



Staff Report

DATE: April 25th, 2024

TO: Honorable Mayor and Members of City Council

FROM: Chris Bourquin, Chief of Police

SUBJECT: Consider the adoption of the modified Military Equipment Use Policy consistent with the requirements of AB 481. Required annual reporting required by AB 481.

CEQA: This action does not constitute a “project” as defined by the California Environmental Quality Act (CEQA) guidelines section 15378 as it is an administrative activity of the City that will not result in direct or indirect physical changes in the environment.

Recommendation

Council adopt the modified Military Equipment Use Policy consistent with the requirements of AB 481

Background

On September 30th, 2021, California Assembly Bill 481 (AB 481) was signed into law. Subsequently, California Government Code Sections 7070-7075 were adopted to codify the requirements set forth in AB 481. The law has several requirements, which are listed below.

- Approval of this policy or any subsequent amendments requires adoption by ordinance at an open session of a regular meeting providing for public comment. (Government Code § 7071.)
- Within one year of approval of the military equipment policy, and annually thereafter, the Chief of Police or the authorized designee will submit a military equipment report for each type of military equipment for as long as the military equipment is available for use. (Government Code § 7072.)
- Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community

engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

Summary & Discussion

Several changes were made to the City's Military Equipment list. A new Section 3 was added, which lists lethal ammunition (.223 cal.). Although not required by AB 481, Section 3 was added for greater transparency.

As mentioned in last year's report to the Council, ten noise-flash diversionary devices and twelve munitions containing tear gas or oleoresin capsicum (OC) purchased by the Monterey Airport Police Department prior to its merger with the City were left off of the list of qualifying equipment as they were expired and not for operational use. On September 27th, 2023, the munitions were transferred to the Monterey Peninsula Regional Special Response Unit ("MPRSRU") to be used for training.

A well-publicized and conveniently located public meeting was held on March 21st, 2024 at the Del Rey Oaks City Hall where members of the public and the Police Safety Committee were briefed regarding funding, acquisition, or use of military equipment by our Department. Military Equipment used in Del Rey Oaks during the last operational year is as follows:

- Between operational period April 25th, 2023 and April 25th, 2024, the Del Rey Oaks Police Department has not used any military equipment outlined in AB 481 / Del Rey Oaks Police Department Policy 706 within the City of Del Rey Oaks.
- Between operational period April 25th, 2023 and April 25th, 2024, MPRSRU has not deployed within the City of Del Rey Oaks.
- Between operational period April 25th, 2023 and April 25th, 2024, the Del Rey Oaks Police Department has not purchased any military equipment outlined in AB 481 / Del Rey Oaks Police Department Policy 706.

Fiscal Impacts

The ongoing funding cost associated with our equipment listed in Section 1 of our Military Equipment List is \$4,320. Most of the associated costs are from ammunition. It should be noted that neither the Aero Precision Rifles nor the ammunition used in training are required to be listed by SB 481. We list these items for greater transparency.

The ongoing funding of the LMT Defense 40mm Launchers and Kinetic Energy Munitions is expected to be \$400 per year. No munitions were purchased between operational period April 25th, 2023 and April 25th, 2024.

ATTACHMENTS:

Del Rey Oaks Police Department Policy 706 (Revised) Military Equipment list Sections 1 (Revised), 2 (Revised) and 3 (New)

Respectfully Submitted,

Chris Bourquin
Chief of Police

ORDINANCE NO.

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
DEL REY OAKS AMENDING DEL REY OAKS POLICE DEPARTMENT
POLICY 706 “MILITARY EQUIPMENT USE”**

RECITALS

1. AB 481, the Law Enforcement and State Agencies Military Equipment Funding, Acquisition, and Use Act (the “Act”), effective January 1, 2022, is intended to increase transparency, accountability, and oversight surrounding the acquisition and use of military equipment by state and local law enforcement; and

2. AB 481 requires law enforcement agencies seeking to continue the use of any military equipment to obtain approval from their governing bodies before purchasing, raising funds for, or acquiring military equipment, by any means, including surplus military equipment from the federal government.

3. Law enforcement agencies are also required to seek governing body approval before collaborating with another law enforcement agency in the deployment or use of military equipment within the governing body's territorial jurisdiction or before using any new military equipment for a purpose, in any manner, or by a person not previously approved by the governing body; and

4. The redlines on the attached Del Rey Oaks Police Department Policy 706 “MILITARY EQUIPMENT USE” are made to conform with the requirements of AB 481.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF DEL REY
OAKS DOES ORDAIN AS FOLLOWS:**

SECTION 1. RECITALS. The foregoing Recitals are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION 2. AFFIRMATION AND ADOPTION. The Council hereby adopts Del Rey Oaks Police Department Policy 706 “MILITARY EQUIPMENT USE,” as amended and as attached hereto.

SECTION 3. CEQA. The activities described in this Ordinance are not a “project” as defined by California Environmental Quality Act because they are an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

SECTION 4. SEVERABILITY. If any provision, section, paragraph, sentence,

clause, or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses, or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. This Ordinance will become effective immediately as an urgency ordinance upon approval by the City Council consistent with Government Code Section 36937 (b) and substantiated by the declaration contained with Section 3.

INTRODUCED, APPROVED, AND ADOPTED by the City Council of the City of Del Rey Oaks, California, at its regular meeting held on the 25th day of, April, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Scott Donaldson, Mayor _____

ATTEST:

John Guertin, City Clerk