ORDINANCE 2015-10

AN ORDINANCE OF THE TOWNSHIP OF OCEAN, COUNTY OF OCEAN, STATE OF NEW JERSEY ADOPTING CERTAIN REGULATIONS OF DRONE TECHNLOGY AND UNMANNED AIRCAFT FOR THE TOWNSHIP OF OCEAN

WHEREAS, the Township of Ocean (hereinafter "Township") deems it appropriate, necessary, and proper for the good government, order, the protection of persons and property, and for the preservation of the public health, welfare, and safety of Township and its inhabitants to adopt certain regulations pertaining to the use of drone technology and unmanned aircraft in Ocean Township; and

WHEREAS, drone technology includes "drones," which are unmanned aircraft that can fly under the control of a remote pilot or *via* geographic positions system (GPS) guided autopilot mode, can fly at altitudes below the navigable airspace (generally 400'), and are equipped with surveillance technologies (*e.g.*, high definition cameras, night vision cameras, and infrared-see-through scopes, *etc.*); and

WHEREAS, as a result of its declining cost, drone technology and unmanned aircraft have become increasingly available to private citizens for personal, recreational, and other potential uses; and

WHEREAS, drones and unmanned aircraft can be used to fly above areas where people may congregate, above residences, in the backyard of residences, to hover outside residences, and to fly above roads and through traffic in a manner that is inherently dangerous to the public health, welfare, and safety; and

WHEREAS, it is evident that the rapid development, implementation, and use of drone technology and unmanned aircraft throughout the United States, as set forth herein, poses a serious threat to the health, safety, and welfare of Township's inhabitants, seasonal population, and visitors in general, as well as the economic activity and public safety of the Township and the region; and

WHEREAS, the federal government and the State of New Jersey have thus far failed to adopt specific and comprehensive legal restrictions on the use of drone technology, the federal government has thus far only issued general guidelines regarding legal restrictions on the use of the type of unmanned aircraft designated as "model aircraft," and the Federal Aviation Administration ("FAA") is presently scheduled to adopt drone technology regulations in fall 2015, and, therefore, at this time there are no meaningful regulations protecting the public, health, and welfare from drone technology and unmanned aircraft particular to and specific to the needs of Township; and

WHEREAS, approximately forty states and local governments in the United States have adopted regulations of drone technology and unmanned aircraft to date despite the prospect of potential federal preemption issues.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Ocean, Ocean County, State of New Jersey, in accordance with the aforesaid recitals, which are incorporated herein by reference, that:

STATEMENT OF PURPOSE

The purpose of this Ordinance is to adopt certain and specific regulations of drone technology and unmanned aircraft in the Township to protect the public health, welfare, and safety.

ARTICLE I
Drones and Unmanned Aircraft

Section 1. Definitions

"Data collection" means the acquisition of information by use of one or more sensing devices.

"Drone" means an unmanned aircraft that can fly under the control of a remote pilot or by a geographic positions system (GPS) guided autopilot mechanism, and that is equipped with any sensing device or capable of any data collection.

"Sensing device" means a device capable of acquiring data from its surroundings. Sensing devices include, but are not limited to, cameras, microphones, thermal detectors, chemical detectors, radiation gauges, and wireless receivers in any frequency (including cellular, WiFi, or other data frequencies).

"Unmanned aircraft" means an unmanned vehicle or device of any size that is capable of remote-control flight by any means and that does not possess any sensing device and is not capable of any data collection.

Section 2. Regulations

A. Except as otherwise provided in Section 3, drones are prohibited from flying in any airspace below 400 feet within Ocean Township.

B. Except as otherwise provided in Section 3, unmanned aircraft are prohibited from flying in any airspace below 400 feet within Ocean Township in:

1. the airspace over any residentially or commercially zoned area in Ocean Township;

2. the airspace over any roads within Ocean Township; and

3. the airspace over any government or public buildings, property, or parks within Ocean Township.

Section 3. Exceptions

A. This Chapter shall not prohibit the Constitutional use of drones and unmanned aircraft by any law enforcement agency or emergency services organization of or servicing Ocean Township, the County of Ocean, the State of New Jersey, or the United States Government for lawful purposes and in a lawful manner.

B. This Chapter shall not prohibit any state or federal agencies from the use of drones and unmanned aircraft for any lawful and authorized purpose pursuant to federal and state regulations.

C. This Chapter shall not prohibit individuals and entities from the use of drones during daylight hours for business purposes in the airspace within the boundary lines of private commercial or residential property with the property owner's consent, except that data collection shall be limited to data collection of and relating to the properties that provide consent thereto alone.

D. Notwithstanding the provisions of this Chapter, the authorized and lawful operation and use of drones for commercial, business, educational, scientific, research, environmental, and personal purposes pursuant to and in accordance with specific Federal Aviation Administration ("FAA") regulations is permissible if same exists.

E. This Chapter shall not prohibit the use of unmanned aircraft by:

1. any federal, state, and local agencies, including, but not limited to, law enforcement and emergency services agencies, or by any person or persons for lawful purposes and in a lawful manner; or

Section 4. Violations and penalties.

A violation of this Chapter shall be punishable by a fine of between $100.00 and $500.00 for a first offense, and for a second or subsequent offence a fine of between $500.00 and $1,000.00.

Section 5. Repealer.

All ordinances, or parts of ordinances, inconsistent with this Chapter are hereby repealed to the extent of such inconsistency.

Section 6. Severability.

If any word, phrase, clause, section, or provisions of this Chapter shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

Effective date.

This ordinance shall take effect after final adoption and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee of the Township of Ocean on first reading at a meeting held on the 30th day of July, 2015. The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the 13th day of August, 2015, at 6:30 p.m., or as soon thereafter as the matter may be reached, at the Municipal Building located at 50 Railroad Avenue, Waretown, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

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Diane B. Ambrosio, RMC
TOWNSHIP CLERK

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