


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

EMERGENCY ORDINANCE APPROVING CONTROLLED EQUIPMENT USE POLICIES FOR THE OAKLAND POLICE DEPARTMENT TO ACQUIRE AND USE THE FOLLOWING TYPES OF “MILITARIZED” EQUIPMENT IN CONFORMANCE WITH GOVERNMENT CODE SECTION 7070 AND OAKLAND MUNICIPAL CODE CHAPTER 9.65:

- (1) DEPARTMENTAL GENERAL ORDER K-7 (MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY);**
- (2) DEPARTMENTAL GENERAL ORDER K-6 (DEPARTMENT RIFLES); AND (3) AND DEPARTMENTAL GENERAL ORDER I-26 ON (REGARDING ROBOTS AND REMOTE CONTROLLED GROUND SYSTEMS)**

WHEREAS, California Government Code Section 7070 (Government Code 7070) and Oakland Municipal Code Chapter 9.65 (Chapter 9.65) require that that the City Council authorize the Oakland Police Department’s (OPD) acquisition and use of “Controlled Equipment” or “Militarized” equipment by approving Controlled Equipment Use Policies for such equipment; and

WHEREAS, at their January 17, 2023 meeting, the City Council considered an ordinance to approve the recommendations of the Police Commission to approve several Controlled Equipment Use Policies, including Departmental General Order K-7 (Military Equipment Funding, Acquisition, and Use Policy), Departmental General Order K-6 (Department Rifles), and Departmental General Order I-26 (regarding Robots and Remote Controlled Ground Systems) but rejected approval of these particular policies; and

WHEREAS, also on January 17, 2023, the City Council adopted a resolution, pursuant to Section 604(b)(4) of the Oakland City Charter, directing the Oakland Police Commission to propose changes to Departmental General Order K-7 (Military Equipment Funding, Acquisition, and Use Policy), Departmental General Order K-6 (Department Rifles), and Departmental General Order I-26 (regarding Robots and Remote Controlled Ground Systems); and

WHEREAS, in response to the City Council’s January 17, 2023 resolution’s direction, the Police Commission has convened to deliberate on additional changes to the above-referenced policies; and

WHEREAS, upon completion of its post January 17, 2023 deliberations, the Police Commission has recommended that the City Council approve Departmental General Order K-7 (Military Equipment Funding, Acquisition, and Use Policy), Departmental General Order K-6 (Department Rifles), and Departmental General Order I-26 (regarding Robots and Remote Controlled Ground Systems), as set forth in **Exhibits A, B, and H**, respectively; and

WHEREAS, in regard to the Controlled (Militarized or Military) Equipment Use Policies specified above and pursuant to Government Code Section 7070, the Oakland City Council hereby finds and determines as follows:

- (A) The proposed controlled, militarized, or military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;
- (B) The proposed controlled, militarized, or 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 controlled, militarized, or military equipment use complied with the controlled or 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, in regards to the Controlled (Militarized or Military) Equipment Use Policies specified above and pursuant to Oakland Municipal Code Chapter 9.65, the Oakland City Council hereby finds and determines that upon review of the applicable Controlled Equipment Impact reports and consideration of the recommendations of the Police Commission, the City's interest in community safety outweighs the potential adverse effects of using such controlled, militarized, or military equipment. and

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

SECTION 1. Recitals. The Oakland City Council hereby determines that the preceding recitals are true and correct and hereby adopts and incorporates them into this ordinance.

SECTION 2. Emergency Need.

In accordance with Section 213 of the Oakland City Charter, the City Council finds and declares that adoption of this Emergency Ordinance is necessary for preserving the public peace, health and safety for the following reasons:

- A. Departmental General Order K-7 (Military Equipment Funding, Acquisition, and Use Policy), Departmental General Order K-6 (Department Rifles), and Departmental General Order I-26 (regarding Robots and Remote Controlled Ground Systems) must be approved by a statutory deadline of March 30, 2023.
- B. If these Controlled Equipment Use policies are not approved by such deadline, the Oakland Police Department (OPD) must stop use of the equipment in question until City Council approval occurs.
- C. If there is such a lapse in approval to use this equipment, that poses a risk that OPD will not be able to use the equipment in situations where it is needed to protect the public and police personnel, in dangerous situations.

SECTION 3. Approval of Controlled Equipment Use Policies Recommended by the Police Commission. The following Controlled Equipment Use Policies as recommended by the Police Commission are approved for acquisition and use and included in the Exhibits for reference as indicated below:

- A. Departmental General Order K-7: **Military Equipment Funding, Acquisition, and Use Policy (Exhibit A);**
- B. Departmental General Order K-6: **Department Rifles (Exhibit B);**
- C. Departmental General Order I-26: **Robots and Remote Controlled Ground Systems (Exhibit H).**

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 5. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

EMERGENCY ORDINANCE APPROVING CONTROLLED EQUIPMENT USE POLICIES FOR THE OAKLAND POLICE DEPARTMENT TO ACQUIRE AND USE THE FOLLOWING TYPES OF “MILITARIZED” EQUIPMENT IN CONFORMANCE WITH GOVERNMENT CODE SECTION 7070 AND OAKLAND MUNICIPAL CODE CHAPTER 9.65:

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State and City of Oakland (City) law require that certain types of equipment, deemed “militarized” or military equipment, be approved by the local governing body prior to being acquired and used by local law enforcement. This Emergency Ordinance approves several forms of such equipment as specified above in the title for this ordinance.