

## ORDINANCE NO. \_\_\_\_-2018

### AN ORDINANCE AMENDING KITSAP COUNTY CODE TITLE 10 REGARDING THE LAUNCH AND LANDING OF UNMANNED AIRCRAFT SYSTEMS IN MILITARY INSTALLATION PROTECTION OVERLAY AREAS

BE IT ORDAINED:

Section 1. General Findings. The Kitsap County Board of Commissioners makes the following findings:

1. Unmanned Aircraft Systems, also known as unmanned aircraft, UAS, or drones, are devices that are used for flight in the air with no onboard pilot.
2. Unmanned aircraft systems can be as simple as a remotely controlled model aircraft used for recreational purposes or as complex as surveillance aircraft flying over hostile areas in warfare.
3. Unmanned aircraft systems are frequently prohibited in United States general airspace because of the threat they present to other aircraft and under the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012, FAA has developed regulations to regulate and register drone flight throughout the United States airspace.
4. UAS flight in airspace over Naval Base Kitsap-Bangor, Naval Base Kitsap-Bremerton, Naval Base Kitsap Keyport, and Naval Base Kitsap Manchester is currently restricted by an FAA Temporary Flight Restriction (TFR), which prohibits the use of UAS over the installations from the surface to 400 feet without an FAA authorization. In addition, airspace over NBK-Bangor is Prohibited Airspace (P-51). Naval Base Kitsap Commanding Officer authorization is also required for the use of UAS over Naval Base Kitsap.
5. Unmanned aircraft systems may be operated to intentionally or unintentionally cause harm and event disruption and may be utilized in the planning and execution of a wide variety of criminal activity.
6. Unmanned aircraft systems have the capability to monitor and record individuals, groups and populations, and intercept and record data generated by individuals, such as cell-phone calls and text messaging.
7. Unmanned aircraft systems can create unique public safety and national security threats to certain facilities, locations, installations, and operations including those at Naval Base Kitsap and their critically important assets.
8. The Kitsap County Board of Commissioners are aware of incidents of unauthorized use of unmanned aircraft system use over military installations in Kitsap County.
9. The FAA has jurisdiction over flight in navigable airspace, but Kitsap County has authority to enact code provisions to regulate the launching and landing UAS within the boundaries of

unincorporated Kitsap County to protect and secure public health, safety and welfare.

Section 2. Procedural Findings. The Board conducted the following actions in development of this ordinance. **TO BE DETERMINED BUT MAY INCLUDE:**

1. Public Outreach
2. Open Houses
3. Public Hearing
4. SEPA
5. Deliberations

Section 3. Substantive Findings. Upon review, the Board of Commissioners finds the following:

**1. TO BE DETERMINED**

NEW SECTION. Section 4. A new Chapter 10.62, “Unmanned Aircraft Systems,” is added to Title 10 of Kitsap County Code, “Peace, Safety and Morals,” to read as follows:

Sections:

- 10.62.010 Purpose
- 10.62.020 Definitions
- 10.62.030 Prohibitions
- 10.62.040 Exemptions
- 10.62.050 Specific Exemptions – Types – Approval Criteria
- 10.62.060 Violation – Penalty – Allowed measures to enforce
- 10.62.070 Impoundment and forfeiture

**10.62.010 Purpose**

Unmanned aircraft systems (UAS) have the potential to be operated in a manner that poses a threat to the citizens of Kitsap County. “Threat” means a reasonable likelihood of: unauthorized surveillance; unauthorized access to or disclosure of classified or otherwise lawfully protected information; disruption of or damage to a communication system; interference with a covered government operation; or delivery or carriage of weapons, explosives, or other hazardous materials. To help protect the security of our military installations and their operations and provide increased buffering and response times, Kitsap County Code limits the use of UAS as detailed in this Chapter.

**10.62.020 Definitions**

For the purpose of this chapter, the following terms, phrases, words and their derivatives shall be construed as specified in this section. Where terms, phrases and words are not defined, they shall have their ordinary accepted meanings within the context with which they are used. The most current version of the English Webster’s Dictionary shall be considered as providing ordinary accepted meanings.

- A. "Civil unmanned aircraft systems" shall mean an unmanned aircraft or unmanned aircraft system operated by any person for purposes including, but not limited to, hobby or recreational, commercial and/or in furtherance of, or incidental to, any business or media service or agency.
- B. "Public unmanned aircraft systems" shall mean an unmanned aircraft or unmanned aircraft system operated by any military, public law enforcement, public safety or civil engineering agency, or their agents, for government-related purposes.
- C. "Land" shall mean the returning of any UAS or model airplane to the ground after a flight of any duration.
- D. "Launch" shall mean the automated lifting of any UAS or mode airplane from the ground for a flight of any duration.
- E. "Military installation" shall mean all land within base boundaries of Naval Base Kitsap-Bremerton, Naval Base Kitsap- Bangor, Naval Base Kitsap-Keyport, Naval Hospital Bremerton and the Naval Base Kitsap-Manchester.
- F. "Military installation protection overlay" shall mean a general 3,000-foot buffer area measured from the property boundary of any military installation.
- G. "Unmanned aircraft" shall mean an aircraft, including, but not limited to, an aircraft commonly known as a drone or model airplane, that is operated without the possibility of direct human intervention from within or on the aircraft.
- H. "Unmanned aircraft system" shall mean an unmanned aircraft and associated elements, including, but not limited to, any communication links and components that control the unmanned aircraft.

**10.62.030 Prohibitions**

No person shall launch or land any Civil Unmanned Aircraft System, including those classified by the FAA as model aircraft, within military installation protection overlay areas. The specific boundaries of such overlay areas are shown below. These prohibitions apply to the areas in the military installation protection overlay areas and do not apply to operations approved by FAA and Naval Base Kitsap on Installation property.

No person shall operate any model aircraft or civil UAS in a careless or reckless manner so as to endanger the life, health or property of another. The standard for what constitutes careless and reckless operation under this section shall be the same as the standard set forth in any federal statutes or regulations governing aeronautics, including but not limited to Federal Aviation Rule 91.13.

**Maps inserted of Naval Base Kitsap-Bremerton, Naval Base Kitsap- Bangor, Naval Base Kitsap-Keyport, Naval Hospital Bremerton and the Naval Base Kitsap-Manchester**

**10.62.040 General Exemptions**

The following uses of unmanned aircraft systems are exempt from the restrictions included in

this Chapter:

- A. Public unmanned aircraft systems
- B. Persons who have applied for and received specific exemptions detailed in subsection 10.62.050.

**10.62.050 Specific Exemptions – Types - Approval Criteria**

These exemptions shall only apply to use of UAS in Kitsap County jurisdiction and do not authorize use of UAS over military installation or within the military installation property boundaries. Those authorizations are separately approved by FAA and Naval Base Kitsap. The county shall review submission of applications for the following types of specific exemptions and shall notify the US Navy of all applications at the time of submission.

- A. Short -Term exemption. Allows launching and landing of UAS within a military installation protection overlay area for a period of up to 48 hours. Each application must include:
  - 1. The specific property(s) the UAS shall be launched from and landed upon.
  - 2. List of proposed users of the UAS during the flight(s).
  - 3. Purpose of the UAS flight(s).
  - 4. Affidavit that the UAS will not photograph, record or document activities on a military installation covered by this Chapter.
- B. Blanket exemption. Allows the launching or landing of UAS within a military installation protection overlay area for up to two (2) years for the following purposes or circumstances:
  - 1. Transport of goods or merchandise by a business or commercial venture with a valid Washington State business license.
  - 2. The launching, landing and operation of the UAS solely within the property boundaries of an approved model airplane field.

Blanket exemptions may be renewed for additional two (2) year periods beginning 90 days before their expiration.
- C. Approval criteria. The county shall review all applications for specific exemptions for consistency with the following criteria, if applicable:
  - 1. Application includes minimum request necessary to provide relief.
  - 2. Provides protection to the military installation and demonstrates compliance with all FAA requirements.
  - 3. Necessary for the activities of certain businesses.

4. Allows for innovation in commerce and limits greenhouse gas emissions.
5. Maintains the health, safety or welfare of the public.

**10.62.060 Violation – Penalty – Allowed measures to enforce.**

As authorized by RCW 36.32.120(7), any person who violates the provisions of this Chapter may be charged with a misdemeanor, and upon conviction may be imprisoned for up to sixty (60) days and be subject to a fine of not more than \$1,000.00.

With the exception of federal property within the boundaries of military installations, a law enforcement officer is authorized to take the following actions to enforce this Chapter where allowed by federal and state law:

- A. Detect, identify, monitor, and track an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo, to determine if it poses a threat to a military installation, its assets or operation, without prior consent.
- B. Disable or disrupt control of the operation of an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that poses an imminent threat to a military installation, its asset or operations without prior consent.
- C. Seize or exercise control over an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that poses an imminent threat to a military installation, its asset or operations without prior consent.
- D. Interdict or otherwise confiscate an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that is operating in an overlay area if imminent threat to a military installation, its asset or operations without prior consent.

**10.62.070 Impoundment and forfeiture.**

An unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that is in violation of this Chapter and is seized, confiscated, disrupted, disabled or interdicted pursuant to Section 10.62.070 may be subject to impoundment and forfeiture where allowed by federal or state law.

Section 5. Effective Date. This ordinance is effective immediately upon approval.

Section 6. Severability. If any provision of this ordinance or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance or the application of the provision(s) to other persons, entities or circumstances is not affected.

Section 7. Scrivener's Error. Should any amendment to Kitsap County Code Title 10 that was passed by the Board during its deliberations on this Ordinance be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

DATED this \_\_\_\_ day of \_\_\_\_\_ 2018.

BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON

\_\_\_\_\_  
ROBERT GELDER, Chair

ATTEST:

\_\_\_\_\_  
CHARLOTTE GARRIDO, Commissioner

\_\_\_\_\_  
Dana Daniels  
Clerk of the Board

\_\_\_\_\_  
EDWARD E. WOLFE, Commissioner

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

DRAFT