land a UAS from any real property owned by the Town without the prior written permission of the Town Manager or the Town Manager's designee.

**5-14-6: UNLAWFUL TO HARASS OR ANNOY WILDLIFE:** It is unlawful to intentionally or knowingly harass, annoy, or disturb wildlife by the use of a UAS.

**5-14-7: EXEMPTIONS:** Nothing in this Chapter shall be construed to prohibit, limit, or otherwise restrict:

- A. The use of a UAS for lawful purposes and in a lawful manner by any of the following persons acting in the course and scope of their assigned duties: (i) any law enforcement or emergency services personnel of the Town; (ii) any other local, state, or federal government law enforcement or emergency services personnel; or (iii) any authorized military personnel of the state or federal government.
- B. The use of a UAS by the owner or operator of a critical infrastructure facility to monitor, operate, or maintain the reliability and integrity of the facility, or to determine if repairs are necessary to the facility.
- C. The use of a UAS to the extent this Chapter conflicts with or is preempted by any law, rule, or regulation of the FAA.

**5-14-8: VIOLATION; PENALTY:**

- A. It is unlawful and a misdemeanor offense to violate any provision of this Chapter. A person who is convicted of violating any provision of this Chapter shall be punished as provided in section 1-4-1 of this Code.
- B. In addition to the penalty set forth in subsection A of this Section, the Town may impound any UAS that is operated in violation of this Chapter.

5-14-9: RULES AND REGULATIONS: The Town Manager may from time to time adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this Chapter. Such regulations shall be adopted in accordance with the procedures established by Title 1, Chapter 18 of this Code. Pursuant to Section 1-18-6 of this Code, the Town Council authorizes the Town Manager's rules and regulations promulgated pursuant to this Section to be enforced in the Town's municipal court.

Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary Codes adopted by reference therein, shall continue in full force and effect.

Section 3. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 5. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 14th day of November, 2017.

This ordinance was published in full on the Town of Breckenridge website on November 15, November 16, November 17, November 18 and November 19, 2017.

A public hearing on this ordinance was held on November 28, 2017.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 28th day of November, 2017. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

\_\_\_\_\_/s/\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

\_\_\_\_\_/s/\_\_\_\_\_  
Eric S. Mamula, Mayor

APPROVED IN FORM

\_\_\_\_\_/s/\_\_\_\_\_  
Town Attorney                      Date

This Ordinance was published on the Town of Breckenridge website on November 30, December 1, December 2, December 3 and December 4, 2017. This ordinance shall become effective on January 3, 2018.