

ORDINANCE NO. 2022-19

ORDINANCE ADOPTING CHAPTER 186, "UNMANNED AIRCRAFT / DRONES" TO THE CODE OF THE BOROUGH OF KENILWORTH

WHEREAS, the Borough of Kenilworth (the "Borough") believes that in the best interest of the taxpayers and/or residents and/or visitors to adopt an Ordinance to protect the public health, welfare, and safety of the Borough's residents and visitors by safely and securely managing the use of unmanned aircrafts, also commonly known as drones, in the Borough's airspace in a manner that ensures there is no violation of Federal and State Laws and Regulations; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, State of New Jersey as follows:

SECTION 1. RECITALS. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 186, "Unmanned Aircraft / Drones," of the Borough of Kenilworth, County of Union, State of New Jersey, is hereby created as follows:

§ 186-1 Purpose.

The purpose of this chapter is to protect the public health, welfare, and safety of the Borough's residents and visitors by safely and securely managing the use of unmanned aircrafts, also commonly known as drones, in the Borough's airspace in a manner that ensures there is no violation of Federal and State Laws and Regulations.

§ 186-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DATA COLLECTION

The acquisition of information by use of one or more sensing devices.

DRONE

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

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, Wi-Fi, or other data frequencies).

UNMANNED AIRCRAFT

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.

§ 186-3 Regulations; restrictions.

A. No unmanned aircraft shall be operated in a manner that is violation of any Federal, State, and local laws, including but not limited to:

- (1) A conviction under the operation of unmanned aircrafts pursuant to N.J.S.A. 2C:40-27, et seq.;
- (2) A conviction of harassment pursuant to N.J.S.A. 2C:33-4;
- (3) A conviction for stalking pursuant to N.J.S.A. 2C:12-10.1;

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- (4) A conviction of invasion of privacy pursuant to N.J.S.A. 2C:14-9;
- (5) A conviction of obstructing administration of law or other governmental function pursuant to N.J.S.A. 2C:29-1;
- (6) A conviction for introducing contraband pursuant to N.J.S.A. 2C:29-6;
- (7) A conviction of disorderly persons pursuant to N.J.S.A. 2C:40-28;
- (8) A conviction of endangering another in violation of N.J.S.A. 2C:24-7.1; and
- (9) A conviction of contempt of a domestic violence order pursuant to subsection b. of N.J.S.A. 2C:29-9 which constitutes a crime or disorderly persons offense, or any other criminal offense, even if any other conviction involves the use of an unmanned aircraft system, nor shall the other conviction merge with a conviction under this section.

§ 186-4 Annual registration and notice of permitted drone use.

A. All persons and entities shall complete and file an annual drone registration form ("annual form"), which is available at the Borough Clerk's Office, at least 24 hours prior to the operation of any drone. The Clerk shall maintain a copy of the registration and shall also forward a copy of the registration with the Borough's Police Department which shall be valid during the calendar year within which it is filed.

- (1) The annual form shall require the following:
 - (a) The name, address, and telephone number of the person or entity filing the annual form and that intends to operate the drone;
 - (b) A statement that the pilot possesses a valid FAA remote pilot certificate and attach a copy of same;
 - (c) A statement that the pilot possesses a current and valid registration with the FAA and attach a copy of same;
 - (d) The purpose of the operation; and
 - (e) A statement that the operator has reviewed the applicable FAA regulations and intends to abide by them.

§ 186-6 Enforcement.

Enforcement of this Chapter shall be within the authority of the Borough of Kenilworth Police Department to ensure that there is no violation of Federal and State Laws and Regulations pertaining to the use of unmanned aircrafts and drones for the safety and welfare of the residents of the Borough. As it relates to the violation of Federal Laws, the Borough of Kenilworth Police Department shall report to the FAA any individual who operates an unmanned aircraft in a manner that does not comply with FAA regulations.

§ 186-7 Violations and penalties.

Any person who has committed any offense in violation with this Chapter shall be subject to penalties in accordance with § 1-1 of the General Code as well as those penalties for violation of any applicable State Law.

§ 186-8 Inconsistency of the ordinances; repealer.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of their inconsistencies only. This ordinance shall take effect twenty (20) days after passage and publication, as required by law.

§ 186-9 Partial invalidity of ordinance; severability.

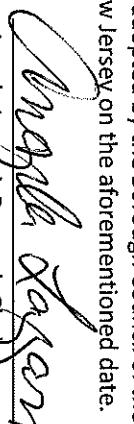
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Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.


Linda Karlovitch, Mayor

INTRODUCTION					COUNCILPERSON					FINAL ADOPTION						
Moved	Sec.	Aye	Nay	Abs.	NP	COUNCILPERSON					Moved	Sec.	Aye	Nay	Abs.	NP
		✓				KAY CECERI					✓	✓	✓			
✓		✓				MARK DAVID					✓	✓	✓			
		✓				JOSEPH FINISTRILLA					✓	✓	✓			
		✓				SCOTT PENTZ					✓	✓	✓			
		✓				FRED PUGLIESE					✓	✓	✓			
		✓				JOHN ZIMMERMAN					✓	✓	✓			
Introduced:					I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.											
November 2, 2022					 Angela Lazzari, Borough Clerk											
Final Adoption:					December 7, 2022											