

ORDINANCE NO. 3649 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

ADOPTING A MILITARY EQUIPMENT USE POLICY PURSUANT TO ASSEMBLY BILL 481

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, adding Chapter 12.8 to Division 7 of Title 1 of the Government Code (sections 7070, et. seq.), relating to the use by California law enforcement agencies of certain equipment defined as “military equipment” under Government Code section 7070;

WHEREAS, Chapter 12.8 seeks to promote transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used;

WHEREAS, the Monterey Police Department may acquire, possess, or use certain items that qualify as “military equipment” as defined in Government Code section 7070;

WHEREAS, Government Code sections 7070 and 7071 require that a law enforcement agency prepare a publicly released, written military equipment use policy covering the purposes and authorized uses, fiscal impact, applicable legal and procedural rules, required training, and applicable complaint process prior to the agency’s acquisition or use of any military equipment;

WHEREAS, Government Code section 7071 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;

WHEREAS, Government Code section 7071 allows the governing body of a city to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations;

WHEREAS, the proposed military equipment use policy is found within Monterey Police Department Policy 706;

WHEREAS, Monterey Police Department Policy 706 was published on the Monterey Police Department’s website on March 16, 2022, at least 30 days prior to any public hearing on the military equipment at issue;

WHEREAS, Monterey Police Department Policy 706 was presented to the City Council on April 19, 2022;

WHEREAS, the City Council considered Monterey Police Department Policy 706 as an agenda item for an open session of a regular meeting, providing for public comment, on April 19, 2022;

WHEREAS, the City Council determined that:

- The military equipment is necessary, because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
- Monterey Police Department Policy 706 will safeguard the public's welfare, safety, civil rights, and civil liberties.
- The purchase of military equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- 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.

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 ("CEQA Guidelines") Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action has no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The above recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 3: Monterey City Code, Chapter 27, Article 3 is hereby added to read as follows:

"Section 27-10 Military Equipment Use Policy Adopted

Monterey Police Department Policy 706 is hereby adopted, approved, and incorporated herein by reference. Policy 706 shall be publicly available on the Monterey Police

Department's website for as long as military equipment is available for use, and proposed changes will be posted at least 30 days prior to any public hearing concerning the military equipment at issue."

SECTION 4: All ordinances and parts of ordinances in conflict herewith are hereby repealed.


SECTION 5: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 3rd day of May, 2022, by the following vote:



AYES:	5	COUNCILMEMBERS:	Albert, Haffa, Smith, Williamson, Roberson
NOES:	0	COUNCILMEMBERS:	NONE
ABSENT:	0	COUNCILMEMBERS:	NONE
ABSTAIN:	0	COUNCILMEMBERS:	NONE

APPROVED:

ATTEST:

DocuSigned by:

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 Mayor of said City

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 City Clerk thereof