

ORDINANCE NUMBER 2016-06

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, CHAPTER 10, ARTICLE 10-12, RESTRICTIONS AND EXCEPTIONS TO UNMANNED VEHICLE OPERATIONS

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Article 10-12, Restrictions and Exceptions to Unmanned Aerial Vehicle Operations, is hereby amended (with deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Article 10-12 RESTRICTIONS AND EXCEPTIONS TO UNMANNED AERIAL VEHICLE OPERATIONS

- 10-12-1 Purpose
- 10-12-2 Definitions
- 10-12-3 Restrictions; Exceptions
- 10-12-4 Penalty

Section 10-12-1 Purpose; Harmony with Other Governmental Regulations

The Town Council hereby recognizes that unmanned aerial vehicles, also known as drones, can pose unique safety, nuisance, and privacy invasion risks; thus regulating the operation of unmanned aerial vehicles within the Town is needed to promote the public safety and welfare of the Town and its residents. These regulations are to be read in harmony with all other regulations regarding the use of unmanned aerial vehicles, specifically including any rules promulgated by the Federal Aviation Administration **and the State of Arizona**. Further, compliance with these regulations should not be interpreted as express, implied or tacit approval to operate an unmanned aerial vehicle in violation of any other governmental regulations or in a manner that jeopardizes the health, safety, or welfare of the general public. Nothing in this article shall be construed to authorize the operation of any UAV in Town airspace in violation of any Federal **or State** statute or rules promulgated thereunder. Operators of unmanned aerial vehicles should familiarize themselves with all applicable regulations relating to the use of an unmanned aerial vehicle, including the Federal Aviation Administration requirements regarding notification of an airport operator and

control tower, where applicable, prior to operating an unmanned aerial vehicle within five miles of an airport.

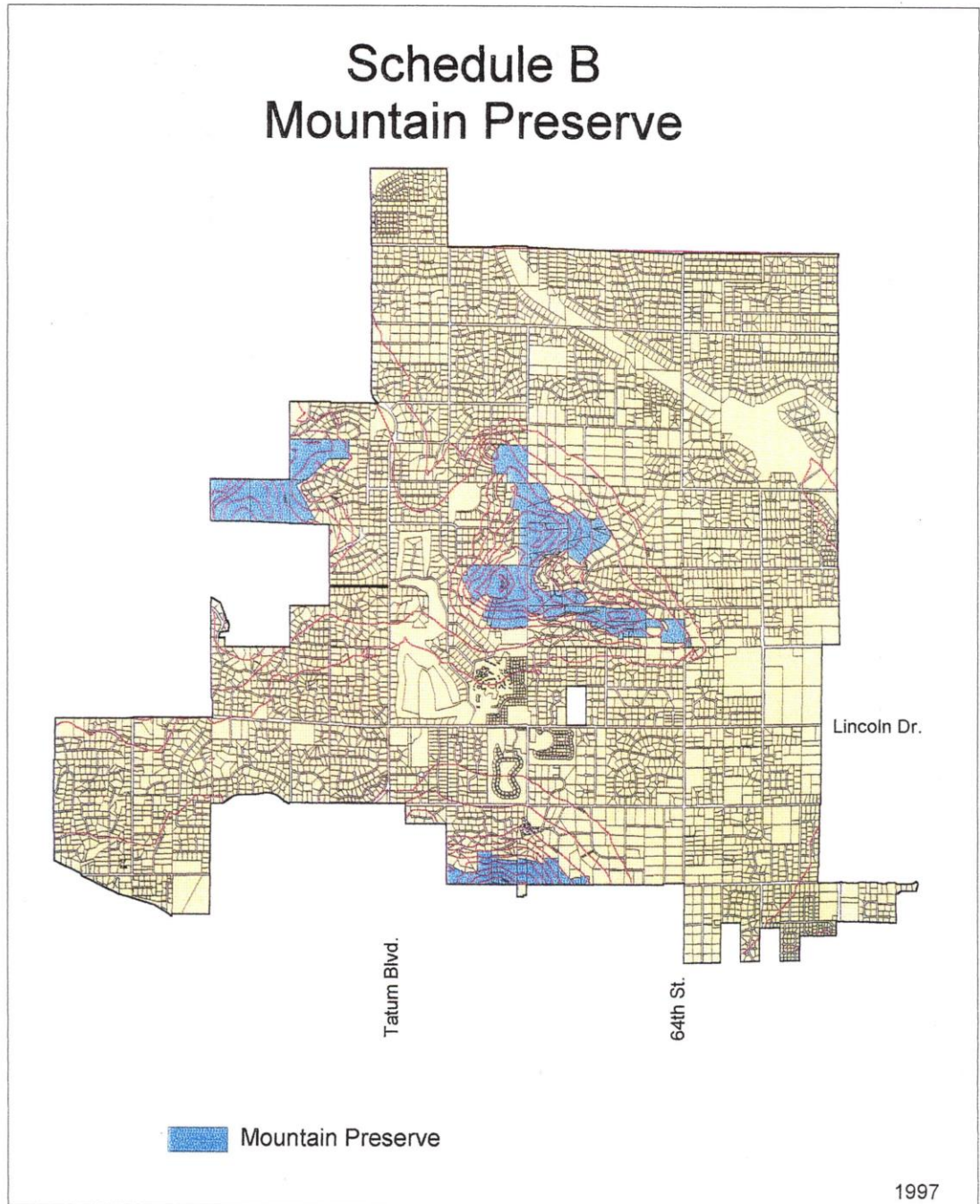
Section 10-12-2 Definitions

- A. The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
1. ~~“Commercial Use” means the use of an Unmanned Aerial Vehicle within the Town for a commercial purpose, including aerial photography, aerial mapping, or geospatial imaging.~~
 2. ~~“Commercial User” means any company, entity or person who is in the business of flying an Unmanned Aerial Vehicle for a Commercial Use.~~
 3. 1. “FAA” means the Federal Aviation Administration.
 4. 2. “Law Enforcement Agency” means a lawfully established federal, state, or local public law enforcement agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.
 5. ~~“Private Property” means all parcels of land within the Town of Paradise Valley limits that are not Public Property, including, but not limited to, residences, schools, churches, resorts, utility substations, golf course, or canals.~~
 6. ~~“Public Property” means streets, rights of way, parks, mountain preserves, and other parcels of land owned by the Town of Paradise Valley or the Mummy Mountain Preserve Trust.~~
 7. 3. “PVPD” means the Town of Paradise Valley Police Department.
 8. 4. “Unmanned Aerial Vehicle” or “UAV” (aka “Drone”) means an aircraft that may be flown without a pilot or operator in or touching the aircraft.

Section 10-12-3 Restrictions; Exceptions

- A. **It is unlawful for a person to operate a UAV if the operation:**
1. **Is prohibited by a federal or state law or regulation that governs UAV use, including FAA regulations.**
 2. **Interferes with a law enforcement agency, firefighter or emergency services operation.**

3. Involves takeoff or landing in the Mummy Mountain Preserve, as such is designated on the following Schedule B Map of the Mummy Mountain Preserve or as the Mummy Mountain Preserve may be modified from time to time:



B. Exception. The use of a UAV is allowed within the Town by a law enforcement agency in response to an emergency situation or after obtaining a warrant based upon probable cause that criminal activity is occurring.

~~A. Private Property. It is unlawful for a person to use an UAV over Private Property at a level between zero feet and five hundred feet above the ground level of the Private Property without the express permission of the owner of the Private Property over which the UAV is flying. An offense under this section will be considered a criminal trespass and subject to civil and criminal penalties pursuant to subsection 10-12-4 below and Article 1-9 of the Town Code.~~

~~B. Public Property. The use of an UAV over Public Property within the Town is unlawful unless the use has been authorized by the issuance of a Special Event Permit pursuant to Section 8-8-3 of the Paradise Valley Town Code.~~

~~C. Commercial Use on Private or Public Property. The Commercial Use of an UAV within the Town is unlawful unless the Commercial User has met the requirements provided in subsection A and B above with respect to operation of a UAV on either Private Property or Public Property and the following additional requirements:~~

- ~~1. Registered as a Commercial User with the PVPD, said registration to include proof of having obtained the appropriate certifications or registrations required from the FAA for the type of Commercial Use(s) to be conducted within the Town by the Commercial User;~~
- ~~2. Provided a list of the types and number of UAVs that the Commercial User plans to use within the Town limits, as well as: the brand and model of each UAV; any registration number, license number or other identifying information for each such UAV, specifically including registration numbers supplied by the FAA; and photos of each UAV, at least one such photo to show the particular registration or license number for each UAV; and~~
- ~~3. At least four hours prior to each Commercial Use of a UAV, the Commercial User will first have provided notification to the PVPD of the planned date, time, location of the Commercial Use, contact information for the Commercial User, and other information required by the Police Department through its online UAV Commercial User web portal.~~

~~D. Exceptions. In addition to the uses allowed above, the use of a UAV is allowed within the Town for:~~

- ~~1. Recreational use of an UAV within one's own property so long as such use is at a height of less than five hundred feet (500') and not in violation of the additional violations set forth in subsection E below; or~~
- ~~2. By a Law Enforcement Agency in response to an emergency situation or after obtaining a warrant based upon probable cause that criminal activity is occurring.~~

~~E. Additional Violations. In addition to those violations enumerated above, the following are violations of this Article, even under an otherwise authorized use or exception. No person or entity shall operate a UAV within the Town:~~

- ~~1. In a careless or reckless manner that poses an apparent or actual threat of harm, or actual harm to persons or property; or~~
- ~~2. Without the express permission of a person, owner, or authorized representative, to capture, view, record or transmit any visual image or audio recording of such person or their private real property, located in the Town, under circumstances in which the subject person or owner of the private property has a reasonable expectation of privacy (including, but not limited to, inside a private residence, school room, resort room, office, or inside an enclosed yard);~~
- ~~3. Or in such a manner as to intentionally harass, annoy, or assault a person or persons or to cause a public nuisance.~~

Section 10-12-4 Penalties/Seizure of Evidence.

For a first violation of this ordinance (except those violations which are accompanied by intentional or reckless acts), the penalty shall be a civil violation with a fine not to exceed \$500. For a second violation or any violation accompanied by intentional or reckless acts, the charge or violation shall be as provided for in Article 1-9 of the Town Code, with a maximum penalty to include a criminal misdemeanor charge, which, upon conviction thereof shall be a fine not to exceed two thousand five hundred dollars (\$2,500.00) or imprisonment for a period not to exceed six months or both fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described.

If the PVPD police chief or a Town code enforcement officer, or any of their duly authorized enforcement officers or designees, have a reasonable basis to believe that any UAV is or has been operating in violation of this section, said UAV 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 Town until such time that the owner of such UAV reimburses the Town for the actual costs incurred in connection with the seizure and storage of the UAV. If criminal charges involving the use, condition or operation of the UAV are pending, the UAV shall be held until disposition of the criminal charges. If it is determined at an administrative hearing, by a preponderance of the evidence, that the UAV was not being operated in violation of this article, such UAV shall be returned to its owner without charge.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this ____ day of _____ 2016.

Michael Collins, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney