



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **UNMANNED AERIAL SYSTEM (UAS) DRONES** NUMBER: 6.35

SCOPE: All Department Personnel ISSUED: 04/07/2025

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REFERENCE: WI Statutes 114.045(1), 175.55, 801.02(7)(a)1., 941.292; Title 14, Code of Federal Regulations (CFR), Part 107 RESCINDS

WILEAG 6TH EDITION AMENDS

STANDARDS: 6.1.2

PURPOSE: The purposes of this Policy & Procedure are to establish guidelines for members of the Portage Police Department in the use of an unmanned aerial system (UAS), more commonly known as drones and for the storage, retrieval, and dissemination of images and data captured by the UAS; and to educate officers regarding compliance with the FAA's rules and regulations and any restrictions contained in any Certificate of Waiver or Authorization issued by the FAA to any private UAS operator and to provide guidance on reporting violations to the FAA.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
 - II. DEFINITIONS
 - III. PROCEDURES
 - IV. RETENTION OF UAS DATA
 - V. TRAINING
 - VI. PROCEDURES FOR PRIVATE UAS USE
- I. POLICY
- A. It is the policy of the Portage Police Department to utilize Unmanned Aerial Systems (UAS) to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective.

Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

- B. The UAS may be used as requested by, and in support of federal, state and local public safety agencies throughout the city or other locations as approved by the Chief of Police or designee. The UAS shall be operated by, or under the supervision of, an FAA certified Remote Pilot in Command (PIC). Any use of the UAS will be in accordance with laws and FAA regulations in effect at the time of the mission.

II. DEFINITIONS

- A. REMOTE PILOT-IN-COMMAND: (PIC): Any person who holds a valid Remote Pilot Airman Certificate issued by the FAA.
- B. UNMANNED AERIAL SYSTEM (UAS): a powered, aerial vehicle that carries or is equipped with a device that, in analog, digital, or other form, gathers, records, or transmits a sound or image, that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted remotely (Wisconsin State Statute 175.55). UAS are often referred to as "drones" and for the purposes of this policy the two terms shall be considered synonymous.
- C. UNMANNED AERIAL VEHICLE (UAV): an aircraft that is capable of sustaining flight and that operates with no possible direct human intervention from, on, or within the aircraft. The term does not include an unmanned aircraft that is flown within the line of sight of the operator and is strictly for hobby or recreational purposes.

III. PROCEDURES

- A. Privacy: Criminal investigations or any other use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, no UAS shall intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure) (Wisconsin State Statute 175.55). The operator of an unmanned aerial vehicle (UAS) may record or transmit images that are viewable with the camera/video equipment of unassisted vision from a height of 400 feet or less.
- B. Program Coordinator: The chief of police or designee will be responsible for the management of the UAS program. The chief or designee will ensure that the policies and procedures conform to current laws, regulations, and best practices, and will have the following additional responsibilities:
 - 1. Coordinating the training to prepare and take the FAA Part 107 exam and ensuring the licenses stay current (every 2 years). Coordinating the applications for Remote Pilot Airman Certificates and ensuring that rating is current prior to allowing the certificate holder to act as the remote pilot in command (PIC) of the UAS.

2. Ensuring that all authorized operators and required observers, if any, have completed any required FAA and department-approved training in the operation and applicable laws, policies, and procedures regarding the use of the UAS.
3. Developing uniform department protocol for submission and evaluation of requests to deploy a UAS. Deployment of the UAS shall require authorization of the Chief of Police or designee.
4. Developing protocol for conducting criminal investigations involving the UAS including documentation of time spent monitoring a subject.
5. Implementing a system for public notification of a UAS deployment.
6. Developing operational protocol governing the deployment and operation of a UAS including, but not limited to, use of visual observers, establishment of lost link procedures and secure communication with air traffic control facilities and fully documenting all missions.
7. Developing UAS inspection, maintenance, and record keeping protocol to ensure continuing airworthiness of a UAS up to and including its overhaul or life limits.
8. Retaining images and data in accordance with the established records retention schedule.
9. Developing protocols to ensure that all downloaded and retained media that are intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic tails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
10. Facilitating law enforcement access to images and data captured by its UAS.
11. Recommending program enhancements, particularly regarding safety and information security.
12. Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.

C. Use of UAS:

1. The UAS will be operated within the guidelines provided by the FAA. Only authorized operators who have completed the required department and FAA training shall be permitted to operate the UAS.

2. Use of vision enhancement technology (thermal and other imaging equipment not generally available to the public) is permissible in viewing areas where there is no protectable privacy interest or where a warrant has been obtained. In all other circumstances, legal counsel should be consulted.
3. The UAS, or images and data produced by the UAS, shall not be used to conduct personal business of any type.
4. UAS operations shall only be conducted during daylight hours and a UAS shall not be flown over populated areas without FAA approval.
5. UAS restrictions according to Wisconsin State Statute 175.55): No Wisconsin law enforcement agency may use a drone to gather evidence or other information in a criminal investigation from or at a place or location where an individual has a reasonable expectation of privacy without first obtaining a search warrant under s. 968.12.

This subsection does not apply to the use of a drone in a public place or to assist in an active search and rescue operation, to locate an escaped prisoner, to surveil a place or location for the purpose of executing an arrest warrant, or if a law enforcement officer has reasonable suspicion to believe that the use of a drone is necessary to prevent imminent danger to an individual or to prevent imminent destruction of evidence.

D. Prohibited use of UAS: The UAS video surveillance equipment shall not be used:

1. To conduct random surveillance activities
2. To target a person based solely on individual characteristics such as, but not limited to, race, ethnicity, national origin, religion, disability, gender, or sexual orientation
3. To harass, intimidate, or discriminate against any individual or group
4. To conduct personal business of any type.
5. The UAS shall not be weaponized (ss. 941.292).
6. No person may operate a drone over a correctional institution, without the express authorization of the Secretary of Corrections if a state facility or over a county facility without the express authorization of the Sheriff of the county or their designee.
 - a) Correctional institution means any state or local facility that incarcerates or detains any adult accused of, charged with, convicted of, or sentenced for any crime. A correctional institution includes a Type 1 prison, a Type 2 prison, and a county jail and a house of correction.

E. Interagency Use

1. The UAS may be used only with incident specific approval from the Chief, designee, or UAS Program Coordinator prior to the flight.

F. Mutual Aid

1. Requests for mutual aid for the UAS will be made through the shift supervisor who will contact the program coordinator. The Program Coordinator will evaluate mission requests and confirm approved missions with the Chief or designee prior to the mission absent exigent circumstances. The Chief will be notified as soon as practical of approved requests where the UAS will be utilized.
2. The UAS may be used in the following circumstances:
 - a) Assist in an active search and rescue operation.
 - b) Aerial surveillance of damage caused by natural or manmade events.
 - c) Aerial, visual support, including images, of public safety operations as requested, and in accordance with Wis. Stat. 175.55 (Mutual Aid requests).
 - d) Aerial images of City owned or leased facilities to aid in safety and risk assessments.
 - e) Aerial images in areas considered hazardous for human life (e.g. Hazmat incident).
 - f) Special or unusual circumstance requests shall be approved by the Chief or designee.

H. Equipment/Maintenance:

1. UAS qualified pilot-in-command (PIC) may also operate a UAS owned by another agency, at that agency's request. In those circumstances, the Program Coordinator or PIC should have a prior written agreement that the requesting agency assumes all liability associated with the operation.
2. Appointed operators will perform basic maintenance and safety checks on UASs, as taught during training. Maintenance and repairs that are beyond the operator's training or ability will be conducted by authorized personnel.

Department owned or operated UAS will be maintained and in flight ready condition at all times.

3. The Program Coordinator or PIC shall maintain a list of all equipment required or needed for all Department UAS aircraft and is responsible for the condition, maintenance, and upkeep of this equipment.

IV. RETENTION OF UAS DATA

- A. Data collected by the UAS shall be retained as provided in the records retention schedule, refer to Policy & Procedure 10:05: Retention of Records.

V. TRAINING

- A. All department members authorized to operate or access the UAS shall receive appropriate training.

VI. PROCEDURES / RULES FOR INVESTIGATING PRIVATE UAS USE

- A. A UAS is considered an “aircraft” as defined in the FAA’s authorizing statutes and is therefore subject to regulation by the FAA. The FAA has issued special regulations regarding the use of UAS, and all individuals involved in the operation of UAS are required to be familiar with all FAA regulations pertaining to UAS.

1. Operation of UAS – Model Aircraft used for hobby or recreational purposes

- a) Flying an UAS operated only for hobby or recreational purposes does not require FAA approval, but it must be operated safely, in accordance with the law and be flown within visual line of sight of the person operating the UAS.
- b) The UAS must be marked and must be registered if over 0.55 pounds.
- c) The UAS must weigh less than 55 pounds (25 kg) unless otherwise certified by the FAA.
- d) The UAS must be operated in a manner that does not interfere with and gives way to any manned aircraft; and
- e) When flown within 5 miles of an airport, the operator of the aircraft must provide the airport operator/air traffic control tower with prior notice of the operation.
- f) The operator of the UAS must follow a set of community-based safety guidelines such as the Academy of Model Aeronautics.
- g) Operators may also choose to operate a UAS in accordance with the FAA’s Small UAS Rule.

2. Operation of UAS – NOT Model Aircraft and used for non-recreational or business purposes

- a) A UAS may be also operated under the Title 14 CFR, Part 107 Rule which includes, but is not limited to, the following restrictions:
 - (1) The Operator must be at least 16 years of age, pass a FAA aeronautical knowledge test and be vetted by the FAA.

- (2) The UAS must be less than 55 pounds and must be registered with the FAA.
 - (3) The Operator must keep the UAS in the operator's visual line of sight or the visual line of sight of an observer.
 - (4) The UAS can only fly during daylight hours, under 400 feet, and less than 100 mph.
 - (5) The UAS cannot fly over people or from a moving vehicle.
 - (6) The UAS must yield the right of way to manned aircraft.
- b) If not in compliance with the above, the UAS may only be operated with specific authorization (Certificate of Waiver) from the FAA.

B. Calls for Service/Complaints/Crashes

1. Locate the operator of the UAS.
2. Ask for registration and verify markings on the UAS.
3. Ask the operator for the type of operation and to present appropriate documentation.
4. Interview the operator and obtain pertinent information (Name – ID; address; registration number; any other documentation e.g., COA; location; date/time; witnesses; pictures etc.).
5. Refer to local laws and ordinances, if applicable (e.g., criminal damage, assault, Stalking).
6. Contact the FAA Great Lakes Regional Operation Center (ROC) at (847) 294-7491 for immediate notification of an incident, accident or other suspected violation. The center is manned 24 hours a day, 7 days a week.

C. Law Enforcement Assistance Program (LEAP)

1. FAA LEAP Special Agents are available to provide aviation-related support to law enforcement agencies seeking criminal prosecution or conducting airborne drug interdiction.
 - a) Contact the FAA LEAP agent at (817) 222-5006 or 9-csa-roc@faa.gov or
 - b) For immediate assistance, law enforcement officers may call the Washington, D.C. National Operation Center at (202) 267-3333.

Keith Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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