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AN ORDINANCE AMENDING TITLE 6, CHAPTER 2, SECTION 2-13 OF THE ORLAND PARK VILLAGE CODE IN REGARD TO SMALL UNMANNED AIRCRAFTS

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WHEREAS, the Village President and Board of Trustees of the Village of Orland Park (the “Village”) have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, pursuant to 65 ILCS 5/11-60-2 (2012), the President and Board of Trustees of the Village may define, prevent, and abate nuisances; and

WHEREAS, the growing prevalence of small unmanned aircrafts, including drones and model aircrafts, has created public safety concerns; and

WHEREAS, a recent investigation conducted by the *Washington Post* revealed that law enforcement agencies, universities and other registered drone users have reported 23 accidents and 236 unsafe incidents since November 2009; and

WHEREAS, small unmanned aircrafts, including drones, can be equipped with highly sophisticated surveillance technology that threatens privacy; and

WHEREAS, the FAA launched a public awareness campaign urging novice operators to pay attention to safety and avoid reckless and unsafe activities, such as flying too close to individuals or operating small unmanned aircrafts while under the influence of alcohol or drugs; and

WHEREAS, the Unmanned Aircraft System (“UAS”) Registration Task Force Aviation Rulemaking Committee has issued a final report to the Department of Transportation and the Federal Aviation Administration (“FAA”) acknowledging the need for regulations of small unmanned aircrafts and recommending the implementation of a federal registry; and

WHEREAS, the City of Chicago has adopted an ordinance regulating the use of small unmanned aircrafts in the city; and

WHEREAS, the prevalence and unregulated use of small unmanned aircrafts, including drones, in the Village poses a threat to the public health, safety, and welfare and has created public health, safety, and welfare concerns, including but not limited to privacy, nuisance, and trespass concerns; and

WHEREAS, the Village desires to reduce, eliminate and curb the public nuisances created by individuals operating small unmanned aircrafts within the Village as specified herein; and

WHEREAS, the Village declares that a public nuisance is created by individuals operating unmanned aircrafts who commit violations of the laws set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1

The above recitals are incorporated herein by reference as though fully set forth herein.

SECTION 2

That Title 6, Chapter 2 of the Orland Park Village Code is amended by adding Section 6-2-2-13, which shall read in its entirety as follows:

“6-2-2-13: SMALL UNMANNED AIRCRAFT:

1. **Definitions:**

“Aircraft” means any contrivance invented, used, or designated to navigate or fly in the air.

“Village airspace” means the airspace above the land, water and waterways within the jurisdiction of the Village of Orland Park.

“Firearm” has the meaning ascribed to the term in Section 8-6-4-1.

“Hobby or recreational purposes” means a pursuit engaged in for relaxation, and not for business purposes and not for compensation or hire.

“Open air assembly unit” means any structure, enclosed area or other demarcated space used for the assembly of persons in the open air, including, but not limited to, amusement parks, stadiums, athletic fields, automotive speed ways, aviation fields, band stands, beach enclosures, grandstands, observation platforms, outdoor public swimming pools, outdoor theaters, race tracks, reviewing stands, street festivals or parade routes.

“Operate” means to pilot, steer, direct, fly or manage a small unmanned aircraft through the air whether from within the aircraft or remotely. The term “operate” includes managing or initiating a computer system that pilots, steers, directs, flies or manages a small unmanned aircraft.

“Public aircraft” has the meaning ascribed to the term in Section 40102 of Title 49 of the United States Code.

“Small unmanned aircraft” means an aircraft that (1) is operated without the possibility of direct human intervention from within or on the aircraft, and (2) weighs less than 55 pounds at the time of the operation, including the weight of any payload or fuel. The term “small unmanned aircraft” does not include “toy aircraft” or “public aircraft” as defined herein.

“Surveillance” means 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 other entity, or into the airspace above real property owned, leased or otherwise lawfully occupied by such other person, business or other entity, occurs in connection with such surveillance.

“Toy aircraft” means (1) a glider or hand-tossed small unmanned aircraft that is not designed for and is incapable of sustained flight; or (2) a small unmanned aircraft that is capable of sustained flight and is controlled by means of a physical attachment, such as a string or wire.

“Weapon” means any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

2. Operating Regulations. No person shall operate any small unmanned aircraft in Village airspace:

- (1) except for hobby or recreational purposes only and in conformity with this section;
- (2) directly over any person who is not involved in the operation of the small unmanned aircraft, without such person’s consent;
- (3) over property that the operator does not own, without the property owner’s consent, and subject to any restrictions that the property owner may place on such operation;
- (4) at an altitude higher than 400 feet above ground level;
- (5) outside the visual line of sight of the operator. The operator shall use his or her own natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to maintain at all times an unobstructed view of the small unmanned aircraft, without the use of vision-enhancing devices, such as binoculars, night vision goggles, powered vision magnifying devices, goggles designed to provide a “first person view” from the model or similar devices;
- (6) within five miles of any airport;
- (7) in a manner that interferes with, or fails to give way to, any manned aircraft;
- (8) between dusk and dawn;
- (9) whenever weather conditions impair the operator’s ability to operate the small unmanned aircraft safely;
- (10) over any open air assembly unit, school, school yard, public or private park, hospital, place of worship, prison or police station, without the property owner’s consent, and subject to any restrictions that the property owner may place on such operation;
- (11) within 500 feet of any water intake facility or any electric generating facility, substation or control center, or within 100 feet of any electric transmission facility, or within 25 feet of

any electric distribution facility or of any overhead wire, cable, conveyor or similar equipment for the transmission of sounds or signal, or of heat, light or power, or data, upon or along any public way within the Village, without the facility or equipment owner's consent, and subject to any restrictions that the facility or equipment owner may place on such operation;

(12) for the purpose of conducting surveillance, unless expressly permitted by law;

(13) while under the influence of alcohol, or other drug or drugs, intoxicating compound or compounds or any combination thereof, as those terms are defined in 625 ILCS 5/11-501, as amended;

(14) that is equipped with a firearm or other weapon;

(15) with intent to use such small unmanned aircraft or anything attached to it to cause harm to persons or property;

(16) in a reckless or careless manner;

(17) in violation of any Federal or State law.

3. Construction of Section

(1) Operations authorized by the FAA - Exception. Notwithstanding the prohibitions set forth in this Section 2-13, nothing in this section shall be construed to prohibit, limit or otherwise restrict any person who is authorized by the Federal Aviation Administration to operate a small unmanned aircraft in Village air space, pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 or a certificate of waiver, certificate of authorization or airworthiness certificate under Section 44704 of Title 49 of the United States Code or other Federal Aviation Administration grant of authority for a specific flight operation(s), from conducting such operation(s) in accordance with the authority granted by the Federal Aviation Administration.

(2) Operations prohibited by the FAA - Clarification. Nothing in this section shall be construed to authorize the operation of any small unmanned aircraft in Village airspace in violation of any Federal statute or rules promulgated thereunder, including, but not limited to, any temporary flight restrictions or notices to airmen issued by the Federal Aviation Administration.

(3) Operations authorized by the State of Illinois - Exception. Notwithstanding the prohibitions set forth in this section, nothing in this section shall be construed to prohibit the use of a drone by a law enforcement agency in accordance with Section 15 of the Freedom from Drone Surveillance Act, codified at 725 ILCS 167/1 et seq., or its successor provision.

4. Violation - Penalty. Any person who violates this section or any rule promulgated hereunder shall be fined not less than \$100.00 nor more than \$750.00 for each offense.

Each day that a violation continues shall constitute a separate and distinct offense.

5. **Seizure for unlawful use.** On a second or ensuing incident or on a first incident resulting in property damage or personal injury and when the village manager, police chief or their duly authorized enforcement officers or designees have a reasonable basis to believe that any small unmanned aircraft is or has been operating in violation of this section, said small unmanned aircraft may be seized by such duly authorized enforcement official, followed by an opportunity for an administrative hearing, with notice to the owner within seven calendar days of such seizure, for the purpose of reviewing the appropriateness of the seizure, and shall be held by the Village until such time that the owner of such small unmanned aircraft reimburses the Village for the actual cartage costs incurred in connection with the seizure and pays to the Village \$20.00 for each day, or part of a day, that the small unmanned aircraft is in storage. If criminal charges involving the use, condition or operation of the small unmanned aircraft are pending, the small unmanned aircraft shall be held until disposition of the criminal charges. If it is determined at an administrative hearing, by a preponderance of evidence, that the seized small unmanned aircraft was not operated in violation of this section, such small unmanned aircraft shall be returned to its owner without charge.

6. **Rules.** The police chief, in consultation with corporate counsel, is authorized to promulgate rules necessary or appropriate to implement this Section 2-13. Such rules shall be publically available and conspicuously posted.”

SECTION 3

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4

This Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.