



**MIDDLETON POLICE
DEPARTMENT**

DATE
August 27, 2014

POLICY
15.01.07

SUBJECT: **Unmanned Aircraft**

REVIEWED
June 15, 2019

History: 11/2014; 11/2016
[WILEAG \(5th Ed.\) Standards:](#)

Contents

PURPOSE..... 1

POLICY 2

DEFINITIONS..... 2

 Model Aircraft 2

 Unmanned Aircraft (UA)..... 2

 UA Flight Crewmember 2

 Unmanned Aircraft Pilot..... 2

 Small Unmanned Aircraft System (UAS)..... 2

PROCEDURE..... 2

 Operational Procedures For The Use of Unmanned Aircraft 2

 Documentation Requirements:..... 3

 Prohibited Use..... 3

Federal and State Law..... 3

 Federal Laws/Regulations..... 4

 State of Wisconsin Laws..... 4

Responding to Incidents Involving An Unmanned Aircraft..... 5

PURPOSE

The purpose of this policy is to provide officers with the appropriate guidelines for determining if and under what conditions the use of an Unmanned Aircraft by members of the Middleton Police Department would be authorized and appropriate. Furthermore, as the popularity of Unmanned Aircraft increases members of the Middleton Police Department should be prepared to respond to reports of Unmanned Aircraft being operated within the boundaries of the City of Middleton and be capable of making legal and justified decisions based on the current Federal and State of Wisconsin laws.

POLICY

Advancements in technology have provided civilians, police organizations and other public safety agencies with access and the ability to use Unmanned Aircraft (drones). The Middleton Police Department recognizes the importance and effectiveness of Unmanned Aircraft but is also cognizant of the privacy concerns expressed by members of our community by the use of drones and the potential dangers associated with the operation of these Unmanned Aircraft.

DEFINITIONS

Model Aircraft means a remote controlled aircraft used by hobbyist, which is manufactured and operated for the purposes of sport, recreation and/or competition.

Unmanned Aircraft (UA) means an aircraft that is intended to navigate in the air without an on-board pilot. Also called Remote Piloted Aircraft and “drones”.

UA Flight Crewmember means a pilot, visual observer, payload operator or other person assigned duties for an Unmanned Aircraft for the purpose of flight.

Unmanned Aircraft Pilot means a person exercising control over an unmanned aircraft during flight.

Small Unmanned Aircraft System (UAS) means an unmanned aircraft weighing less than 55lbs.

PROCEDURE

Operational Procedures For The Use of Unmanned Aircraft

Based on the capabilities of Unmanned Aircraft, there are many situations where the use of these devices could aid in the normal daily operations of a law enforcement organization. However, concerns raised by the general public of misuse of Unmanned Aircraft by the law enforcement community necessitates procedures to ensure that any uses of Unmanned Aircraft will only be for legitimate law enforcement investigations and purposes.

The use of an Unmanned Aircraft by members of the Middleton Police Department is allowed but only under the following circumstances:

1. Approval has been granted by the Chief of Police or his/her designee.
2. The use of the Unmanned Aircraft is for officer safety purposes and for exposing unseen dangers.
3. During the course of a missing person investigation.
4. For any legitimate public safety mission, training or demonstration purposes.
5. Except for situations which would be considered an officer safety issue, members of the Middleton Police Department should consider the use of the Reverse 911 system to alert those living and working in the area of an operation involving an Unmanned Aircraft. This notification would assist in the safety of nearby citizens in case of an uncontrolled landing. Furthermore, notifying the public of the ongoing investigation could assist in the resolving of an incident.

6. In situations where there are specific and articulable grounds to believe that the Unmanned Aircraft will collect evidence of criminal behavior and if the Unmanned Aircraft will intrude upon reasonable expectations of privacy, members of the Middleton Police Department are required to obtain a search warrant prior to the use of an Unmanned Aircraft device.
7. Unmanned Aircraft will only be operated by personnel, pilots and crewmembers, who have been trained and certified in the operation of the Aircraft and who have received a Certificate of Authorization from the Federal Aviation Administration (FAA).

Documentation Requirements:

When an Unmanned Aircraft is used, at a minimum the following requirements are to be documented in a written police report by an employee of the Middleton Police Department.

1. The justification and authorization which was granted for the use of the Unmanned Aircraft.
2. The name of the Unmanned Aircraft Pilot, Crewmembers and the organization in which they're affiliated.
3. All flight time information including but not limited to the location of takeoff, flight pattern, observations during operation, flight time and location of landing.
4. Name, model number of Unmanned Aircraft, and registration information.

Prohibited Use

1. The operation of an Unmanned Aircraft is restricted to the above requirements.
2. Employees of the Middleton Police Department must be mindful of the privacy concerns of the general public, Constitution violations which may occur with the use of Unmanned Aircraft, and shall mitigate any violations which may occur during authorized operations.
3. Any unauthorized use of an Unmanned Aircraft by members of the Middleton Police Department will result in strict accountability and appropriate discipline according to the Disciplinary Procedures outlined in [4.2.01](#).
4. Images captured during the operation of an Unmanned Aircraft will not be retained by the Middleton Police Department unless for evidentiary purposes or required by law. Unless exempted by the Open Records Law, captured images shall be open for public inspection.
5. Unmanned Aircraft equipped with weapons of any kind is strongly prohibited.

Federal and State Law

Operations of Unmanned Aircraft Systems (UAS) now fall under Part 107 of the Title 14 Code of Federal Regulations. The small (UAS) rule is only applicable to unmanned aircraft that weigh less than 55lbs at takeoff. The following is a link to the summary requirements of this rule:

<https://www.faa.gov/uas/>

Outside of these weight restrictions still fall under the classification of an aircraft (FAA Definition) and some regulations and rules exist which all operators of these devices must abide by.

Federal Laws/Regulations

The Federal Aviation Administration (FAA) only authorizes the operation of an Unmanned Aircraft by operators who have obtained the following certifications:

1. Certificate of Authorization (COA) – This authorization allows public entities (federal, state and municipal government related organizations) to operate Unmanned Aircraft. Prior to issuing a COA, the FAA reviews the operation to ensure it is in the public interest, is safe, and does not significantly impact the safety of other air traffic or persons on the ground.
2. Experimental Certification – This certification is for civil operators who receive an aircraft certificate in accordance with Code of Federal Regulations (CFR) Part 21. This allows for experimentation and development of the aircraft, market development, and training of prospective clients.
3. Model Aircraft Certification - These operations are comprised of those individuals who operate an Unmanned Aircraft only for recreational enjoyment in accordance with Advisory Circular 91-57. This generally applies to visual line of sight operations at no more than 400 feet above ground level, during daylight conditions, and away from any airports, persons and buildings. The FAA Modernization and Reform Act of 2012, (www.faa.gov) defines when an Unmanned Aircraft is being operated as a model aircraft.

Additional regulations and rules from the FAA for the operation of an Unmanned Aircraft include:

1. Unmanned Aircraft cannot be operated within 5 miles of any given airport without permission from the airport or local air traffic control tower. Based on the location of the Morey Airport this currently includes the entire City of Middleton.
2. No Unmanned Aircraft can be operated in a careless or reckless manner so as to endanger the life or property of another as regulated under Federal Regulations 12 C.F. R. 91.13.

State of Wisconsin Laws

1. 942.10 – Use of a drone.

Whoever uses a drone, as defined in s. 175.55(1)(a), with the intent to photograph, record, or otherwise observe another individual in a place or location where the individual has a reasonable expectation of privacy is guilty of a Class A misdemeanor. This section does not apply to a law enforcement officer authorized to use a drone pursuant to s. 175.55(2).

2. 941.292 – Possession of a weaponized drone

(1) In this section, “drone” means a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, and can fly automatically or be piloted remotely. A drone may be expendable or recoverable.

(2) Whoever operates any weaponized drone is guilty of a Class H felony. This subsection does not apply to a member of the U.S. armed forces or national guard acting in his or her official capacity.

3. 175.55 – Use of drones restricted

(1) In this section:

(a) “Drone” means 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 an aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted remotely. A drone may be expendable or recoverable.

(b) “Wisconsin law enforcement agency” has the meaning given in s. 165.77(1)(c) and includes the department of justice and a tribal law enforcement agency.

(2) 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.

Responding to Incidents Involving An Unmanned Aircraft

As the popularity of Unmanned Aircraft increases the likelihood of the Middleton Police Department receiving a report of an Unmanned Aircraft operating within the City of Middleton also rises. Law enforcement agencies throughout the United States have seen Unmanned Aircraft hovering above major sporting venues, airborne above significant and sensitive law enforcement investigations, used as a stalking tool, and operated as a way to record the activities of law enforcement and others covertly.

Even though there are certifications, state statutes and federal regulations which Unmanned Aircraft operators must obtain or abide by while operating one of these devices, the majority are unfamiliar with or unaware of the rules and guidelines pertaining to the operation of these Unmanned Aircraft. Common sense and the totality of the circumstances where an Unmanned Aircraft is being operated must be considered when deciding the appropriate course of action, including charges, for the operator of an Unmanned Aircraft. Consultation with local and federal prosecutors may be needed in cases where the operation of an Unmanned Aircraft was operated in a careless and unsafe manner or in violation of the current federal and state regulations and laws.