

ORDINANCE NO. 4603

AN ORDINANCE OF THE COUNTY OF VENTURA ADOPTING THE MILITARY EQUIPMENT USE POLICIES OF THE VENTURA COUNTY SHERIFF'S OFFICE AND VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO CALIFORNIA ASSEMBLY BILL NO. 481 (GOVERNMENT CODE SECTIONS 7070 – 7075)

The Board of Supervisors of the County of Ventura ordains as follows:

SECTION 1. PURPOSE.

To establish a funding, use and acquisition policy for law enforcement equipment that is developed with consideration of the public's concerns about safety, civil rights and the public's welfare. On September 30, 2021, Governor Gavin Newsom signed California Assembly Bill No. 481 (AB 481) into law. AB 481 requires California law enforcement agencies to obtain approval of their applicable governing body, by an ordinance adopting a military equipment use policy, prior to taking certain actions relating to the funding, acquisition, and/or use of equipment defined by the legislation. California law enforcement agencies that receive approval for a military equipment use policy are required to submit to the applicable governing body an annual military equipment report within one year of approval, and annually thereafter so long as the military equipment is available for use. The applicable governing body of the California law enforcement agency will annually review the military equipment use policy in order to determine whether to renew authorization of the policy and the equipment within. This ordinance adopts the military equipment use policies of the Ventura County Sheriff's Office ("Sheriff's Office") and Ventura County District Attorney's Office ("District Attorney's Office") and provides a procedure for the Board of Supervisors' annual review of each policy.

SECTION 2. APPLICABILITY AND AUTHORITY.

This ordinance is adopted pursuant to AB 481, codified at Chapter 12.8 to Division 7 of Title 1 of the Government Code, commencing with section 7070. These statutes provide for the funding, acquisition and use of military equipment for law enforcement agencies throughout the State of California. The Board of Supervisors recognizes that the Sheriff's Office and District Attorney's Office are law enforcement agencies of the County of Ventura who are in possession of "military equipment" as defined in California Government Code section 7070, and therefore adopts this ordinance to comply with AB 481.

SECTION 3. DEFINITIONS.

As used in this ordinance, the following terms shall have the following meanings consistent with Government Code section 7070. Any provisions of state law referred to herein shall mean and include any amended successor provision thereof of state law.

“Governing Body” means the elected body that oversees a law enforcement agency of a city or county. In this case, the Governing Body means the Board of Supervisors of the County of Ventura.

“Law Enforcement Agency” means the Sheriff’s Office and District Attorney’s Office.

“Public Meetings/Public Hearings” means regular meeting(s) held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

“Military Equipment” means the following:

- (1) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
- (3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- (4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- (5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- (6) Weaponized aircraft, vessels, or vehicles of any kind.
- (7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
- (8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
- (9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
- (10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in sections 30510 and 30515 of the California Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
- (11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.
- (13) Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD).
- (14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.
- (15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

"Military Equipment Use Policy" means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all the following:

- (1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
- (2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
- (3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- (4) The legal and procedural rules that govern each authorized use.
- (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
- (6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
- (7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

"State Agency" means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

"Type" means each item that shares the same manufacturer model number.

SECTION 4. FINDINGS.

- A. The public has a right to know about funding, acquisition or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.
- B. The Board of Supervisors finds that the Military Equipment Use Policies described herein shall apply to Military Equipment acquired prior to January 1, 2022.

SECTION 5. USE POLICY REQUIREMENTS AND ADOPTION

- A. The Military Equipment Use Policies shall include:
 - (1) A description of each type of equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.

- (2) The purposes and authorized uses for which the Law Enforcement Agency or the State Agency proposes to use each type of equipment.
- (3) The fiscal impact of each type of equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- (4) The legal and procedural rules that govern each authorized use.
- (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the Law Enforcement Agency or the State Agency is allowed to use each specific type of equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment Use Policy.
- (6) The mechanisms to ensure compliance with the Military Equipment Use Policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
- (7) For a Law Enforcement Agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of equipment, and how the Law Enforcement Agency will ensure that each complaint, concern, or question receives a response in a timely manner.

B. Adoption of military equipment use policies.

- (1) The Board of Supervisors adopts Ventura County Sheriff's Office Policy 709 – Military Equipment, attached hereto as Attachment A, which shall govern the use of Military Equipment by the Sheriff's Office.
- (2) The Board of Supervisors adopts Ventura County District Attorney's Office Policy 703 – Military Equipment, attached hereto as Attachment B, which shall govern the use of Military Equipment by the District Attorney's Office.

The Board of Supervisors finds that Sheriff's Office Military Equipment Use Policy 709 and District Attorney's Office Military Equipment Use Policy 703 meet Government Code section 7071, subdivision (d) standards. These policies shall be made publicly available on the agencies' websites for as long as the Military Equipment is available for use or otherwise ordained by the Board of Supervisors.

SECTION 6. ANNUAL REPORTS, COMPLIANCE AND ANNUAL REVIEW

A. Annual Reports. Upon approval of Sheriff's Office Policy 709 and District Attorney's Office Policy 703, the Sheriff's Office and the District Attorney's Office shall each submit a Military Equipment report to the Board of Supervisors no later than July 1 of each year, as required by Government Code section 7072. The annual reports shall include the following information for the immediately preceding calendar year:

- (1) A summary of how the Military Equipment was used and the purpose for 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 and the source of funds to cover such expenses.
- (5) The quantity possessed for each type of Military Equipment.
- (6) Whether there is intent to acquire additional Military Equipment in the next year, and if so, the quantity sought for each type of equipment.

B. Compliance. Based on the annual equipment report, the Board of Supervisors shall only approve a Military Equipment Use Policy if it determines that the standards for approval as set forth in Government Code section 7071, subdivision (d), are satisfied, which state:

- (1) The equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- (2) The proposed Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- (3) If purchasing equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- (4) Prior 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.

If the Board of Supervisors determines that a type of equipment identified in the annual report has not complied with the standards for approval set forth above, the Board of Supervisors shall either disapprove a renewal of the authorization for that type of equipment or require modifications to the Military Equipment Use Policy in a manner that will resolve the lack of compliance.

C. Annual Review. The Board of Supervisors shall annually review this ordinance during a public meeting held in accordance with the Ralph M. Brown Act and vote on whether to renew the Military Equipment Use Policies pursuant to Government Code section 7071, subdivision (e)(2). At such time, the Military Equipment Use Policies shall be presented to the Board of Supervisors as attachments to each annual report.

SECTION 7. COMMUNITY ENGAGEMENT

At least 30 days prior to the Board of Supervisors' annual review of this ordinance, the Sheriff's Office and District Attorney's Office shall post their annual reports on their respective websites and hold at least one joint well-publicized and conveniently located community engagement meeting, where the Military Equipment reports will be discussed and representatives from the agencies should respond to public questions regarding the funding, acquisition, or use of Military Equipment.

SECTION 8. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 9. EFFECTIVE DATE.

This ordinance shall take effect thirty (30) days after its adoption.

PASSED AND ADOPTED this 24 day of May, 2022, by the Board of Supervisors of the County of Ventura by the following vote:

AYES: Supervisors: LaVere, Parks, Long, and Ramirez

NOES: none

ABSENT: Supervisor: Huber

ABSTAIN: none

Carmen Ramirez

Carmen Ramirez, Chair
Board of Supervisors
County of Ventura

ATTEST: SEVET JOHNSON
Interim Clerk of the Board of Supervisors,
County of Ventura, State of California

By: Lori Key
Deputy Clerk of the Board

