

MONTPELIER POLICE DEPARTMENT

UNMANNED AIRCRAFT SYSTEM (UAS) PROGRAM	Related Policies:
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Vermont Statutes: 20 V.S.A § 4622	
CALEA Standard:	
Date Implemented: 9/13/2022	Review Date: 9/13/2023

- I. **Purpose:** The purpose of this policy is to establish minimum standards on the use and oversight of Unmanned Aircraft Systems (UAS) for this agency.

- II. **Policy:** It is the policy of the Montpelier Police Department (MPD) to adhere to and operate under Federal Aviation Administration (FAA) Small Unmanned Aircraft Regulations (Part 107) and/or under Public Aircraft Operator regulations IAW 49 USC §40102(a)(41) and §401252 as necessary in utilizing Unmanned Aircraft Systems (UAS) for the purpose of criminal investigations, public safety (to include firefighting operations), search and rescue, or to assist in city planning, development or research, disaster relief, public relations photography, mapping or geophysical surveys. Any UAS, related equipment and technology, and data collected from their deployment shall be used in a lawful manner consistent with all provisions of the United States and Vermont Constitutions. It is also the policy of this agency to allow for the deployment of a UAS for exigent use approved by the Chief of Police or designee, when there are articulable grounds to believe that the UAS will collect evidence related to a specific criminal act, emergencies as they relate to the protection of life or property, or for the training, testing and evaluation of the UAS by this agency.

- III. **Definitions:**
 - A. **Certificate of Waiver or Authorization (COA):** COA is an authorization issued by the Air Traffic Organization to a public operator for a specific UAS activity.

 - B. **Crew Member:** A person assigned to perform an operational duty during operations. A UAS crew member includes the remote pilot in command, person manipulating the controls, and visual observers, but may include other people as appropriate or required to ensure safe operation of the aircraft.

 - C. **Defined Incident Perimeter:** A location with a set perimeter where UAVs will be operated. The area will be determined based on the scope of the operation and a defined operational ceiling at or below 400 feet above ground level (AGL).

- D. Digital Multimedia Evidence (DME):** Digital recordings of images, sounds, and associated data captured by an aircraft.
- E. Unmanned Aircraft System (UAS):** Means an aircraft that is operated without a physical human presence within or on the aircraft which, in the manner in which it is used or the manner in which it is equipped, is capable of performing audio or visual surveillance and guided by remote control.
- F. Person Manipulating the Controls:** A person who is controlling a UAS under the direct supervision of a remote pilot in command.
- G. Remote Pilot in Command (PIC):** A person who holds a remote pilot certificate with a small unmanned aircraft systems (sUAS) rating and has the final authority and responsibility for the operation and safety of a sUAS operation conducted under 14 CFR Part 107.
- H. Small Unmanned Aircraft System (sUAS):** An unmanned aircraft of less than 55 pounds and the associated elements required for its safe and efficient operation in the national airspace system (including communication links and the components that control it, as well as launch and recovery systems and equipment).
- I. Tactical Deployment:** Using a UAS to support the positioning of officers and equipment in emergency situations, such as incidents involving hostages and barricades, and other temporary perimeter security situations.
- I. Unmanned Aircraft (UA) or Unmanned Aerial Vehicle (UAV):** An aircraft operated without the possibility of direct human intervention from within or on the aircraft.
- J. Visual Line of Sight (VLOS):** When any flight crew member is capable of seeing the aircraft with vision unaided by any device, other than eyeglasses or contact lenses, in order to know the UA's location, determine the UA's attitude, altitude, and direction of flight, observe the airspace for other air traffic or hazards, and determine that the UA does not endanger the life or property of another.
- K. Visual Observer (VO):** A person who is designated by the Pilot in Command to supplement situational awareness and VLOS and assist with seeing and avoiding other air traffic or objects aloft or on the ground. The VO must be able to effectively communicate:

- The small UA location, altitude, and direction of flight
- The position of other aircraft or hazards in the airspace
- The determination that the UA does not endanger the life or property of another

IV. Procedures:

A. LEGAL BACKGROUND

In 2013, Congress directed the FAA to develop drone regulations and in August 2016 the rules were passed. Until final regulations were developed and approved, commercial or business use of UASs required FAA authorization under the Section 333 approval process which fell into three categories: Operational requirements, aircraft or UAS requirements, and Operator certification and responsibility. The FAA has since published an Advisory Circular dated 9/21/2018 [AC Number 107-2](#) regarding Small Unmanned Aircraft Systems. The U.S. Supreme

Court has set precedence which could reasonably be applied to UAS usage. In summary, The Court has found there can be no invasion of privacy when any member of the public flying in airspace could see anything observed by police (public view). The use of thermal imaging devices to monitor the inside of a person's home requires a warrant. The current UAS laws of the State of Vermont can be found [here](#) also see [the FAA policies regarding UAS](#).

B. ADMINISTRATION AND THE USE OF UAVs

The Chief of Police or designee shall appoint a UAS Program Manager. The Program Manager will be responsible for all applicable FAA requirements to include registry of all Department UASs and that any applicable Certificates of Waivers (COAs) are applied for and maintained (Sections 107.25-107.51 as outlined by the FAA). The UAS Program Manager is responsible to compile an annual report which documents the use of the Department's UAS activities. All deployments of UAVs shall be authorized by supervisory personnel, be in state and federal legal and regulatory compliance, and be within compliance of these policies and procedures.

MPD may use a UAS and may disclose or receive information acquired through the operation of a UAS if the UAS is operated for a purpose other than the investigation, detection, or prosecution of crime (e.g., search and rescue, aerial photography for accident assessment, forest fires, fire scenes, flood stages, and storm damage, etc.).

UASs may be used for Public Safety situations which may include, but are not limited to, the following:

Situational awareness - To assist decision-makers in understanding the nature, scale, or scope of an incident and for planning and coordinating an effective response, or otherwise observational public safety purposes that do not involve gathering or retaining data.

Search and rescue - To assist in missing person investigations and other search and rescue missions.

Tactical deployment - To support the positioning of officers and equipment in emergency or exigent situations, such as incidents involving hostages and barricades, and other temporary perimeter security situations. In such cases, the department shall obtain a search warrant for the use of the UAS within forty-eight (48) hours after the use commenced. In the event a court denies the application for the warrant, use of the UAS shall cease immediately and any information or evidence gathered through the use of the UAS shall be destroyed.

Warrant – A UAS may be used pursuant to a federal warrant or a warrant under Rule 41 of the Vermont Rules of Criminal Procedure.

Visual perspective - To provide an aerial perspective to assist officers with directing crowd control, traffic, special circumstances, and temporary perimeter security.

Scene documentation - To document a crime scene, accident scene, or other major incident scene.

Agency assistance - To assist another government agency with situational awareness, search and rescue, tactical deployment, visual perspective, or scene documentation. Any such assistance shall be done in accordance with MPD UAS and related policies.

Public demonstration - To educate the public regarding the law enforcement use of UAV.

Training - To assist remote pilots and aircrews in maintaining proficiency in operation skills of UAS's.

C. RESTRICTIONS ON THE USE OF UAVs

1. UAVs shall only be deployed for official purposes related to public safety or city business such as search and rescue, aerial photography for the assessment of accidents, forest fires and other fire scenes, flood stages, and storm damage.
2. Authorized agency personnel shall not deploy UAVs in a careless or reckless manner or in violation of FAA rules governing use of UAVs by governmental agencies or any other applicable state or federal law.
3. Security Sensitive Airspace Restrictions: The FAA, under 14 CFR § 99.7 — Special Security Instructions (SSI), has prohibited all UAS flights within the airspace defined under UAS NOTAM FDC 7/7282. The restrictions extend from the ground up to 400 feet AGL, apply to all types and purposes of UAS flight operations, and remain in effect 24 hours a day, 7 days a week. An interactive Map of restricted locations can be found at https://tfr.faa.gov/tfr_map_ims/html/ .
4. UASs shall not be used to monitor, gather, or retain data of demonstrations or protests or otherwise instances where private citizens are peacefully exercising their constitutional rights of free speech and assembly.
5. Approval by the Chief of police or his designee is required prior to the deployment of a UAS equipped with any of the following items:
 - Night vision technology.
 - High-powered zoom lenses.
 - High-powered acoustical listening devices.
 - Thermal imaging technology.
6. Under NO circumstances will any UAS ever be equipped with weapons of any kind.
7. Facial recognition or any other biometric matching technology shall not be used on any data collected by a UAS on any person, home, or area other than the target of an approved (exigent or warrant) surveillance.

NOTE: If a UAS is deployed to assist in a federal agency-led operation, the applicable agency should be notified of the make and model of the UAS, as well as MPD departmental policies.

D. PROCEDURES FOR USE OF A UAV

All deployments of UAVs shall incorporate the following procedures to assure authorized use, safe operation, secure storage, and documentation:

1. The agency shall consult with legal counsel regarding any search warrant. (This does not apply to UAS deployments for non-investigative public safety use such as training, testing, search and rescue or evaluation of the UAS). Authorized agency personnel shall obtain a search warrant when there is reasonable belief that the flight of a UAV or the collection of DME may intrude upon a place and time when a person has a reasonable expectation of privacy, as assured by the U.S. Constitution and the Constitution of the State of Vermont.
2. The agency must obtain applicable authorizations, permits, or certificates required by the FAA prior to deploying or operating the UAS, and these authorizations, permits, and certificates shall be maintained and current.
3. Any department member that intentionally uses the UAS without proper authorization or in deviation of the standards set forth in this policy shall be subject to disciplinary action.
4. A certified UAS pilot (department member) may not deploy more than one UAS at any one time, in any one area, or at any one event without first coordinating and defining the parameters of the area where each deployed UAS will be operated with a supervisor. If the UAS pilot is a supervisor, concurrence from another department supervisor is required.
5. The certified UAS pilot (department member) will give notice for flights within five miles of an airport to both the airport operator and air traffic control tower if the airport has a tower. If conducting a criminal investigation, for operational safety and security, employees should limit specific information as to the location of the UAS use and provide a general area as to where the UAS will be deployed.
6. Department UAVs shall be operated solely by authorized personnel duly trained and certified as a remote pilot by the FAA.
7. Department certified UAS pilots shall inspect and test UAVs prior to each deployment to verify general airworthiness and mission specific equipment functionality.
8. UASs must be operated at an altitude, a speed, and with a planned flight pattern that will ensure that the invasion of privacy of third parties who are not under investigation is minimized.
9. Department certified UAS pilots shall inspect crew fitness, lighting, line-of-sight, altitude, and weather conditions prior to each deployment to verify suitability for flight. Inspections shall conform to the following:
 - a. Crew fitness: Department certified UAS pilots shall conduct a preflight briefing at which they shall review the mission, goals, methods and procedures; UAV battery charge and Global Positioning System (GPS) strength; personnel communication procedures; emergency/contingency procedures, including but not limited to, UAV malfunction/failure, flight termination, flight diversion, and lost link procedures; contents of the COA, if applicable; radio frequency to be used; and takeoff and landing site, defined incident perimeter, and flight perimeter.
 - b. Line-of-sight: Department certified UAS pilots shall review the intended flight of UAVs for hazards prior to each deployment. Unless otherwise approved through the FAA, authorized agency personnel shall only deploy UAVs within the line of sight of the operator in an attempt to detect and avoid hazards such as aircraft, trees, and property.

- c. Altitude: All UAV flights shall be conducted at less than 400 feet above ground level unless otherwise noted in the COA or approved by the FAA in an emergency COA, or as permitted by other FAA regulations.
- d. Temperature: Department certified UAS pilots shall only deploy UAVs when the temperature is within the parameters set forth by the operational guidelines of the UAV. Authorized agency personnel shall adjust UAV battery and flight length as necessary according to temperature.
- e. Wind: Department certified UAS pilots shall know the wind velocity prior to each deployment and shall only deploy UAVs when the wind velocity is within the parameters set forth by the operational guidelines of the UAV.
- f. Rain, snow, fog: Prior to deployment of a UAV, Department certified UAS pilots shall ascertain whether rain, snow, or fog may decrease visibility or operator safety. Authorized agency personnel may deploy UAVs if weather conditions do not prevent personnel from adhering to line-of-sight and minimum weather requirements.
- g. UAVs shall be stored in a secure manner. UAVs shall be operated and maintained with proper care. In the event of an equipment malfunction, supervisory personnel shall be notified as soon as possible, any deployment shall be ceased immediately, and the incident shall be documented in a written report (as applicable), as well as in the UAS logbooks.
- h. Department certified UAS pilots shall coordinate maintenance, repairs, and updates of UAVs as well as coordinate on a regular basis with appropriate agency/department/office information technology staff regarding system-related issues (as applicable).
- i. Per federal regulation, Department certified UAS pilots shall inform local air traffic control of an impending flight or obtain a waiver of notice from local air traffic control at the issuance of the COA.
- j. Any DME must be collected and stored in accordance with departmental policies. The Department certified UAS pilot shall make and label two working copies of evidence-based DME captured. Any original DME captured from a UAS shall not be used as a working copy. MPD shall not maintain any DME captured by a UAS which has no official or law enforcement purpose.
- k. All UAV flights shall be documented on a form or database designed for that purpose and shall include, but not be limited to:
 - 1. The reason or purpose for the flight.
 - 2. Date, time, duration, and location of the flight.
 - 3. Weather conditions prior to flight.
 - 4. Name of the supervisor or senior pilot approving the flight.
 - 5. List of staff members assigned to the flight.
 - 6. The summary of actions taken, and the activities and outcomes from deployment.
 - 7. A brief description of captured DME and the storage location.
 - 8. Whether a search warrant was sought and/or obtained.