

LOMBARD POLICE DEPARTMENT

GENERAL ORDER

ORDER NUMBER: 41.16

SUBJECT: SMALL UNMANNED AIRCRAFT SYSTEMS

EFFECTIVE DATE: 01/01/2021
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PURPOSE:

The purpose of this Order 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 STATEMENT:

It is the policy of the Lombard Police Department to ensure authorized personnel are trained on the use of small unmanned aircraft systems, hereinafter referred to as sUAS, 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 the sUAS will be in strict compliance with the Illinois Freedom from SUAS Surveillance Act (725 ILCS 167), Federal Aviation Administration regulations, Title 14 of the Code of Federal Regulations (14 CFR) Part 107 requirements, and privacy rights.

REFERENCE:

Drones as First Responders Act, 725 ILCS 167

DEFINITIONS:

Federal Aviation Authority:

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, any evidence, images, sounds, data, or other information gathered by unmanned aircraft.

Parade:

As defined in 725 ILCS 167/5, a parade for purposes of this general order is a march, procession, or 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. The definition of a 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:

As defined in 725 ILCS 167/5, a routed event for purposes of this general order is 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 fifty (50) people. A routed event does not include a political protest, march, demonstration, or other assembly protected by the First Amendment.

Small Unmanned Aircraft System (sUAS):

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:

As defined in 725 ILCS 167/5, a special event for purposes of this general order is 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:

- 150 or more people in a unit of local government with a population that is less than 50,000
- 250 or more people in a unit of local government with a population that is greater than or equal to 50,000 but less than 100,000.

- 350 or more people in a unit of local government with a population that is greater than or equal to 100,000 but less than 500,000
- 500 or more people in a unit of local government with a population greater than 500,000.

A special event does not include a 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.

ORDER:

41.16.1 USE OF SMALL UNMANNED AIRCRAFT SYSTEMS (SUAS)

1. Pursuant to 725 ILCS 167/15, the sUAS may not be used to gather information, except during the following types of situations:
 - A. 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.
 - B. 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.
 - C. 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 a sUAS under this paragraph is limited to a period of 48 hours. Within 24 hours of sUAS initiation under this paragraph, the Chief of Police must report its use, in writing, to the State's Attorney.
 - D. To attempt to locate a missing person, engaging in search and rescue operations, or aiding a person who otherwise cannot be safely reached while not also undertaking a criminal investigation.
 - E. To obtain crime scene and traffic crash scene photography in a geographically confined and time-limited manner. Use of the sUAS 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.

- F. To obtain information necessary for the determination of whether a disaster or public health emergency should be declared, manage a disaster by monitoring weather or emergency conditions, to survey damage, or to coordinate response and recovery efforts. There is no requirement that an official declaration of disaster or public health emergency prior to use. The use of a sUAS under these circumstances is permissible during the disaster or public health emergency and during subsequent response and recovery efforts.
- G. To conduct an infrastructure inspection of a designated building or structure at the express request of a local government agency. Any law enforcement agency operating a sUAS for this purpose shall make every reasonable attempt to photograph only the building or structure and avoid other areas.
- H. To demonstrate the capabilities and functionality of a police sUAS for public relations purposes, provided that no information is collected or recorded by the sUAS during such demonstration.
- I. In response to Public Safety Answering Point (PSAP) dispatched calls for service, when the sole purpose for using a sUAS 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 section, "Public Safety Answering Point" and "PSAP" have the meaning given to those terms in Section 2 of the Emergency Telephone System Act.
- J. At a special or routed event as long as the following requirements are met:
 - Notice is posted at the event location for at least twenty-four (24) hours before the event and clearly communicates that sUASs may be used at the upcoming event for the purpose of real-time monitoring of participant safety.
 - Notice is posted, if practical, at major entry points to the event clearly informing the attendees that a sUAS may be used at for the purpose of real-time monitoring of participant safety.

- The sUAS is flown in accordance with Federal Aviation Administration safety regulations.
- i. Under this section, a law enforcement agency may use the sUAS:
 - a. 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 recording information is used in any criminal prosecution.
 - b. During the event to proactively support public safety personnel by monitoring the event footprint in real time:
 1. To detect a breach of peace 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.
 2. To evaluate crowd size and density.
 3. To identify activity that could present a public safety issue for the crowd as a whole, including crowd movement.
 4. To assist in the response of public safety personnel to a real-time public safety incident at the event.
 5. To assess the traffic and pedestrian flow around the event in real time.
 2. sUAS deployments by the Lombard Police Department must adhere to the operating procedures established by the FAA which are specified in Title 14 of the Code of Federal Regulations (14 CFR) Part 107, "Small Unmanned Aircraft Systems."
 3. A certificate waiver from the FAA may be applied for which authorizes deviation from specific regulations as may be required. The certificate waiver will be granted when the FAA determines that the sUAS operation can be safely conducted under the terms of the certificate waiver
 4. When appropriate, notification of the sUAS deployment shall be made to the public.

41.16.2 PROHIBITED USE OF SMALL UNMANNED AIRCRAFT SYSTEMS

The sUAS shall not be utilized to:

1. Conduct random surveillance activities or quests 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 policy as a permitted use.

41.16.3 PRIVACY CONCERNS AND USE OF FACIAL RECOGNITION.

1. Use of the sUAS 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.
2. A law enforcement agency operating a sUAS under 725 ILCS 167 is prohibited from using, during a flight, onboard facial recognition software that works in conjunction with the sUAS.
3. A law enforcement agency operating a sUAS under 725 ILCS 167 is prohibited from using any information gathered by a sUAS with any facial recognition software, unless either:
 - A. The law enforcement agency is using a sUAS 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;
 - B. The law enforcement agency 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.

41.16.4 TRAINING

1. Only officers that have completed the required training will be allowed to operate a sUAS. All officers operating department sUAS shall be certified under the Federal Aviation Authority's sUAS rule, Part 107.
2. Prior to authorization to operate a sUAS, assigned personnel must complete mandatory training provided by the department to obtain an understanding on how to use the sUAS.

41.16.5 . PROGRAM COORDINATOR DUTIES

1. The Chief of Police will appoint a program coordinator who will be responsible for the management of the department's sUAS program. The program coordinator will ensure that this the sUAS program conforms to current laws, regulations, and best practices. The program coordinator will have the following responsibilities:
 - A. Coordinate Federal Aviation Authority (FAA) 14 CFR 107 application process and ensure all certifications are current.
 - B. Ensure all authorized operators and visual observers have completed all required FAA and department-approved training in the operation, applicable laws, and department guidelines regarding the use of the sUAS.
 - C. Obtain any and all necessary FAA waivers and ensure waivers are current.
 - D. Develop sUAS inspection, maintenance, and record keeping protocol to ensure continuing airworthiness of the sUAS(s), up to and including its overhaul or life limits.
 - E. Ensure that established protocols are followed by monitoring and providing periodic program reports to the Chief of Police.
 - F. Establish and/or maintain a team of department personnel trained and certified to operate sUAS in compliance with current laws and regulations (i.e. "sUAS team")..
 - G. Designate a supervisor of the rank or sergeant or above for direct supervision of the sUAS team. Duties of this supervisor shall include but not be limited to the coordination of training and review of deployment reports.

41.16.6 SUPERVISOR DUTIES

1. When appropriate, notification of the sUAS deployment shall be made to the public. It is the responsibility of the on-duty supervisor to make notification to the Village of Lombard Communications Coordinator.
2. The on-duty supervisor shall also notify the deputy chief of operations and the program coordinator if a sUAS is deployed pursuant to 725 ILCS 167/15. The program coordinator shall ensure that notification is made to the Dupage County State's Attorney if the deployment requires notification under 725 ILCS 167/15.

41.16.7 REMOTE PILOT IN COMMAND

1. Upon determining that an incident qualifies for the use of a sUAS, the remote pilot in command will contact the on-duty supervisor for approval to deploy the sUAS.
2. Prior to deployment, the remote pilot in command will conduct a preflight inspection and document such on the Lombard Police Department Preflight Checklist.
3. The remote pilot in command shall ensure the use of a visual observer as required by FAA regulations during deployment.
4. Upon completion of the deployment of the sUAS, the remote pilot in command will complete a supplemental report documenting the use and results of the sUAS.
5. All uses of the sUAS will be documented. Information shall include the reason for the flight; the date, time, and location; the supervisor who approved of the deployment and the assigned operators; and a summary of the activities covered, actions taken, and outcome of the deployment.

41.16.8 SECURITY OF RECORDINGS

1. Personnel should be aware that recordings may contain sensitive information and are responsible for ensuring compliance to this Order. A breach in security, careless handling of the recordings, and/or intentional release of recordings to non-authorized individuals may jeopardize relationships with citizens, subject victims to an invasion of privacy, and jeopardize prosecutions.
2. All recordings are considered investigative property of the Lombard Police Department. The utmost care and caution shall be taken to ensure the recordings are not mishandled or misused.

3. Employees shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner recordings without authorization under existing law, this order, or the program coordinator.
4. Any violations related to unauthorized edits, alterations, and dissemination of this data shall be cause for disciplinary action.
5. Information retained pursuant to 725 ILCS 167/15 shall be uploaded to the Evidence.com platform. This platform allows for a complete audit history of the video including but not limited to views and access.

41.16.9 RETENTION AND DISCLOSURE OF SUAS INFORMATION

1. Pursuant to 725 ILCS 167/20, information gathered from sUASs utilized by law enforcement agencies shall be destroyed within the following timeframes:
 - A. All information gathered pursuant to 41.16.1 (1)(A), 41.16.1 (1)(B), 41.16.1 (1)(C), 41.16.1 (1)(D), 41.16.1 (1)(E), 41.16.1 (1)(F) and 41.16.1(1)(I) shall be destroyed within 30 days.
 - B. All information gathered pursuant to 41.16.1 (1)(J) shall be destroyed within 24 hours of being gathered.
 - C. All information gathered pursuant to 41.16.1 (1)(G) shall be turned over to the requesting local government agency as soon as practicable, and all gathered information shall be destroyed immediately after the information has been turned over.
 - D. Notwithstanding the above, a Lombard Police Department supervisor may retain particular information if:
 - i. There is reasonable suspicion that the information contains evidence of criminal activity.
 - ii. The information is relevant to an ongoing investigation or pending criminal trial.
 - iii. A Lombard Police Department supervisor deems that the information will be used exclusively for training purposes, provided that any such information shall not contain any personally identifiable information; or
 - iv. The information consists of only flight path data, metadata, or telemetry information of the sUAS.
2. Pursuant to 725 ILCS 167/25, the Lombard Police Department shall not disclose information gathered

by the sUAS, except that a Lombard Police Department supervisor may disclose particular information to another governmental agency if 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.

3. Pursuant to 725 ILCS 167/25, records of Lombard Police Department sUAS 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.
4. Pursuant to 725 ILCS 167/25, the Lombard Police Department shall neither sell any information gathered through the use of the sUAS nor disclose any information gathered by the sUAS to any person to whom disclosure is not authorized.
5. Nothing in this general order prohibits 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.

41.16.10 REPORTING

1. The program coordinator shall report the following:
 - A. Annually, by April 1st, the program coordinator shall report to the Illinois Criminal Justice Authority the following:
 - i. The number of sUAS that it owns.
 - ii. The number of times a sUAS was used pursuant to each paragraph of 725 ILCS 167/15, 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.
 - iii. A copy of the latest version of this general order concerning sUAS as of the most recent April 1.
 - B. The Department shall make this general order publicly available on the Village of Lombard's website.
2. The remote pilot in charge shall report the following:
 - A. Within 10 days, the remote pilot in charge will notify the FAA of an accident in the following situations:

- i. Serious injury to any person or loss of consciousness; or
- ii. Damage to any property, other than the sUAS, unless the cost of repair including materials and labor does not exceed \$500.00 or the fair market value of the property does not exceed \$500 in the event of a total loss.

B. In case of an accident involving a sUAS, the remote pilot in charge shall notify his on-duty supervisor and generate a police report.

C. After all deployments of a sUAS, the remote pilot in charge will generate a supplemental incident report as well as complete all required Lombard Police Department sUAS forms.

41.16.11 USE OF WEAPONS ON sUAS

- 1. Pursuant to 725 ILCS 167/18, all sUASs being operated by law enforcement are prohibited from equipping or using on a sUAS any firearm, weaponized laser, kinetic impact projectile, chemical agent or irritant, or any other lethal or non-lethal weapon.

41.16.12 VIOLATIONS

- 1. When it is learned or discovered that the conduct of a member of the Lombard Police Department violates 725 ILCS 167, the Department shall take immediate actions to prevent future violations of the Act through any one or more of the following means:

- A. Training
- B. Discipline (including progressive discipline for repeat violations)
- C. Other means that will prevent repeated violations of the Act by members of the Lombard Police Department.

- 2. If the Department learns of willful and wanton violations of this Act, the Department shall immediately remove the pilot from its sUAS program and act to prevent future willful and wanton violations of 725 ILCS 167.