

ORDINANCE NO. 2023-XX

AN ORDINANCE CREATING A NEW TITLE 09 OF CHAPTER OF THE FRUITA MUNICIPAL CODE TO REGULATE UNMANNED AIRCRAFT SYSTEMS.

WHEREAS, Title 09 of the City of Fruita (the “City”) Municipal Code (the “Code”) sets forth the purposes and applicability of Public Peace, Morals And Welfare; and,

WHEREAS, the City Council determines it is in the best interest of its residents and visitors to regulate and enforce Unmanned Aircraft Systems (“UAS”) operations within the boundaries of the City of Fruita; and,

WHEREAS, the City Council has been made aware that UAS operations have expanded beyond recreations use, and been utilized to potentially harass, or evade privacy; and,

WHEREAS, UAS are evolving from earlier strictly military or government use into civilian, commercial and recreational uses among a range of residents and visitors of the City; and,

WHEREAS, City Council finds that it would be a valid exercise of its police powers to regulate and control the use of UAS within the municipal boundaries of the City of Fruita, particularly at low altitudes under 400 feet, which is where most UAS operate.

WHEREAS, this Ordinance was introduced at first reading on XX, 2023, pursuant to Section 2.13(B) of the City Charter; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the requirement of Section 2.13(B) of the City Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence and that approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, has determined to take final action on this Ordinance prior to concluding the public hearing on second reading.

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council.

Section 2. The Fruita Municipal Code is hereby amended to include a new Chapter 9.16, ("Regulation of Unmanned Aircraft Systems") within Chapter 9 ("Public Peace, Morals And Welfare ") as set forth in Exhibit A, attached to this Ordinance and hereby incorporated herein by reference.

Section 3. the City Council has been made aware that UAS operations have expanded beyond recreations use, and been utilized to potentially harass, or evade privacy; and,

Section 4. the City Council determines it is in the best interest of its residents and visitors to regulate and enforce UAS operations within the boundaries of the City of Fruita and to make such a municipal offense if such regulations are violated.

Section 5. Codification of Amendments. The codifier of the City's Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Code. The City Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors. Such corrections may also include naming references as well as references to studies.

Section 6. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 7. Effective Date. This Ordinance shall take effect thirty (30) days after final adoption in accordance with Section 2.13(G) of the Fruita Home Rule Charter.

Section 8. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 9. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F) of the Code.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
XX DAY OF XX 2023.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

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