

ORDINANCE NO. 2018 - 07

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE ADOPTING CHAPTER 9.22 OF THE MOUNTAIN VILLAGE MUNICIPAL CODE CONCERNING THE OPERATION OF UNMANNED AIRCRAFT SYSTEMS WITHIN THE TOWN OF MOUNTAIN VILLAGE

RECITALS:

- A.** The Town of Mountain Village (the “**Town**”), in the County of San Miguel and State of Colorado, is a home rule municipality duly organized and existing under the laws of the State of Colorado and its Town Charter.
- B.** The Town Council hereby finds that it has the authority to adopt this ordinance pursuant to (i) Section 31-15-103, C.R.S and Section 31-14-401 both concerning municipal police powers; (ii) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (iii) the powers contained in the Town of Mountain Village Charter.
- C.** The Council has determined that it is in the best interests of the Town to adopt regulations governing the purpose and functions of unmanned aircraft systems operating within the Town boundaries, not in conflict with federal law regulating the operational safety, registration and licensing of unmanned aircraft systems.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO AS FOLLOWS:

Section 1. Legislative Findings.

The recitals to this Ordinance are adopted as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Chapter 9.22 of the Town Municipal Code is hereby adopted and shall read in its entirety as set forth on Exhibit A attached hereto.

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions 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.

Section 4. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with

the provisions of this Ordinance are hereby repealed, provided however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 5. Safety Clause.

The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare of the citizens of the Town.

Section 6. Effective Date.

This Ordinance shall take effect on December 15th, 2018.

Section 7. PUBLIC HEARING.

A public hearing on this Ordinance was held on the 15th day of November, 2018, in the Town Council Chambers, 455 Mountain Village Boulevard, Mountain Village, Colorado.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 18th day of October, 2018.

**TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY**

By: 
Laila Benitez, Mayor

ATTEST:


Jackie Kennefick, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado, this 15th day of November, 2018.

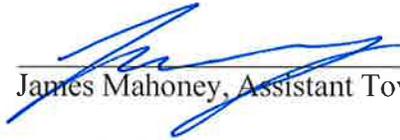
**TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY**

By: 
Laila Benitez, Mayor

ATTEST:


Jackie Kennefick, Town Clerk

Approved As To Form:


James Mahoney, Assistant Town Attorney

I, Jackie Kennefick, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town"), do hereby certify that:

1. The attached copy of Ordinance No. 2018-07 ("Ordinance") is a true, correct and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council of the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on October 18, 2018 by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton	X			
Bruce McIntire	X			
Dan Jansen			X	
Patrick Berry	X			
Jack Gilbride	X			
Natalie Binder			X	

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance, was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on October 28, 2018, in accordance with Section 5.2b of the Town of Mountain Village Home Rule Charter.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on November 15, 2018. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton	X			
Bruce McIntire	X			
Dan Jansen			X	
Patrick Berry	X			
Jack Gilbride	X			
Natalie Binder	X			

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me, as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 15th day of November, 2018.

(SEAL)



Jackie Kennefick

Jackie Kennefick, Town Clerk

EXHIBIT A

CHAPTER 9.22

UNMANNED AIRCRAFT SYSTEMS

Sections:

- 9.22.010 Authority
- 9.22.020 Purpose and Intent
- 9.22.030 Definitions
- 9.22.040 Unlawful Acts
- 9.22.050 Unlawful to Launch, Land, or Operate a UAS from or on Town-Owned Real Property
- 9.22.060 Unlawful to Harass or Annoy Wildlife
- 9.22.070 Exemptions
- 9.22.080 Violations and Penalties

9.22.010 Authority

The Town Council hereby finds that it has the authority to adopt this ordinance pursuant to (i) Section 31-15-103, C.R.S and Section 31-14-401 C.R.S. both concerning municipal police powers; (ii) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (iii) the powers contained in the Town of Mountain Village Charter.

9.22.020 Purpose and Intent

It is the purpose and intent of this Chapter to address the unregulated use of unmanned aircraft systems and the purpose and functions of such use, throughout the Town as the unregulated use pose threats to the public, health, safety and welfare of the residents and guests of the Town, including but not limited to the potential hazards to persons and property on the ground and give rise to concerns including but not limited to privacy, law enforcement and fire protection operations and the operations of Townowned infrastructure.

9.22.030 Definitions

For the purposes of this Chapter, the following terms shall have the following meanings:

- A. *Critical Infrastructure*: Means systems and assets vital to public health, safety and welfare, including both local, regional and national infrastructure. Examples of Critical Infrastructure include gas (including natural gas) and oil production, storage or delivery systems, water supply systems, telecommunications networks and systems, electrical power generation or delivery systems, financing or banking systems, emergency services (including medical, fire, police and rescue services) and transportation systems (including roads, highways, gondola systems, mass transit, airlines and airports).
- B. *Deadly Weapon*: means a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious physical injury.
- C. *FAA*: The Federal Aviation Administration.
- D. *Firearm*: Means a weapon, such as a rifle or pistol, capable of firing a projectile and using an explosive charge as propellant.
- E. *Operate*: Means 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, directs, flies, or manages a UAS.
- F. *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 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.

- G. *UAS*: Means 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.

9.22.040 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. In a manner that interferes with another person's rightful, quiet enjoyment of private property.
- C. In a manner that interferes with the operation of critical infrastructure.
- D. If the UAS is equipped with a firearm or other deadly weapon.
- E. For the purpose of conducting surveillance, unless permitted by law.
- F. In a manner that interferes with law enforcement, firefighting, or any other government emergency operations.

9.22.050 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.

9.22.060 Unlawful to Harass or Annoy Wildlife

It is unlawful to intentionally or knowingly harass, annoy, or disturb wildlife by the use of a UAS.

9.22.070 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.

9.22.080 Violations and Penalties

- 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 guilty of a class 3 misdemeanor and shall be punishable by a penalty of no less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00). In addition to the penalty set forth in this Section, the Town may impound any UAS that is operated in violation of this Chapter.