

## ORDINANCE NO. 2184

### AN ORDINANCE AMENDING CHAPTER XI (PUBLIC OFFENSES) OF THE CODE OF THE CITY OF CANEY, KANSAS, BY ADDING A NEW ARTICLE 3, RELATING TO THE OPERATION OF UNMANNED AERIAL VEHICLES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CANEY, KANSAS, AS FOLLOWS:

Section One. That Chapter XI (Public Offenses) of the Code of the City of Caney, Kansas, is hereby amended by adding a new Article 3, as follows:

#### ARTICLE 3. UNMANNED AERIAL VEHICLES.

11-301. DEFINITIONS. For purposes of this article, the following terms and phrases shall have the meaning set forth below:

(a) *City airspace* means the airspace above the land and waterways within the jurisdiction of the city.

(b) *Recreational purposes* means any purposes governed or regulated pursuant to 49 U.S.C. 44809 (Section 349) of the FAA Reauthorization Act of 2018 and may include, but are not limited to, enjoyment, educational, or hobby purposes not otherwise governed or regulated as provided in Section 11-303 of this article.

(c) *Operate* means to pilot, steer, direct, fly or manage a UAV through the air and includes managing or initiating a computer system that pilots, steers, directs, flies or manages a UAV.

(d) *Surveillance* means the gathering, without permission and in a manner that is offensive to a reasonable expectation of privacy, 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 on to real property owned, leased, or otherwise lawfully occupied by such other person, business or entity, or into the city airspace above real property owned, leased, or otherwise lawfully occupied by such other person, business or entity occurs in connection with such surveillance.

(e) *Unmanned aerial vehicle* or *UAV* 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 operation, including the weight of any payload or fuel.

(f) *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.

11-302. OPERATING REGULATIONS. All UAVs shall be operated in accordance with the Academy of Model Aeronautics Safety Code or such other community-based safety guidelines as the city may approve from time to time. Except as otherwise provided in Section 11-303, and unless any of the following prohibitions are superseded by applicable State or Federal law, no person shall operate any UAV for recreational purposes in city airspace:

(a) Intentionally or negligently, and in such proximity to any person who is not involved in the operation of the UAV that is offensive to a reasonable expectation of safety from bodily harm, without such person's consent;

(b) Intentionally or negligently, over an individual or over an open-air event venue wherein more than 100 individuals are gathered for such event, without the consent of both the venue owner or operator and the event sponsor or organizer;

(c) Intentionally or negligently, over property that the operator does not own, without the consent of the property owner or such other person lawfully occupying the property; and subject to any restrictions that may be placed on the operation by the property owner or such other person lawfully occupying the property; provided, that the foregoing shall not prohibit operation of a UAV for recreational or hobby purposes in a city-owned park so long as the operator and UAV comply with all other requirements and restrictions of this article;

(d) For the purposes of conducting surveillance;

(e) While under the influence of alcohol, or other drug or drugs, that renders the operator incapable of operating the UAV;

(f) That is equipped with a firearm or other weapon; or

(g) Otherwise in a reckless or careless manner.

11-303. LIMITATIONS ON OPERATING REGULATIONS.

(a) Notwithstanding the provisions of Section 11-302, nothing in this article shall be construed to prohibit, limit or otherwise restrict any person who is authorized to fly a UAV as a commercial pilot pursuant to 14 CFR Part 107 (drones under 55 pounds) or under the Special Authority for Certain Unmanned Aircraft Systems at 49 USC § 44807 (drones over 55 pounds) by or other Federal Aviation Administration grant of authority for a specific flight operation(s), from conducting such operations(s) in accordance with authority granted by the Federal Aviation Administration.

(b) Nothing in this Article shall be construed to authorize the operation of UAVs in city 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.

(c) Notwithstanding the provisions of Section 11-302, nothing in this article shall be construed to prohibit or restrict the use of a UAV

by a law enforcement agency or for emergency response operations in accordance with applicable law.

11-304.

LICENSE REQUIRED: Any person shall, before engaging in any operation of UAV or before continuing such UAV operation after a license has expired, make application for a license and pay the \$25.00 License Fee. Application shall be made to the City Clerk, giving the name of the person, the kind of UAV, location and such other information as may be necessary. The License Committee may, in its discretion, cause an investigation to be made to verify the accuracy of the information.

11-305.

SEVERABILITY. Severability is intended throughout and within the provisions of this article. If any section, subsection, sentence, clause, phrase, or portion of this article is held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this article.

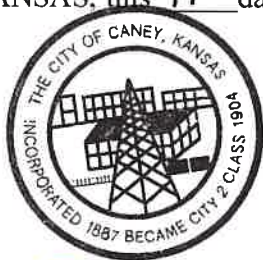
11-30.

PENALTY. Violation of this article is a Class C misdemeanor.

Section Two. Any ordinances conflicting herewith, or parts thereof, are hereby repealed.

Section Three. This Ordinance shall be in force and effect from and after its adoption and approval by the Governing Body of the City of Caney, Kansas, and publication of a summary ordinance in the official city newspaper.

PASSED AND APPROVED BY GOVERNING BODY OF THE CITY OF CANEY, KANSAS, this 19<sup>th</sup> day of September, 2022.



ATTEST:

Amber Dean  
Amber Dean, City Clerk

Josh Elliott  
Josh Elliott, Mayor