

ORDINANCE NO. 2022-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ESCONDIDO, CALIFORNIA, APPROVING AND RENEWING
THE ESCONDIDO POLICE DEPARTMENT MILITARY
EQUIPMENT USE POLICY

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

WHEREAS, Assembly Bill 481, codified at California Government Code section 7070 et seq., requires law enforcement agencies to obtain approval of the applicable 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; and

WHEREAS, California Government Code section 7070 defines the terms “military equipment” and establishes the minimum requirements for a “military equipment use policy”; and

WHEREAS, California Government Code section 7071 requires the governing body determine, prior to approving a military equipment use policy, the following:

- a. The military equipment 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; and

WHEREAS, California Government Code section 7071 also requires a law enforcement agency make the proposed policy available on the agency's internet website 30 days prior to a public hearing concerning military equipment and shall commence the governing body approval process by May 1, 2022; and

WHEREAS, the Escondido Police Department ("Department") published Department Instruction 1.55, Military Equipment Use Policy, attached and incorporated as Appendix (1), on the Department's internet website on March 17, 2022; and

WHEREAS, the Escondido Police Department, consistent with Government Code section 7072, posted the proposed renewed Military Equipment Use Policy on its internet website on February 23, 2023, and conducted a public meeting on the proposed renewed policy in the Mitchell Room at City Hall on March 30, 2023.

NOW, THEREFORE, the City Council of the City of Escondido hereby ordains as follows:

SECTION 1. That the recitals set forth above are true and correct and are incorporated as though fully set forth herein.

SECTION 2. That proper notices of a public hearing have been given and public hearings have been held before the City Council on this issue.

SECTION 3. The City Council has duly reviewed and considered all evidence submitted at said hearings, including, without limitation:

a. Written information;

b. Oral testimony from City staff, interested parties, and the public;

c. The original staff report, dated April 20, 2022, and current staff report dated April 19, 2023, which along with their attachments are incorporated herein by this reference as though fully set forth herein; and

d. Additional information submitted during the Public Hearing.

SECTION 4. The City Council makes the following specific findings:

a. The City Council acknowledges the Department's Use of Force Policy affirms, "The highest priority of California Law Enforcement is safeguarding the life, dignity, and liberty of all persons, without prejudice to anyone."

b. The equipment included in the Department's Military Equipment Use Policy are commonly used by Law Enforcement Agencies throughout the country to protect and serve the community as safely and efficiently as possible.

c. The equipment identified in the proposed Military Equipment Use Policy is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.

d. The proposed Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

e. The military equipment identified in the proposed Military Equipment Use Policy is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

f. Prior military equipment use by the Department complied with the military equipment use policy that was in effect at the time.

g. The Department shall, within budgetary constraints, acquire, fund, and use replacement consumable supplies at levels listed as Authorized quantities in the proposed Military Equipment Use Policy to allow timely and cost effective resupply of necessary equipment and supplies.

h. The Department shall, within budgetary constraints, replace old, broken, obsolete, worn, or damaged equipment, one for one, so long as the replacement equipment provides similar uses, characteristics and capabilities, and will not significantly change or impact the public's welfare, safety, civil rights or civil liberties.

i. The Department shall seek and apply for local, state, or federal funding, typically grants, and shall continue the traditional practice of notifying the City Council when the Department succeeds in obtaining additional funding through the budget adjustment process.

j. The Department's Military Equipment Use Policy is approved.

SECTION 5. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 6. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation for the City of Escondido.

SECTION 8. This Ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.