

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

ADOPTING A MILITARY EQUIPMENT USE POLICY FOR THE
ALAMEDA POLICE DEPARTMENT

WHEREAS, Assembly Bill No 481 of 2021 requires a law enforcement agency, including the Alameda Police Department (“APD”), to obtain approval from the applicable governing body, in this case the City Council, by adoption of a military equipment use policy by ordinance at a regular meeting prior to taking certain actions relating to the funding, acquisition, or use of military equipment; and

WHEREAS, AB 481 requires similar approval for the continued use of military equipment acquired prior to January 1, 2022; and

WHEREAS, AB 481 further requires the City Council to annually review the ordinance and to either disapprove a renewal of the authorization for a type of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, in this case the Alameda Police Department, that the military equipment does not comply with the above-described standards for approval; and

WHEREAS, APD submitted its proposed military equipment use policy to the City Council on April 21, 2022, which was published as part of the May 3, 2022 City Council Agenda; and

WHEREAS, APD has published its proposed military equipment use policy on the City’s internet website since April, 3rd, 2022, which is currently available at [ab-481-combined-draft-policy-and-inventory.pdf \(alamedaca.gov\)](https://www.alamedaca.gov/ab-481-combined-draft-policy-and-inventory.pdf); and

WHEREAS, APD now seeks final Council approval of its proposed military equipment use policy.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALAMEDA ORDAINS AS FOLLOWS:

Section 1. Findings

The City Council finds the following:

(A) The military equipment listed in the proposed policy is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

Section 2. Adoption

The proposed military equipment use policy is hereby approved and adopted.

The APD is hereby directed to submit to the City Council an annual military equipment report for each type of military equipment approved by the City Council within one year of approval, and annually thereafter for as long as the military equipment is available for use. The APD shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include all information required by Government Code Section 7072 or its successor legislation.

Section 3. IMPLIED REPEAL

Any provision of the Alameda Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

Section 4. CEQA DETERMINATION

The City Council finds and determines that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA"), pursuant to the following: each a separate and independent basis: CEQA Guidelines Sections 15378 (not a project) and 15061(b)(3) (no significant environmental impact).

Section 5. SEVERABILITY

If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph, and sentence, notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph, or sentence.

Section 6. AUTHORITY

This Ordinance is enacted pursuant to the City of Alameda's constitutionally authorized charter city police powers, Section 3-12 of the Charter of the City of Alameda, Article XI of the State Constitution, the California Emergency Services Act, and Government Code Section 36937.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by a majority of the Council of the City of Alameda in a regular meeting assembled on the 5th day of July 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 6th day of July 2022

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Yibin Shen, City Attorney
City of Alameda