

AS AMENDED BY CITY COUNCIL JANUARY 17, 2023

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

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 RIFLES**; (2) **CHEMICAL AGENTS**;
(3) UNMANNED AERIAL SYSTEMS; (4) NOISE-FLASH DIVERSION DEVICES (FLASH BANGS); (5) RIOT HELMETS; (6) **SPECIALTY IMPACT MUNITIONS**; (7) ARMORED VEHICLES; (8) **CHEMICAL AGENTS**; AND (9) **REMOTE CONTROLLED GROUND SYSTEMS (ROBOTS) AND POLE CAMERAS**

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, additionally, Chapter 9.65 requires the Police Commission to review a Controlled Equipment Use Policy and a Controlled Equipment Impact Report for each form of Controlled Equipment to be considered by City Council for approval and to make a recommendation to City Council regarding whether the City Council should approve OPD's acquisition and use of such Controlled Equipment; and

WHEREAS, the Police Commission has recommended that the City Council approve the following Controlled Equipment Use Policies:

- *Department General Order K-7: Military Equipment Funding, Acquisition and Use Policy;*
- *Department General Order K-6: Department Rifles;*
- *Training Bulletin III-H: Specialty Impact Munitions;*
- *Training Bulletin III-P.04: Armored Vehicles;*
- *Training Bulletin III-G: OPD Crowd Control and Crowd Management Policy (for Riot Helmets);*

- *Training Bulletin V-F.2: Chemical Agents;*
- *Department General Order I-25: Unmanned Aerial Systems (UAS);*
- *Training Bulletin III-P.05: Noise-Flash Diversion Devices (Flash bangs);* and

WHEREAS, the Police Commission has recommended that the City Council approve *Department General Order I-26: Remoted Controlled Ground Systems (Robots) and Pole Cameras*, subject to the policy modification that such equipment shall not be used as a weapon; 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. Approval of Controlled Equipment Use Policies with No Modifications Recommended by the Police Commission. The following Controlled Equipment Use Policies as presented to the Police Commission are approved for acquisition and use and included in the Exhibits for reference as indicated below:

Department General Order K-7: **Military Equipment Funding, Acquisition and Use Policy (Exhibit A)**;
Department General Order K-6: **Department Rifles (Exhibit B)**;
Training Bulletin III-H: **Specialty Impact Munitions (Exhibit C)**;
Training Bulletin III-P.04: **Armored Vehicles (Exhibit D)**;
Training Bulletin III-G: **OPD Crowd Control and Crowd Management Policy (for Riot Helmets) (Exhibit E)**;
Training Bulletin V-F.2: **Chemical agents (Exhibit F)**;
Department General Order I-25: **Unmanned Aerial Systems (UAS) (Exhibit G)**;
Training Bulletin III-P.05: **Noise-Flash Diversion Devices (“Flash Bangs”) (Exhibit H)**.

SECTION 3. Approval of Controlled Equipment Use Policies Subject to Modification Recommended by the Police Commission.—The following Controlled Equipment Use Policy as presented to the Police Commission, along with the modification recommended by that body, is approved for acquisition and use by the Oakland Police Department and included in the Exhibit for reference as indicated below:

Department General Order I-26: **Remoted Controlled Ground Systems (Robots) and Pole Cameras (Exhibit I)**, subject to the Police Commission’s recommendation that such policy be modified so as to prohibit the use of Robots as weapons.

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

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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 ordinance approves several forms of such equipment as specified above in the title for this ordinance.