

ORDINANCE NO.AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD,
CALIFORNIA, RENEWING THE CARLSBAD POLICE DEPARTMENT'S MILITARY
EQUIPMENT USE POLICY

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

WHEREAS, Assembly Bill 481, codified at California Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term "military equipment" is defined in California Government Code section 7070; and

WHEREAS, Assembly Bill 481 requires the governing body of a city to make specified determinations before it may approve a military equipment use policy; and

WHEREAS, the City of Carlsbad is in possession of certain pieces of equipment which are defined as military equipment under California Government Code section 7070; and

WHEREAS, on April 19, 2022, the City Council introduced Ordinance CS-421 adopting the police department's military equipment use policy, Carlsbad Police Department Policy 708, which was adopted on May 10, 2022; and

WHEREAS, Assembly Bill 481 requires the governing body to review the ordinance it has adopted approving the funding, acquisition, or use of military equipment and vote on whether to renew the ordinance; and

WHEREAS, in order to promote public safety, civil rights, and officer safety, the Carlsbad Police Department desires to continue using, seeking funding for, acquiring, and collaborating, when necessary, with other law enforcement agencies in the use of, military equipment, as described in the Carlsbad Police Department Policy 708; and

WHEREAS, the proposed Carlsbad Police Department Policy 708 was published on the Carlsbad Police Department's internet website at least 30 days prior to any public hearing concerning the military equipment at issue, in accordance with Government Code section 7071(b); and

WHEREAS, the Carlsbad Police Department Policy 708 meets the requirements of Government Code section 7070, subdivision (d).

NOW, THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows that:

1. The above recitations are true and correct.
2. Based on the recitations above and the information provided to the City Council at the public hearing, including the 2022 Military Equipment Report, the City Council determines as follows:
 - a. The military equipment identified in Carlsbad Police Department Policy 708, attached and incorporated herein as "Attachment A", is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 - b. The military equipment use policy contained in Carlsbad Police Department Policy 708 will safeguard the public's welfare, safety, civil rights, and civil liberties.
 - c. The military equipment identified in Carlsbad Police Department Policy 708 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 applicable equipment use policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses that did not comply with the applicable equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
3. The Carlsbad Police Department Policy 708 (Military Equipment Use Policy), attached hereto as Attachment A, is approved and adopted.
4. The Carlsbad Police Department is authorized to seek funds for military equipment described in the Military Equipment Use Policy (Appendix A), acquire military equipment described in the Military Equipment Use Policy (Appendix A), collaborate with another law enforcement agency in the deployment or other use of military equipment within Carlsbad, use any new or existing military equipment as provided in the Military Equipment Use Policy and solicit or respond to a proposal for, or enter into an agreement for funding, acquisition, use of, or collaboration for use of military equipment described in the Military Equipment Use Policy.
5. That Ordinance CS-421 is repealed and replaced with this ordinance.

6. The City Council shall review this Ordinance at least annually and vote on whether to renew the ordinance, consistent with the requirements of state law.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the _____ day of _____, 2023, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2023, by the following vote, to wit:

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CINDIE K. McMAHON, City Attorney

KEITH BLACKBURN, Mayor

SHERRY FREISINGER, City Clerk
(SEAL)