

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2023-004

AN ORDINANCE APPROVING AND RENEWING A MILITARY EQUIPMENT, FUNDING, ACQUISITION AND USE POLICY AS STATED IN SAN LEANDRO MUNICIPAL CODE CHAPTER 4-42 IN COMPLIANCE WITH ASSEMBLY BILL 481

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 relating to the use of military equipment by California law enforcement agencies; and

WHEREAS, on May 16, 2022, the City Council adopted Ordinance 2022-006 Military Equipment Funding, Acquisition and Use Policy And Adding Chapter 4-42 “Military Equipment Funding, Acquisition and Use Policy” To Title 4. “Public Welfare” Of The Municipal Code In Compliance With Assembly Bill 481.; and

WHEREAS, the Military Equipment Funding, Acquisition and Use Policy and Government Code section 7072 requires the City to publish annually a report for the prior year which includes: (1) a summary of how the military equipment was used and the purpose of its use; (2) a summary of any complaints or concerns received concerning the military equipment; (3) the results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response; (4) the total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report; (5) the quantity possessed for each type of military equipment; and (6) if the Police Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment; and

WHEREAS, the Military Equipment Funding, Acquisition and Use Policy and Government Code section 7072 also require that within 30 days of submitting and publicly releasing the annual military equipment report, the Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which time the general public may discuss and ask questions regarding the annual military equipment report and the Police Department's funding, acquisition, or use of military equipment; and

WHEREAS, the San Leandro Police Department’s Policy 707 - the Military Equipment Funding, Acquisition and Use Policy was published on the San Leandro Police Department’s internet website on May 1, 2023; and

WHEREAS, on May 15, 2023, the San Leandro Police Department will submit the proposed Military Equipment Funding, Acquisition and Use Policy Annual Report to the City Council for consideration and give the public the opportunity to discuss and ask questions regarding the Annual Report on the Military Equipment Funding, Acquisition and Use Policy; and

WHEREAS, the San Leandro Police Department commenced the approval process prior to May 16, 2023, in accordance with Assembly Bill 481; and

WHEREAS, the San Leandro Police Department’s proposed Military Equipment Funding, Acquisition and Use Policy and Annual Report was presented to City Council on May 15, 2023; and

WHEREAS, the San Leandro Police Department’s Policy meets the requirements of California Government Code Section 7070 subdivision (d); and

WHEREAS, the City of San Leandro City Council, having received the information required under Assembly Bill 481 regarding the San Leandro Police Department’s use of military equipment as defined in said law, and making the specified determinations required under Government Code Section 7071 subdivision (d), deems it to be in the best interest of the City to approve the San Leandro Police Department’s Military Equipment Funding, Acquisition and Use Policy as set forth herein.

NOW THEREFORE, THE CITY OF SAN LEANDRO CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. **Recitals.** The Recitals above are true and correct and when applicable, incorporated herein by reference.

Section 2. **Authority.** This Ordinance is renewed pursuant to the provisions set forth in Government Code Section 36937(b) and pursuant to all other applicable laws.

Section 3. **Determinations.**

Based on the findings above, in addition to information provided to the City Council at the public meeting, the City Council determines as follows:

1. The San Leandro Police Department’s Military Equipment Funding, Acquisition, and Use Policy is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
2. The San Leandro Police Department’s Military Equipment Funding, Acquisition, and Use Policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.
3. The military equipment identified in the San Leandro Police Department’s Military Equipment Funding, Acquisition, and Use Policy is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safety.
4. Prior military equipment use by the San Leandro Police Department complied with the Military Equipment Funding, Acquisition, and Use Policy
5. The San Leandro Police Department’s Military Equipment Funding, Acquisition, and Use Policy, Policy 707, setting forth the City’s military equipment use policy is approved and adopted.

Section 4. **Ordinance.** That Chapter 4-42 entitled “MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY” is renewed.

Section 5. **Environmental.** The passage of this ordinance is not a project according to the definition in the California Environmental Quality Act and, therefore, is not subject to the provisions requiring environmental review.

Section 6. **Ordinances Repealed.** With the exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

Section 7. **Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 8. **Effective Date and Duration.** This ordinance shall take effect thirty (30) days after its final adoption.

Section 9. **Publication.** The City Clerk is directed to cause this ordinance to be published in a manner required by law.

Introduced at a first reading by Councilmember Azevedo and passed to print on the 15th day of May 2023 by the following called vote:

AYES:	Councilmembers Aguilar, Azevedo, Ballew, Bowen, Reynes, Simon and Mayor Gonzalez	(7)
NOES:	None	(0)
ABSENT:	None	(0)

Passed and adopted the 5th day of June 2023 after publication on May 19, 2023 by the following called vote:

AYES:	Councilmembers	()
NOES:		()
ABSENT:		()

ATTEST: _____
Kelly B. Clancy, CMC
City Clerk