

DOWNERS GROVE POLICY/PROCEDURE

SMALL UNMANNED AIRCRAFT SYSTEM (DRONE)

41.6

41.6.1 Drone Operations

PURPOSE

The purpose of this policy is to establish guidelines under which a small unmanned aircraft may be utilized and the storage, retrieval and dissemination of images and data captured by such systems.

POLICY

It is the policy of the Downers Grove Police Department to ensure authorized personnel are trained on the use of a small unmanned aircraft systems, hereinafter referred to as a drone, 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 drone will be in strict compliance with relevant statutes, privacy rights, and the regulations promulgated by the Federal Aviation Administration and the Department of Transportation.

DEFINITIONS

Federal Aviation Administration (FAA) – A national authority with powers to regulate all aspects of civil aviation. These include the construction and operation of airports, the management of air traffic, the certification of personnel and aircraft, and the protection of US assets during the launch or re-entry of commercial space vehicles.

Information – As defined in 725 ILCS 167/5, any evidence, images, sounds, data, or other information gathered by the small unmanned aircraft.

Parade – A march, procession, or other similar activity consisting of persons, animals, vehicles, or things, or any combination thereof, upon a public street, sidewalk, alley, or other public place, which requires a street closing or otherwise requires stopping or rerouting vehicular traffic because the parade will not or cannot comply with normal and usual traffic regulations or controls. "Parade" does not include a political protest, march, demonstration, or other assembly protected by the First Amendment.

Remote Pilot in Command – Person directly responsible for and is the final authority as to the operation of the small unmanned aircraft.

Routed Event - A parade, walk, or race that is hosted by the State of Illinois, or a county, municipality, township or park district that is outdoors and open to the public and has an estimated attendance of more than 50 people.

Small Unmanned Aircraft or Drone – A small unmanned aircraft that does not carry a human operator, weighing less than 55 pounds on takeoff, and its associated elements, including

communication links and the components that control the aircraft that are required for the safe and efficient operation of the aircraft.

Special Event - A concert or food festival that is hosted by the State of Illinois or a county, municipality, township or park district, that is outdoors and open to the public; and has an estimated attendance of more than 250 people. "Special event" does not include any political protest, march, demonstration, or other assembly protected by the First Amendment.

Visual Observer – The person designated by the remote pilot in command to assist the remote pilot in command and the person manipulating the flight controls of the aircraft to see and avoid other air traffic or objects aloft or on the ground.

PROCEDURES

I. PROGRAM COORDINATOR

The assigned Deputy Chief shall assign a program coordinator who is responsible for the management of the department's sUAS program. The program coordinator ensures that policies and procedures conform to current laws, regulations, and best practices. Listed below are the following additional responsibilities of the program coordinator:

- A. Coordinate the FAA Certification of Authorization (COA) and/or the 14 CFR 107 application process; ensure all certifications are current.
- B. Ensure authorized remote pilots in command have completed the required FAA training and department approved training in the operation, applicable laws, policies and procedures regarding use of drones.
- C. Ensure all deployments of drones cohere with this policy, or deployments otherwise approved by the Chief of Police, or their designee.
- D. Develop protocol for conducting criminal investigations involving the use of drones, including documentation of time spent monitoring a subject.
- E. Develop an operational protocol governing the safe deployment and operation of drones, along with documenting all missions.
- F. Develop drone inspection, maintenance and record keeping protocol to ensure continuing airworthiness of a drone, up to and including its overhaul or life limits.
- G. Develop protocol to ensure all data 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 trails, including encryption, 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.

- H. Develop protocol to ensure retention and purge periods are maintained in accordance with established records retention schedules.
- I. Facilitate law enforcement access to images and data captured by the drones.
- J. Recommend program enhancements, especially regarding safety and information security.
- K. Ensure established protocols are followed by monitoring and providing annual reports to the Chief of Police, or designee.
- L. Conduct a documented case-by-case and annual audit of the program and flight documentation.
- M. Ensure that all drones are properly registered with the FAA and that all issued Certificates of Aircraft Registration are current.
- N. Ensure that the remote identification for all drones is operational and that the minimum identification messages are appropriately broadcasted.

II. TRAINING PRIOR TO USE OF DRONES

- A. Prior to authorization to operate a drone, assigned personnel must complete mandatory training provided by the department to obtain an understanding on how to use drones and the procedures outlined in this policy.
- B. Annually, assigned officers will undergo refresher training on the equipment to ensure continued effective use, operation of the equipment and to incorporate changes, updates or other revisions to the FAA regulations, statutes or department policy. Additional training may be provided as determined by the Program Coordinator.

III. DEPARTMENT USE OF DRONES

- A. The department must obtain applicable authorizations, permits, or certificates as required by FAA prior to deploying or operating drones, and ensure these documents are current.
- B. Pursuant to 725 ILCS 167/15, the drones may not be used to gather information, except during the following types of situations:

1. To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security determines that credible intelligence indicates there is a risk.
2. Pursuant to a search warrant based on probable cause under Section 108-3 of the Code of Criminal Procedure of 1963. The warrant must be limited to a period of 45 days, renewable by a judge upon showing good cause for subsequent periods of 45 days.
3. Upon reasonable suspicion that under particular circumstances, swift action is needed to prevent imminent harm to life, forestall the imminent escape of a suspect or prevent the destruction of evidence. The use of the drone under this paragraph is limited to a period of 48 hours. Within 24 hours of a drone's initiation under this paragraph, the Chief of Police, or designee, must report its use, in writing, to the State's Attorney.
4. To locate a missing person, engage in search and rescue operation, or aid a person who cannot otherwise be safely reached, while not also undertaking a criminal investigation.
5. To obtain crime scene and traffic crash scene photography in a geographically confined and time-limited manner. Use of drones under this paragraph on private property requires either a search warrant or lawful consent to search. As it relates to lands, highways, roadways or areas belonging to the State, a search warrant or consent to search is not required. Reasonable attempts shall be made to only photograph the crime scene or traffic crash scene and to avoid other areas.
6. To obtain information necessary for the determination of whether a disaster or public health emergency should be declared, to manage a disaster by monitoring weather or emergency conditions, to survey damage, or to coordinate response and recovery efforts. There is no requirement for an official declaration of disaster or public health emergency prior to use.
7. To conduct an infrastructure inspection of a designated building or structure at the express request of a local government agency. An operator operating a drone under this paragraph (7) shall make every reasonable attempt to photograph only the building or structure and to avoid other areas.
8. To demonstrate the capabilities and functionality of a drone for public relations purposes, provided that no information shall be collected or recorded by a drone during such demonstration.
9. In response to Public Safety Answering Point (PSAP) dispatched calls for service, when the sole purpose for using a drone is for one or more first

responders to locate victims, to assist with immediate victim health or safety needs, or to coordinate the response of emergency vehicles and personnel to an emergency. As used in this paragraph (9), "Public Safety Answering Point" and "PSAP" have the meaning given to those terms in Section 2 of the Emergency Telephone System Act.

10. If a drone is used at a routed event or special event, the use of a drone under this paragraph (10) requires that:
 - a. notice be posted at the event location for at least 24 hours before the event and clearly communicates that drones may be used at the upcoming event for the purpose of real-time monitoring of participant safety;
 - b. notice be posted, if practical, at major entry points to the event clearly informing the attendees that a drone may be used for the purpose of real-time monitoring of participant safety; and
 - c. the drone be flown in accordance with Federal Aviation Administration safety regulations.

Under this paragraph (10), the department may use the drone:

- i. in advance of an event, before event participants have begun to assemble, for the sole purpose of creating maps and determining appropriate access routes, staging areas, and traffic routes, provided that no personal identifying information is recorded and provided further that no recorded information is used in any criminal prosecution; or
- ii. during the event to proactively support public safety personnel by monitoring the event footprint in real time:
 - a. to detect a breach of event space, including a breach by an unauthorized vehicle, an interruption of a parade route, or a breach of an event barricade or fencing;
 - b. to evaluate crowd size and density;
 - c. to identify activity that could present a public safety issue for the crowd as a whole, including crowd movement;

- d. to assist in the response of public safety personnel to a real-time public safety incident at the event; and
 - e. to assess the traffic and pedestrian flow around the event in real time.
- C. Requests to deploy the drone flight shall be made to the Program Coordinator who will confer with the Incident Commander or their designee as to the status of the proposed flight.
- D. Whenever possible, if the drone will be flying within close proximity to a hospital heliport, which could create a hazardous situation for a manned aircraft, notification shall be made to the respective hospital's security office.
- E. At the conclusion of each deployment, the recordings shall be securely downloaded and proper evidence procedures shall be followed except as may be required by Section X of this policy.
- F. All uses of the drone will be documented on a form or database. Information shall include the reason for the flight; the date, time and location; the person who approved of the deployment, assigned staff; and a summary of the activities covered, actions taken, and outcome of the deployment.

IV. DEPARTMENTAL NOTIFICATIONS

- A. Notification of any drone deployment shall be made to the Chief of Police or their designee via the chain of command. The Public Information Officer shall also be notified via the chain of command.
- B. When appropriate, notification of the drone's deployment shall be made to the public and/or media outlets via the Public Information Officer (PIO) or as otherwise required by this policy or law.

V. ACCIDENT REPORTING

- A. The FAA requires notification of certain sUAS accidents. Pursuant to 14 CFR 107 Drone Operation & Certification Regulations, within 10 days after the accident, the remote pilot in command must report accidents to the FAA in the following situations:
 - 1. Serious injury to any person or loss of consciousness.

2. Damage to any property, other than the sUAS, unless one of the following conditions is satisfied (a) the cost of repair including materials and labor does not exceed \$500.00 or (b) the fair market value of the property does not exceed \$500.00 in the event of a total loss.
- B. The Remote Pilot in Command is required to initiate a police report for any accident involving the drone. The police report shall include the following information:
1. Name and contact information for operators and witnesses.
 2. Type of operation.
 3. Type of device and registration number/certificate.
 4. Event location and incident details.
 5. Evidence collection such as photos, video, and device confiscation, if necessary.
- C. When the accident meets the criteria listed under Section A, the remote pilot in command shall provide notification to the FAA by using the FAA's DroneZone Portal at: <https://faadronezone-access.faa.gov/#/>

VI. RESTRICTIONS

- A. The drone will not be used to:
1. Conduct random surveillance activities or requests for information.
 2. 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. Harass, intimidate or discriminate against any individual or group.
 4. Conduct personal business of any type.
 5. Any situation outside what is specified in this policy.
 6. To operate any firearm, weaponized laser, kinetic impact projectile, chemical agent or irritant, or any other lethal or non-lethal weapon. No drone shall be equipped with any such weapons.

7. Obtain or store facial recognition information gathered using facial recognition software unless the drone is being used to counter a high risk of a terrorist attack by a specific individual or organization and the United States Secretary of Homeland Security has determined that credible intelligence indicates that there is such a risk or if an assigned officer possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent harm to life or to forestall the imminent escape of a suspect or the destruction of evidence.
- B. Drone deployments by the police department must also adhere to the operating procedures established by the FAA. These rules are outlined below, but are not limited to:
1. Conduct a pre-flight check to ensure the drone is in condition for safe operation.
 2. Keep the drone in visual line of sight.
 3. Fly during day or twilight hours.
 4. Fly at or below 400 feet above ground level.
 5. Fly at or below 100 mph.
 6. Yield right of way to manned aircraft.
 7. Must not fly over people.
 8. Must not fly from a moving vehicle, except in rural areas.
 9. During an emergency situation, deviations from policy is permitted.
- C. The Program Coordinator shall request a certificate waiver from the FAA which authorizes deviation from specific regulations. The certificate waiver will be granted when the FAA determines that the drone operation can be safely conducted under the terms of the certificate waiver.
- D. Personnel shall notify the Program Coordinator when he/she knows or has reason to know that he/she has a physical or mental condition that would interfere with the safe operation of the drone.
- E. After September 16, 2023, no drone shall be deployed if it is not equipped with remote identification equipment.

VII. PRIVACY CONSIDERATIONS

- A. Use of the drone potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and visual observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy. Operators and visual observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.
- B. When there are specific and articulable grounds to believe that the drone will collect evidence of criminal wrongdoing and/or if the drone will be used in a manner that may intrude upon reasonable expectation of privacy, the department will obtain a search warrant prior to conducting the flight.
- C. No drone shall be equipped with onboard facial recognition software that works in conjunction with the drone unless otherwise authorized by the Freedom From Drone Surveillance Act (725 ILCS 167/1 et seq.).

VIII. INSPECTION AND CARE OF THE EQUIPMENT

- A. The drone and related equipment shall be maintained in the state of operational readiness. Assigned officers shall use reasonable care to ensure the proper functioning of the drone equipment. Malfunctions shall be brought to the attention of the Program Coordinator as soon as possible. Extra caution must be taken to ensure the equipment is not stored in extreme temperatures.
- B. Prior to use, assigned officers shall:
 - 1. Using an equipment checklist, inspect the drone and related equipment to verify proper functioning and ensure the battery is fully charged in accordance to the manufacturer’s recommendations.
 - 2. Inspect the body of the drone, the charging and camera cables to look for signs of visible damage. Ensure the propeller blades are in flight worthy condition.
 - 3. Ensure that the remote identification equipment is functioning and appropriately broadcasting.

IX. SECURITY OF RECORDINGS

Personnel should be aware that recordings may contain sensitive information and are responsible for ensuring compliance to the information in this policy. A breach in security, careless handling of the recording and/or intentional release of recordings to non-authorized individuals may

jeopardize relationships with citizens, subject victims to an invasion of privacy, jeopardize prosecutions and endanger the safety of individuals.

- A. All recordings are considered investigative property of the Downers Grove Police Department. The utmost care and caution shall be taken to ensure the recordings are not mishandled or misused.
- B. Employees shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner recordings without written authorization by the Program Coordinator.
- C. Any violations related to unauthorized edits, alterations, and dissemination of this data shall be cause for disciplinary action.
- D. Pursuant to 725 ILCS 167/25, the disclosure of information is prohibited, except to another government agency when there is reasonable suspicion that the information contains evidence of criminal activity, or the information is relevant to an ongoing investigation or pending criminal trial.
- E. Nothing in this policy prevents the disclosure of information through a court order or subpoena in connection with a criminal proceeding or if the disclosure is in regard to a completed traffic crash investigation.
- F. Records of drone usage, including flight path data, metadata, or telemetry information of specific flights, if available, may be disclosed subject to the Freedom of Information Act and rules adopted under that Act.
- G. No information gathered by a drone shall be sold nor disclosed to any person to whom disclosure is not authorized under this Section IX.

X. RECORDS RETENTION AND DESTRUCTION

- A. The police department shall destroy all information gathered by the drone, in accordance with the following destruction schedule:
 - 1. All information gathered pursuant to paragraphs (1), (2), (3), (4), (5), (6), or (9) of Section III.B. of this Policy shall be destroyed within 30 days after being gathered.
 - 2. All information gathered pursuant to paragraph (10) of Section III.B. shall be destroyed within 24 hours after being gathered.
 - 3. All information gathered pursuant to paragraph (7) of Section III.B. shall be turned over to the Village of Downers Grove as soon as practicable, and all gathered information shall be destroyed by the department immediately after the information has been turned over.

4. All information gathered pursuant to paragraph (8) of Section III.B. shall be destroyed in accordance with the Village of Downers Grove approved records retention schedule.
- B. When the recording does not fall under the statutory exemptions, documentation pertaining to use of a drone, such as location, date, time, scope of the mission is not subject to being destroyed within 30 days of a recording.
 - C. The retention of recordings that are exempt from the destruction requirements of Section X. A. above is at the discretion of the Program Coordinator or determined by the completion of the criminal investigation or criminal trial.
 - D. Notwithstanding anything in Section X to the contrary, the Program Coordinator may retain particular information if:
 1. there is reasonable suspicion that the information contains evidence of criminal activity; or
 2. the information is relevant to an ongoing investigation or pending criminal trial; or
 3. a supervisor at the agency deems that the information will be used exclusively for training purposes, provided that any such information shall not contain any personally identifiable information; or
 4. the information consists of only flight path data, metadata, or telemetry information of the drone.

XI. REPORTING

Annually, by April 1, the Program Coordinator shall report to the Illinois Criminal Justice Information Authority the number of drones owned by the police department, the number of times a drone was used pursuant to each paragraph of Section III.B, including the date of use, time of use, reason for use, location, whether video was recorded, and whether the video is designated for retention for training purposes. The report shall contain a copy of latest version of this policy concerning drones as of the most recent April 1. 725 ILCS 167/35. The department shall make publicly available on its website a copy of this policy.

XII. INFORMATION FROM PRIVATE DRONES

- A. The department may utilize information from private drones only for the purpose of undertaking the tasks outlined in Section III of this policy.

- B. Private parties may voluntarily submit information acquired by the privately owned drone to the police department.
- C. The department shall not disclose any information gathered by the private drone. However, a supervisor may disclose information to another government agency when there is reasonable suspicion that the information contains evidence of criminal activity or the information is relevant to an on-going investigation or pending criminal trial.

XIII. VIOLATIONS OF THIS POLICY

If any officer learns of a violation of this Policy or the Freedom From Drone Surveillance Act, the officer shall report the violation to the Program Coordinator. Upon becoming aware of a violation of this policy or the Act, the Program Coordinator shall immediately take actions to prevent future violations of this Policy or the Act through training or discipline, including progressive discipline for repeat violations, or other means that will prevent repeated violations of this Policy or the Act.

If the Program Coordinator learns of willful and wanton violations of this Policy or the Act, the Program Coordinator shall immediately remove the pilot from its drone program and take action to prevent future willful and wanton violations of this Policy or the Act.