

ORDINANCE NO. 23-**

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIDGECREST ADDING
CHAPTER 4 TO THE RIDGECREST MUNICIPAL CODE REGARDING USE OF MILITARY
EQUIPMENT

RECITALS

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

WHEREAS, Assembly Bill 481, codified at California Government Code sections 7070 through 7075, 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". The term "military equipment" is defined in California Government Code Section 7070; and

WHEREAS, AB 481 allows the City Council to approve funding, acquisition, or use of military equipment, within its jurisdiction only if it makes specified determinations, and

WHEREAS, The Ridgecrest Police Department Policy Manual, Policy 707, sets forth the military equipment use policy and meets all requirements of California Government Code Sections 7070- 7072, and

WHEREAS, the Policy and Military Equipment List were displayed on the Ridgecrest Police Department website since November 27, 2023.

WHEREAS, in the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq. and found this activity is not a "project" as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIDGECREST DOES ORDAIN AS FOLLOWS:

SECTION 1. 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. Chapter 4, Article I of the Ridgecrest Municipal Code, as reserved, is hereby deleted in its entirety and replaced as follows: ,

ARTICLE I - . Military Equipment Use Policy.

Section 4-1 Definitions

- A. "City" means any department, agency, bureau, and/or subordinate division of the City of Ridgecrest.
- B. "City Council" means the governing body that is the Ridgecrest City Council.
- C. "Exigent Circumstances" means a law enforcement agency's good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.
- D. "Military Equipment" includes all the following:
1. Unmanned, remotely piloted, powered aerial or ground vehicles.
 2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
 3. High mobility multi-purpose 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. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
 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. However, 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 subdivision.
 8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

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

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

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

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

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

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

E. "Military Equipment Use Policy" means Section #707 of the Ridgecrest Police Department Policy Manual.

F. "Police Department" means any division, section, bureau, employee, volunteer and/or contractor of the Ridgecrest Police Department.

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

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

Section 4-2 Military Equipment Use Policy Required Findings

A. Based upon Recitals and all of the information received in consideration of the Military Equipment Use Policy the City Council determines and finds all the following:

1. The Military Equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The proposed Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. The equipment on the Military Equipment Inventory, is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. All of the requirements of Government Code Sections 7070-7073 have been met in preparation and adoption of this Policy.

Section 4-3 Public Participation, annual review and amendments

A. To facilitate public participation, Military Equipment Use Policy shall be made publicly available on the internet website of the Police Department for as long as the Military Equipment is available for use.

B. The City Council shall review this ordinance at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

F. Any amendments to the Military Equipment List may be done by Resolution of the City Council, upon making all of the required findings in connection with any additional Military Equipment.

G. Any Amendments to the Military Use Policy shall be done through an Ordinance that meets all of the requirements of the Government Code Sections 7070-7073, or other applicable State Law at the time of such amendment.

Section 4-4 Use of Military Equipment in Exigent Circumstances

A. Notwithstanding the provisions of this Article, the Police Department may acquire, borrow and/or use Military Equipment in Exigent Circumstances without following the requirements of this code.

B. If the Police Department acquires, borrows, and/or uses Military Equipment in Exigent Circumstances, in accordance with this section, it must take all the following actions:

1. Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state or federal law.
2. If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Military Equipment List and, if necessary due to the nature of the Military Equipment, an Amended Military Use Policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.
3. Include the Military Equipment in the Police Department's next annual Military Equipment Report.

Section 4-5 Reports on the Use of Military Equipment

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

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

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

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.

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

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

SECTION 3. The Council hereby affirms all provisions set forth of Ridgecrest Police Department Policy 707.

SECTION 4. The City Manager is directed to execute all documents and to perform all other acts necessary to implement this Ordinance.

SECTION 5. 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 6. This ordinance shall become effective on the thirtieth (30th) day following its passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF RIDGECREST this day of
, 2024 by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Mayor Eric Bruen

ATTEST:

DATED: _____

Ricca Charlon, City Clerk

APPROVED AS TO FORM:

Martin D. Koczanowicz, City Attorney