



Legislation Details (With Text)

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In control: City Council Regular Meeting

On agenda: 5/17/2022 **Final action:**

Title: Ordinance Adopting a Military Equipment Policy, Pursuant to Assembly Bill 481 (Interim Police Chief Abell).
(Estimated Time: 15 Min.)
INTRODUCE ORDINANCE NO. 22-0006

Sponsors:

Indexes:

Code sections:

Attachments: 1. Draft Ordinance No. 22-0006, 2. Military Equipment Policy, 3. Military Equipment Inventory List

Date	Ver.	Action By	Action	Result
5/17/2022	1	City Council Regular Meeting	accept	Pass

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Derrick Abell, Acting Police Chief
Christian Eichenlaub, Police Captain
Kelly Benjamin, Police Lieutenant

SUBJECT:

Ordinance Adopting a Military Equipment Policy, Pursuant to Assembly Bill 481 (Interim Police Chief Abell).

(Estimated Time: 15 Min.)

INTRODUCE ORDINANCE NO. 22-0006

RECOMMENDATION:

Staff recommends that the City Council introduce Ordinance No. 22-0006, "An Ordinance of the Manhattan Beach City Council Establishing a Military Equipment Policy," pursuant to Assembly Bill 481.

FISCAL IMPLICATIONS:

The costs utilized to prepare the information, inventory, documentation, policy, and ordinance for this State mandated program were absorbed in the current Police Department budget. There are no new purchase requests or expenditures included in this staff report.

BACKGROUND:

Assembly Bill 481 (AB 481), codified as Government Code Sections 7070 through 7075, requires law enforcement agencies to obtain approval from their governing body before requesting, funding, acquiring, using, or collaborating in the use of military equipment, as defined in Government Code Section 7070. This bill became effective on January 1, 2022. Furthermore, the bill also requires similar approval for the continued use of military equipment acquired prior to January 1, 2022.

AB 481 uses the terminology “military equipment” to identify/describe 15 categories of equipment, which may be acquired from various sources and is not specifically, or necessarily, equipment exclusive to the military, or equipment acquired by the military.

DISCUSSION:

The Police Department’s mission is to provide the highest quality police services to our community. The Police Department operates in unpredictable and dynamic environments, and responds to a wide variety of critical incidents, instances of civil unrest, and life and death situations. As such, a variety of equipment options are needed for an effective and safe resolution to those situations. The Police Department’s diverse catalog of equipment and associated training gives Police Officers the confidence and capability to de-escalate volatile situations, enhance the safety of the public and officers, and bring critical incidents to a safe resolution.

In accordance with AB 481, the Police Department worked with the City Attorney’s Office to create a Military Equipment Policy (Attachment 2) and authored an Annual Military Equipment Report for 2021 (Attachment 3).

Prior to the policy being formally adopted by the Police Department, a series of steps must be taken, which includes the following:

1. The Police Department shall obtain approval of the City Council, via ordinance, and adopt the Military Equipment Policy at a regular meeting of the City Council.
2. The police shall submit a proposed military equipment use policy to the City Council and make the proposed policy available on the department’s website at least 30 days prior to any public hearing concerning the military equipment at issue.
3. The City Council shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment.
4. The City Council shall only approve a military equipment use policy pursuant to AB 481 if it determines all 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.

Consistent with the statutory requirements of AB 481, concerning governing body approval, ordinance adoption, and policy implementation, the Manhattan Beach Police Department crafted and then posted the draft Military Equipment Policy on the Department website on April 1, 2022.

The proposed policy outlines the safeguards in place to protect the public's welfare, safety, civil rights, and civil liberties. The policy identifies the measures taken to ensure transparency, oversight, and accountability for the Department and the Department's ability to acquire and use the identified equipment. After adoption of the policy and ordinance, the law requires for annual reporting to the governing body, review of the ordinance, and presentation of a use report, all of which will be posted to the department's website.

As identified in California Government Code section 7072(a), an annual report will be provided to the City Council, which will provide, at minimum, the following information for the preceding calendar year:

1. A summary of how the military equipment was used and the purpose of 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, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
5. The quantity possessed for each type of military equipment.
6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

The Police Department is committed to using the most up to date tools and equipment to safeguard our community. Many items defined as military equipment in AB 481 are employed by law enforcement agencies across the country to significantly reduce risk to community members. These items provide police officers with the ability to safely resolve volatile situations that might otherwise rise to the level of a lethal force encounter. To that end, the items outlined in the inventory and the Military Equipment Policy are reasonable and necessary.

PUBLIC OUTREACH:

The Military Equipment Policy and Inventory List were posted on the City website on April 1, 2022. This staff report and related presentation meets the requirement of AB 481 to provide the public with an opportunity to ask questions and provide input in a public setting regarding the Military Equipment Policy.

ENVIRONMENTAL REVIEW:

The subject request is not a "project" as defined under Section 15378 of the State California Environmental Quality Act (CEQA) Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is necessary.

LEGAL REVIEW:

The City Attorney has approved the Ordinance and Military Equipment Policy as to form.

ATTACHMENTS:

1. Draft Ordinance No. 22-0006
2. Military Equipment Policy
3. Military Equipment Inventory List

