ORDINANCE NO. 07-

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING CHAPTER II OF TITLE 12 OF THE COSTA MESA MUNICIPAL CODE RELATING TO FLYING OF MODEL AIRCRAFT AT FAIRVIEW PARK

WHEREAS, the Max Freed Memorial Field in the southern portion of Fairview Park at the northern end of Canyon Drive was dedicated as a flying field in the mid- 1980s; and

WHEREAS, in 1998 this area was designated as a launch/land site for silent flyers in the approved Fairview Park Master Plan; and

WHEREAS, the general public has been using the above referenced portion of Fairview Park to fly radio-controlled aircraft without any regulation by the City; and

WHEREAS, by permitting such unregulated use, the City is vulnerable to expensive defense costs and judgments for liability claims.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter II of Title 12 of the Costa Mesa Municipal Code is hereby amended by renumbering Article 2 and adding Article 3 to read as follows:

ARTICLE 2. SKATE PARKS

Sec. ~~12.55.1.~~ 12-56. Definitions.

Sec. ~~12-55.2~~ 12-57. Skate Park regulations.

Sec. ~~12-55.3~~ 12-58. Penalty for violation.

Sec. 12-59 – 12-60. Reserved.

ARTICLE 3 MODEL AIRCRAFT

Sec. 12-61. Prohibitions.

(a) No person shall bring, land or cause to descend or alight any radio controlled model aircraft within the City without first obtaining a permit pursuant to this Article and adhering to the rules and regulations set forth within this title. Permits are not required to fly free flight models and model planes sold as toys.

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(b) No person whose permit has been suspended or revoked shall fly model aircraft at the park until and unless that permit is reinstated. Permits may be issued only for flying model aircraft in designated areas at Fairview Park.

Sec. 12-62. Definitions

As used in this chapter, the following definitions shall apply, unless the context clearly indicates or requires otherwise.

(a) *AMA* means the Academy of Model Aeronautics.

(b) *Combat flying* means the flying of any model aircraft in such a manner as to intentionally interfere with another model aircraft, cause damage to another model aircraft, or cause another model aircraft to crash.

(c) *Frequency board* means the board that is required by this article to be located at Fairview Park and upon which frequencies that may be used for model aircraft flying are displayed.

(d) *Model aircraft* means all forms of radio controlled gliders, electric motor gliders, electric powered model airplanes electric helicopters, but does NOT include free flight models or toy planes. No internal combustion engine powered aircraft, rockets, and aircraft exceeding 25 pounds may be flown in the City.

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(e) *Park* means Fairview Park.

(f) *Pilot* means any person who is flying a model aircraft.

(g) *Pre-flight check* means examining the remote control for a model aircraft to ensure that it is working properly and that there is control over the flying surfaces of the model aircraft.

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(h) *Recreation Manager* means the City of Costa Mesa Recreation Manager.

Sec. 12-63. Permit required.

The Recreation Manager shall establish procedures and requirements for the issuance, suspension and revocation of permits to fly model aircraft at Fairview Park. That process shall include the following:

(a) The application for and grant/denial of a permit to fly a model aircraft.

(b) The suspension or revocation of permits issued to persons who do not comply with the regulations contained in this article.

(c) Payment of a permit fee, renewable annually, in an amount to be determined by resolution of City Council.

Sec. 12-64. Signage, flying plan.

(a) The Recreation Manager shall cause to be posted at Fairview Park at least one sign that summarizes the regulations contained in this chapter. The sign shall be posted on or near the frequency board and at such other locations as deemed

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appropriate by the Recreation Manager. The sign shall state clearly that by flying model aircraft at Fairview Park, all pilots understand and agree to comply with all posted regulations and all applicable sections of this Code.

(b) The Recreation Manager shall cause to be provided, at an appropriate location at the park, a frequency board on which the potential frequencies that may be used for radio control model aircraft operation are posted with a mechanism that shows which frequencies are currently in use. The frequency board shall also be available for posting of messages regarding model aircraft operations and related activities at the park.

(c) Unless otherwise determined by the Recreation Manager, permittees under this chapter shall be responsible for maintaining the frequency board and the sign(s) referenced in subsection (a), above, in good order and keeping them current.

(d) The Recreation Manager shall cause to be prepared a flying plan which shall depict the areas at the park where model aircraft may be flown, including the take off and landing areas. The flying plan shall be in compliance with the regulations contained in this chapter. The Recreation Manager shall have the flying plan posted on or near the frequency board.

Sec. 12-65. Flying regulations for model aircraft.

All persons flying model aircraft in any City park shall comply with the regulations set forth herein.

(a) Model aircraft may not be flown higher than 400 feet above ground level.

(b) Model aircraft may only be flown over areas to the west of paved trail as shown on the Fairview Park Master Plan.

(c) Model aircraft may not be flown over any residences, schools, or parking areas.

(d) Model aircraft may only take off and land in the designated take off and landing areas shown on the Fairview Park Master Plan.

(e) Pilots shall take all actions necessary to safely avoid model aircraft striking each other or any other object or person or landing on houses, in backyards of houses, on school property, and to avoid interference with the flight path of any aircraft.

(f) Model aircraft shall not be flown over the paved trail that runs along the east side of the launch/land site.

(g) Model aircraft shall not be landed on the grass area of the park.

(h) Before flying model aircraft at the park, each pilot must comply with the following:

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Deleted: (h) No more than five model aircrafts may be flown at a time.

Deleted: (i) When flying a model aircraft, pilots must be at one of the pilot stations, which are designated on the flying plan.¶

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(1) Pilots must have in their possession the permit required by this article.

(2) Pilots must have liability insurance in the amount of at least $500,000 to cover their activities of flying a model aircraft, and they must have proof of such insurance with them at all times while flying the model aircraft at the park.

(3) Pilots shall only use frequencies that are not already being used as demonstrated by the frequency board. Pilots shall only use radio-controlled frequencies allowed by the Federal Communications Commission.

(4) No person shall turn on a transmitter until an unused frequency is obtained.

(5) Pilots shall, before every model aircraft flight, check battery voltage of the batteries in the model aircraft and the radio control device for the model aircraft, and make sure that the batteries have sufficient power for the duration of the flight.

(6) Pilots shall pre-flight check all new airplanes before they are flown.

(7) Pilots shall inspect their model aircraft to ensure that they are in safe flying condition.

(j) If a model aircraft lands on private property, no person shall go onto that property to retrieve the model aircraft unless that person first obtains permission from the resident or occupant to retrieve the model aircraft. If permission to retrieve a model aircraft is refused, then the pilot shall contact the Costa Mesa Police Department and request assistance in obtaining the return of the model aircraft.

(j) Pilots shall not engage in combat flying at the park.

(k) Pilots shall be responsible for any property damage or personal injury caused by the flying of their model aircrafts. In the event such injury or damage occurs, the pilot of the model aircraft shall provide, upon request, his or her name, address, telephone number and insurance information to anyone who is injured or whose property is damaged, including the city.

Sec. 12-66 – 12-70. Reserved.

Section 2. Chapter III of Title 12 is hereby renumbered as follows:

CHAPTER III. PARKS AND RECREATION COMMISSION

Sec. ~~12-56~~. 12-71. Commission established.

Sec. ~~12-57~~. 12-72. Rules and regulations.

Sec. ~~12-58.~~ 12-73. Procedures.

Section 3. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such

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inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2007. Deleted: 6

_____
Mayor

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07-__ was introduced and considered section by section at a regular meeting of said City Council held on the _____th day of _____, 2007, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the _____ day of _____, 2007, by the following roll call vote: Deleted: 6 Deleted: 6 Deleted: 6

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007. Deleted: 6

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City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa