

ORDINANCE NO. 2015-31

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 21 ENTITLED "PARKS AND RECREATION", CREATING SECTION 21-53 TO BE ENTITLED "PROHIBITING UNMANNED DRONE USE IN CITY PARKS"; PROVIDING FOR A PENALTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rosenberg ("City") is authorized to regulate activities in City Parks pursuant to Chapter 54 of the Texas Local Government Code and the City Charter; and,

WHEREAS, drones, which are unmanned aircraft that can fly under the control of a remote pilot or via a global positioning system (GPS) guided autopilot mechanism, have become increasingly available to private citizens for personal and recreational use; and,

WHEREAS, drones can fly at altitudes below the navigable airspace (generally at 400 feet) that is under the jurisdiction, regulations and control of the Federal Aviation Administration (FAA); and,

WHEREAS, FAA regulations are primarily focused on safety issues related to unmanned aircraft operations; and,

WHEREAS, the City Council recognizes the rapidly changing technological advances and positive uses that drones can provide in the fields of public safety and emergency management; and,

WHEREAS, the City Council finds that this Ordinance is an effort to achieve a balance to protect the public's reasonable expectation of privacy and civil liberties with law enforcement activities; and,

WHEREAS, the City Council finds that the enactment of this Ordinance is necessary for health, safety, life and property and to preserve order and security of the City of Rosenberg;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS:

Section 1. The findings set out herein are found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes.

Section 2. The Code of Ordinances of the City of Rosenberg, Texas, is hereby amended by amending Chapter 21 ("Parks and Recreation"), by creating Section 21-53 ("Prohibiting Unmanned Drone Use in City Parks") to provide as follows:

"Sec. 21- 53. – Prohibiting unmanned drone use in city parks.

A. Definitions. As used in this ordinance, the following words and phrases shall be defined as follows:

(1) "Drones" means unmanned aircraft that can fly under the control of a remote pilot or via a global positioning system (GPS) guided autopilot mechanism.

B. Prohibiting unmanned drone use in city parks.

(1) Drones are prohibited from flying in any airspace below 400 feet within or over any park property in the city, including courts and fields, unless otherwise exempt under this section.

(2) Operation of unmanned drones in city parks is strictly prohibited and declared a nuisance.

C. Exemptions.

(1) This section shall not prohibit the use of drones in a recreational project sponsored by the City's Parks and Recreation Board as authorized by the City Manager. All activities conducted under this exemption shall be supervised by the designated city staff.

(2) This section shall not prohibit the use of drones by any law enforcement agency of the city, state, or federal government for lawful purposes, consistent with state and federal law.

D. Signage.

(1) Prominently displayed reasonably sized signs shall be placed at the entrance of each city park, court, and field and on each building or structure within each city park, stating that use of unmanned drones in city parks is strictly prohibited.

(2) The City Manager is hereby authorized and directed to cause the placement of signs consistent with the provisions of this section."

Section 3. Penalty. Any person who shall violate any of the provisions of this ordinance or fail to comply therewith shall be deemed guilty of a misdemeanor and upon conviction thereof. The penalty shall be as provided in section 1-13 of the Code of Ordinances.

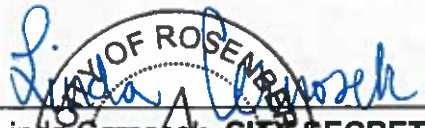
Section 4. Cumulative Clause. That this ordinance shall be cumulative of all provisions of the City of Rosenberg, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

Section 5. Severability. That it is hereby declared to be the intention of the City Council of the City of Rosenberg, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrases, clause, sentence, paragraph or section.


Section 6. Effective Date. This Ordinance shall take effect after adoption and publication as required by law.

PASSED AND APPROVED by a vote of 7 "ayes" in favor and 0 "noes" against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on the 20th day of October 2013.

ATTEST:


Linda Gemesek, **CITY SECRETARY**

APPROVED:


Cynthia A. McConathy, **MAYOR**

APPROVED AS TO FORM:


Scott M. Tschirhart, **CITY ATTORNEY**
Denton Navarro Rocha Bernal Hyde and Zech, P.C.