

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, ADDING SUBCHAPTER 3.04.400 TO CHAPTER 3.04 OF THE CULVER CITY MUNICIPAL CODE, GOVERNING THE USE OF MILITARY EQUIPMENT BY THE CULVER CITY POLICE DEPARTMENT AND APPROVING THE MILITARY EQUIPMENT USE POLICY PURSUANT TO ASSEMBLY BILL 481.

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, codified in California Government Code Section 7070, *et seq.*, relating to the use of “military equipment”, as defined in the Bill, by California law enforcement agencies; and

WHEREAS, AB 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used; and

WHEREAS, the Culver City Police Department is in possession of certain items of equipment that qualify as “military equipment” as broadly defined by AB 481; and

WHEREAS, the Culver City Police Department does not possess any tactical equipment obtained from the military, nor does it possess any equipment that is designed solely for military use; and

WHEREAS, AB 481 requires that a law enforcement agency possessing and using such qualifying equipment must prepare a publicly released, written, military equipment use policy document covering the inventory, description, purpose, use, acquisition, maintenance, fiscal impacts, procedures, training, oversight, and complaint process, applicable to the Department’s use of such equipment; and

1 **WHEREAS**, pursuant to Government Code section 7071(a)(2), if seeking to
2 continue the use of any military equipment that was acquired prior to January 1, 2022,
3 the Culver City Police Department was obligated to, and has met the requirement of,
4 commencing a City Council approval process for the Military Equipment Use Policy no
5 later than May 1, 2022; and

6 **WHEREAS**, as further required by Government Code section 7071(a)(2), if
7 the City Council does not approve the continuing use of military equipment, including by
8 adoption pursuant to a Military Equipment Use Policy, within 180 days of submission of
9 the proposed Military Equipment Use Policy to City Council, the Culver City Police
10 Department shall cease its use of the military equipment until it receives the approval of
11 City Council in accordance with this Ordinance; and

12 **WHEREAS**, Government Code Section 7071(b) requires that the Culver
13 City Police Department, prior to seeking the approval of the City Council, make
14 available on its website the proposed Military Equipment Use Policy at least 30 days
15 prior to the public hearing concerning the Policy, so that the public may review the
16 Policy; and

17 **WHEREAS**, on March 11, 2022, the Culver City Police Department posted
18 its draft Military Equipment Use Policy to its public website, thereby complying with the
19 30-day posting requirement prior to the public hearing before City Council on April 11,
20 2022; and

21 **WHEREAS**, attached to the proposed Military Equipment Use Policy is an
22 itemized inventory of equipment qualifying under State law as Military Equipment, and
23 said inventory contains currently owned qualifying Military Equipment as well as Military
24 Equipment where acquisition is pending; and

1 **WHEREAS**, during the April 11, 2022 City Council Public Hearing, after
2 receiving input from the public and discussing the proposed Military Equipment Use
3 Policy and proposed Ordinance, City Council directed CCPD staff to hold a community
4 meeting to engage further with the public; and

5 **WHEREAS**, on June 22, 2022, CCPD staff met with the Chief's Advisory
6 Panel, consisting of a cross-section of community members, to discuss AB 481 and the
7 draft Military Equipment Use Policy; and

8 **WHEREAS**, on July 21, 2022, at Council's direction, CCPD held a
9 community meeting to receive further public input and further discuss the draft Military
10 Equipment Policy; and

11 **WHEREAS**, as the draft Military Equipment Use Policy was adjusted, the
12 Police Department posted the revised versions on its website; and

13 **WHEREAS**, the draft Military Equipment Use Policy continues to be posted
14 on the Police Department website, in compliance with the law and in anticipation of the
15 August 22, 2022 Public Hearing, and will continue to be posted as long as the Policy is
16 in place, as required by AB 481; and

17 **WHEREAS**, the Military Equipment Policy and supporting information must
18 be approved by the governing body by ordinance, and reviewed annually; and

19 **WHEREAS**, the City Council of the City of Culver City, having received the
20 information required under AB 481 regarding the Culver City Police Department's use of
21 military equipment as defined in said law, deems it to be in the best interest of the City
22 to approve the Military Equipment Policy as set forth herein.

23 **NOW THEREFORE**, the City Council of the City of Culver City, California,
24 **DOES HEREBY ORDAIN** as follows:
25

1 **SECTION 1:** Having considered the Military Equipment Use Policy, and the
2 information provided to the City Council at the public hearing, the City Council makes the
3 following findings required by Government Code section 7071(d)(1):

4 A. The Military Equipment inventory included in the Military
5 Equipment Use Policy lists equipment that is necessary because there
6 is no reasonable alternative that can achieve the same objective of
7 officer and civilian safety;

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

10 C. If purchasing the equipment listed, the equipment is reasonably
11 cost effective compared to available alternatives that can achieve the
12 same objective of officer and civilian safety;

13 D. Prior Military Equipment use complied with the Military
14 Equipment Use Policy that was in effect at the time, OR, if prior uses
15 did not comply with the proposed accompanying Military Equipment
16 Use Policy, corrective action has been taken to remedy nonconforming
17 uses and ensure future compliance.

18 **SECTION 2.** The Culver City Police Department Military Equipment Use
19 Policy, attached hereto as Exhibit A, is hereby approved.

20 **SECTION 3:** A new Subchapter 3.04.400 is hereby added to Chapter 3.04
21 (entitled "Police Department") of Title 3 (entitled "Administration") of the Culver City
22 Municipal Code, to read as follows:

23 **MILITARY EQUIPMENT USE POLICY**

24 **3.04.400 Definitions**

25 **3.04.405 Military Equipment Use Policy Requirement**

26 **3.04.410 Reports on the Use of Military Equipment**

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§3.04.400 Definitions

A. "Military Equipment" includes all of the following, as defined in California Government Code §7070:

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. Police versions of standard consumer vehicles are specifically excluded from this subchapter.
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. Unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subchapter.
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. 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 subchapter.
8. Firearms of .50 caliber or greater. Standard issue shotguns are specifically excluded from this subchapter.
9. Ammunition of .50 caliber or greater. Standard issue shotgun ammunition is specifically excluded from this subchapter.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Penal Code Sections 30510 and 30515, with the exception of standard issue service

1 weapons and ammunition of less than .50 caliber that are
2 issued to officers, agents, or employees of a law enforcement
3 agency or a state agency.

4 11. Any firearm or firearm accessory that is designed to launch
5 explosive projectiles.

6 12. "Flashbang" grenades and explosive breaching tools, "tear gas,"
7 and "pepper balls," excluding standard, service-issued handheld
8 pepper spray.

9 13. Taser Shockwave, microwave weapons, water cannons, and
10 the Long-Range Acoustic Device (LRAD).

11 14. The following projectile launch platforms and their associated
12 munitions: 40mm projectile launchers, "bean bag," rubber bullet,
13 and specialty impact munition (SIM) weapons.

14 15. Any other equipment as determined by a governing body or a
15 state agency to require additional oversight.

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

20 B. "City" means any department, agency, bureau, and/or subordinate
21 division of the City of Culver City.

22 C. "Police Department" means any division, section, bureau, employee,
23 volunteer and/or contractor of the Culver City Police Department.

24 D. "City Council" means the governing body that is the Culver City
25 City Council.

26 E. "Military Equipment Use Policy" means a publicly released, written
27 document that includes, at a minimum, all of the following:

28 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.

- 1 2. The purposes and authorized uses for which the law
2 enforcement agency or the state agency proposes to use each
3 type of Military Equipment.
- 4 3. The fiscal impact of each type of Military Equipment, including
5 the initial costs of obtaining the equipment and estimated annual
6 costs of maintaining the equipment.
- 7 4. The legal and procedural rules that govern each authorized use.
- 8 5. The training, including any course required by the Commission
9 on Peace Officer Standards and Training, that must be
10 completed before any officer, agent, or employee of the law
11 enforcement agency or the state agency is allowed to use each
12 specific type of Military Equipment to ensure the full protection
13 of the public's welfare, safety, civil rights, and civil liberties and
14 full adherence to the Military Equipment use policy.
- 15 6. The mechanisms to ensure compliance with the Military
16 Equipment use policy, including which independent persons or
17 entities have oversight authority, and, if applicable, what legally
18 enforceable sanctions are put in place for violations of the
19 policy.
- 20 7. For a law enforcement agency, the procedures by which
21 members of the public may register complaints or concerns or
22 submit questions about the use of each specific type of Military
23 Equipment, and how the law enforcement agency will ensure
24 that each complaint, concern, or question receives a response
25 in a timely manner.

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

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

1 **§3.04.405 Military Equipment Use Policy Requirement**

2 A. The Culver City Police Department shall obtain approval of the City Council,
3 by a motion adopting a Military Equipment Use Policy at a regular meeting of the City
4 Council held pursuant to the Ralph M. Brown Act, commencing with Section 54950 of the
5 Government Code, prior to engaging in any of the following:

- 6 1. Requesting Military Equipment made available pursuant to Section
7 2576a of Title 10 of the United States Code.
- 8 2. Seeking funds for Military Equipment, including, but not limited to,
9 applying for a grant, soliciting or accepting private, local, state, or
10 federal funds, in-kind donations, or other donations or transfers.
- 11 3. Acquiring Military Equipment either permanently or temporarily,
12 including by borrowing or leasing.
- 13 4. Collaborating with another law enforcement agency in the deployment
14 or other use of Military Equipment within the territorial jurisdiction of
15 the City of Culver City.
- 16 5. Using any new or existing Military Equipment for a purpose, in a
17 manner, or by a person not previously approved by the governing
18 body pursuant to this subchapter.
- 19 6. Soliciting or responding to a proposal for, or entering into an
20 agreement with, any other person or entity to seek funds for, apply to
21 receive, acquire, use, or collaborate in the use of, Military Equipment.
- 22 7. Acquiring Military Equipment through any means not provided by this
23 section.

24 B. In order to facilitate public participation, any proposed or final Military
25 Equipment Use Policy shall be made publicly available on the internet website of the
26 Police Department for as long as the Military Equipment is available for use.

27 C. The City Council shall review this ordinance at least annually and vote on
28 whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act
commencing with Section 54950 of the Government Code.

1 **§3.04.410 Reports on the Use of Military Equipment**

2 A. The Police Department shall submit to City Council an annual Military
3 Equipment Report for each type of Military Equipment approved by the City Council
4 within one year of approval, and annually thereafter for as long as the Military
5 Equipment is available for use.

6 B. The Police Department shall also make each annual Military Equipment
7 Report required by this section publicly available on its internet website for as long as
8 the Military Equipment is available for use.

9 C. The annual Military Equipment Report shall, at a minimum, include the
10 following information for the immediately preceding calendar year for each type of
11 Military Equipment:

- 12 1. A summary of how the Military Equipment was used and the
13 purpose of its use.
- 14 2. A summary of any complaints or concerns received concerning
15 the Military Equipment.
- 16 3. The results of any internal audits, any information about
17 violations of the Military Equipment Use Policy, and any actions
18 taken in response.
- 19 4. The total annual cost for each type of Military Equipment,
20 including acquisition, personnel, training, transportation,
21 maintenance, storage, upgrade, and other ongoing costs, and
22 from what source funds will be provided for the Military
23 Equipment in the calendar year following submission of the
24 annual Military Equipment Report.
- 25 5. The quantity possessed for each type of Military Equipment.
- 26 6. If the law enforcement agency intends to acquire additional
27 Military Equipment in the next year, the quantity sought for each
28 type of Military Equipment.

 D. Within 30 days of submitting and publicly releasing an annual Military
Equipment Report pursuant to this section, the Police Department shall hold at least one
well-publicized and conveniently located community engagement meeting, at which the

1 general public may discuss and ask questions regarding the annual Military Equipment
2 report and the law enforcement agency's funding, acquisition, or use of Military
3 Equipment.

4 E. The City Council shall determine, based on the annual Military Equipment
5 Report submitted pursuant to this section, whether each type of Military Equipment
6 identified in that report has complied with the standards for approval set forth in this
7 subchapter and the Military Equipment Use Policy. If the City Council determines that a
8 type of Military Equipment identified in that annual Military Equipment Report has not
9 complied with the standards for approval, the City Council shall either disapprove a
10 renewal of the authorization for that type of Military Equipment or require modifications to
11 the Military Equipment Use Policy in a manner that will resolve the lack of compliance.

12 **SECTION 4. EFFECTIVE DATE.** Pursuant to Section 619 of the City
13 Charter, this Ordinance shall take effect thirty (30) days after its adoption.

14 **SECTION 5. SEVERABILITY.** The City Council hereby declares that, if
15 any provision, section, subsection, paragraph, sentence, phrase or word of this
16 Ordinance is rendered or declared invalid or unconstitutional by any final action in a court
17 of competent jurisdiction or by reason of any preemptive legislation, then the City Council
18 would have independently adopted the remaining provisions, sections, subsections,
19 paragraphs, sentences, phrases or words of this Ordinance and as such they shall
20 remain in full force and effect.

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SECTION 6. PUBLICATION. Pursuant to Sections 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall post this Ordinance or a summary thereof in at least three places within the City.

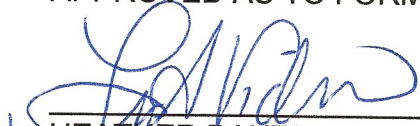
APPROVED and ADOPTED this _____ day of _____ 2022.

DR. DANIEL LEE, MAYOR
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

JEREMY BOCCHINO
City Clerk



HEATHER BAKER
City Attorney