

BOROUGH OF WEST EASTON

ORDINANCE NO. 2023 - 08

**AN ORDINANCE OF THE BOROUGH OF WEST EASTON,
NORTHAMPTON COUNTY, PENNSYLVANIA, REGULATING THE
OPERATION OF UNMANNED AERIAL VEHICLES WITHIN BOROUGH
LIMITS AND PRESCRIBING PENALTIES FOR VIOLATION.**

WHEREAS, the use of unmanned aerial vehicles (commonly known, and alternatively referred to herein as “drones”) in the United States has become increasingly popular and affordable; and

WHEREAS, the Federal Government regulates national airspace by and through the Federal Aviation Administration and specifically regulates both commercial and recreational drones, and such regulation may not be preempted; and

WHEREAS, the Commonwealth of Pennsylvania has criminalized certain uses of unmanned aircraft at 18 Pa. C.S.A. § 3505; and

WHEREAS, the Pennsylvania legislature has enacted 53 Pa. C.S.A. § 305, stating that the provisions of 18 Pa. C.S.A. § 3505 shall preempt and supersede any ordinance, resolution, rule or other enactment of a municipality regulating the ownership or operation of unmanned aircraft unless expressly authorized by statute; and

WHEREAS, the Federal Aviation Administration has specified certain allowances for regulation of drones by state and local governments as outlined in the FAA Office of the Chief Counsel’s “State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet,” dated December 17, 2015; and

WHEREAS, the Federal Aviation Administration regulates airspace allowances but municipalities may regulate land use of drones and unmanned aircraft without imposing a total ban of drone use; and

WHEREAS, the Borough of West Easton finds that the public health, safety, and general welfare is best served by local regulation of drones in accordance with the FAA's published guidance;

NOW THEREFORE, THE BOROUGH COUNCIL OF THE BOROUGH OF WEST EASTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title. This ordinance shall be known as the "Borough of West Easton Drone Use Regulation Ordinance."

Section 2. Definitions. Unless context clearly indicates otherwise, the following words or phrases shall have the meanings given to them in this section.

Commercial Use. Any use of a UAV within the limits of West Easton for a commercial purpose including aerial photography, aerial mapping, geospatial imaging.

Emergency Personnel. Police, Emergency Medical, or Fire Department personnel in performance of their official duties, or any person authorized and requested by Police, Emergency Medical, or Fire Department personnel to assist in an emergency situation.

Emergency Situation. A serious, unexpected, and often dangerous situation requiring immediate action to which emergency personnel have been dispatched or are otherwise present to assist.

Emergency Zone. Any location which is the site of an emergency situation and which emergency personnel have designated, cordoned off, or otherwise taken authority over for the duration of the emergency situation.

FAA. The Federal Aviation Administration of the United States.

Harass. To approach or be near any person or animal, directly or indirectly, for the purpose of annoying, intimidating, or otherwise disrupt that person or animal.

Municipal Worker. Any person employed by West Easton or any emergency personnel dispatched within this jurisdiction and whose operation of a UAV is in furtherance of their official duties to West Easton.

Operate. To fly, control, or otherwise manipulate a UAV in the air.

Person. Any individual, firm, association, partnership, trust, company, corporation or other entity.

Surveillance. The gathering, without permission, of visual images, physical impressions, sound recordings, data or other information involving the private, personal, business or familial activities of another person, or that otherwise intrudes upon the privacy, solitude or seclusion of another person, regardless of whether a physical trespass onto or above real property owned, leased, or otherwise lawfully occupied by such other person.

Small Unmanned Aircraft System. Any device, object, or contrivance which can be flown without a pilot or operator in physical contact with any part of the device, object, or contrivance, such as a drone or a model aircraft. Also referred to herein as a "drone."

UAV. Unmanned Aerial Vehicle.

Utility. Any line, pole, device or object that is above ground and used for the distribution of electricity, gas, oil, telecommunications, or water.

Weapon. 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.

Section 3. Prohibited Uses. No person may operate a drone within the bounds of West Easton as set forth below:

1. Which has a weapon attached to any portion of the UAV.
2. To harass.

3. For the purpose of surveillance absent a warrant.
4. In a reckless manner that causes a real or reasonably perceived threat to persons or property or actually causes damage to persons or property.
5. In a careless manner that causes a real or reasonably perceived threat to persons or property or actually causes damage to persons or property.
6. By allowing an object to be dropped from the drone in a manner that causes the trespass of the object or creates an undue hazard to persons or property.
7. Above four hundred (400) feet in altitude from the ground.
8. Within five (5) feet of a utility.
9. Operation of more than one (1) drone at the same time.
10. Operation of a drone carrying hazardous material as defined at 49 C.F.R. §171.8.
11. For the purpose of game fishing in violation of 58 Pa. Code §63.6(a).
12. In violation of any applicable provision of the Code of Federal Regulations, Title 14, Chapter I, Subchapter F, Part 107, or any other applicable federal or state law or regulation.

Section 4. Land Use

1. The take-off or landing of any Small Unmanned Aircraft System from or upon any Borough owned park or property is prohibited with the exception of the Borough owned property designated as 805 Ridge Street with the area of allowance for take-off and landing upon the property defined as beginning 100' Southwest from the street entrance and ending an additional 300' Southwest along the property of 805 Ridge Street.

Section 5. Exceptions.

1. 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 the Borough, the Commonwealth of Pennsylvania, or the United States government for lawful purposes and in a lawful manner.

2. 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.

3. This chapter shall not prohibit the use of drones by not-for-profit, licensed, or accredited educational research colleges, universities, or scientific institutions for educational, scientific, environmental, or resource management purposes in the airspace over the Borough.

4. Under no circumstances shall the use of drones pursuant to the foregoing exception be performed within 100 feet of any person, except for the persons involved in the foregoing permitted activities.

5. This chapter shall not prohibit individuals and entities from the use of drones 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 where the owners provide consent thereto alone. The permitted use of drones pursuant to the foregoing shall include the airspace of the public streets and property immediately adjacent to the private property, provided that the use of the roads and public property is reasonably necessary for the business purpose, is performed within a reasonable amount of time, and the drone is not operated in the airspace within 20 feet of persons, except for the persons involved in the foregoing permitted activity.

6. This chapter shall not prohibit individuals and entities from the use of drones and unmanned aircraft for noncommercial purposes in the airspace within the boundary lines of private residential property with the property owner's consent, provided that the drone is not operated for any unlawful purpose.

7. Any and all persons who operate a drone pursuant to the exceptions set forth in this ordinance shall possess a remote pilot certificate issued by the FAA pursuant Part 107 of the FAA regulations.

Section 6. Emergency Situations.

(a) General Rule. Except as provided in subsection (b), no person may operate a UAV in any of the following conditions:

1. Within fifty (50) feet of the emergency zone.
2. Within two thousand (2,000) feet of any UAV or other aircraft being operated by emergency personnel.
3. If the operation of a UAV in any other way interferes with the resolution of the emergency situation.

(b) Exception. Notwithstanding subsection (a), a municipal worker or utility worker may operate a UAV in an emergency zone for the purpose of resolving an emergency situation.

Section 7. Penalty for Violation. Any person found guilty of violating provisions of this ordinance, shall be fined not less than \$750 for the first offense, and not less than \$1,000 for any subsequent offenses in any 120-day period and, upon failure to pay such fine, shall be sentenced to jail for a term not to exceed thirty (30) days for each offense.

A penalty provided for under this ordinance may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

Section 8. Repealer. All Ordinances and parts of Ordinances inconsistent herewith are hereby specifically repealed.

Section 9. Severability. The provisions of this Ordinance shall be severable and, if any provision thereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Borough of West Easton that this Ordinance would have been enacted as otherwise set forth had such unconstitutional, illegal or invalid provision(s) not been included herein.

Section 10. Effective Date. This Ordinance shall become effective within five (5) days of approval.

ORDAINED AND ENACTED this 13th day of February, 2023.

Borough Council
Borough of West Easton
County of Northampton
Pennsylvania



Paul James, Council President

ATTEST: Joan L. Heebner

Joan L. Heebner, Borough Secretary

Approved 13th day of February, 2023.



Daniel DePaul, Mayor