

ORDINANCE NO. 12-22 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ADOPTING MILITARY EQUIPMENT USE POLICY NO. 707**

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 (“AB 481”) now codified in California Government Code Sections 7070 through 7075, relating to the use of military equipment by law enforcement in California; and

WHEREAS, Government Code Section 7101(a)(1)(A-G) requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment” use policy prior to taking certain actions relating to the funding, acquisition, or use of military equipment; and

WHEREAS, Government Code Section 7101(a)(1) requires that the adoption of such ordinance occur at a regular City Council meeting held pursuant to open meeting laws; and

WHEREAS, the City Council has determined that the Policy complies with the requirements of AB 481 and that: (1) the identified military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; (2) the Policy will serve to safeguard the public’s welfare, safety, civil rights, and civil liberties; (3) in future instances in which equipment is to be purchased, the equipment will be reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and (4) any required corrective action has been taken to remedy use of military equipment inconsistent with the Policy and future compliance is ensured; and

WHEREAS, approval of the Policy authorizes funding, acquisition, and use of military equipment only as allowed by the Policy and requires annual reporting and approval in accordance with the Policy; and

WHEREAS, adoption of this Ordinance is not a project as defined by the California Environmental Quality Act (“CEQA”) because is an organizational or administrative activity that will result in direct in or indirect physical changes to the environment pursuant to CEQA Guidelines 15378(b)(5); and

THEREFORE, LET IT BE RESOLVED THAT NOW THE CITY COUNCIL OF THE CITY OF RICHMOND HEREBY ORDAINS AS FOLLOWS:

SECTION 1.

The City Council finds and determines to be in full force and effect the Recitals above and hereby incorporates them herein.

SECTION 2. RICHMOND POLICE DEPARTMENT POLICY 707: MILITARY EQUIPMENT USE POLICY

The City Council hereby approves the City of Richmond Police Department Policy 707 entitled “Military Equipment Use Policy,” a copy of which is attached hereto and by this reference incorporated herein. A copy of the approved Policy 707 has been added to the City’s website for continuous access by the Council, staff and the public.

SECTION 3. SEVERABILITY CLAUSE

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this uncodified Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of

this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause, or phrase.

SECTION 4. NO CODIFICATION

This Ordinance shall not be codified in the Richmond Municipal Code.

SECTION 5. EFFECTIVE DATE

This uncodified Ordinance shall be effective thirty (30) days after passage and adoption. First introduced at a regular meeting of the City Council of the City of Richmond held October 4, 2022, and finally passed and adopted at a regular meeting held October 18, 2022, by the following vote:

AYES:	Councilmembers Bates, Jimenez, Johnson III, McLaughlin, Willis, Vice Mayor Martinez, and Mayor Butt.
NOES:	None.
ABSTENTIONS:	None.
ABSENT:	None.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

THOMAS K. BUTT
Mayor

Approved as to form:

DAVE ALESHIRE
Interim City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Ordinance No. 12-22 N.S.**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on October 18, 2022.



Pamela Christian, Clerk of the City of Richmond

Military Equipment Use Policy

707.1 PURPOSE AND SCOPE

This policy is provided to fulfill the obligations set forth in Assembly Bill No. 481 and establish guidelines for the funding, acquisition, use, and reporting requirements of "military equipment" as the term is defined in Government Code §7070. These obligations include but are not limited to seeking approval on specific items deemed by statute to be military equipment and requirements related to compliance, annual reporting, and complaints regarding these items.

707.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing Body – The Richmond City Council.

Military Equipment – Shall have the same meaning as defined by California Government Code §7070, which includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions (e.g., 40MM launcher, bean bag shotgun, foam-tipped projectiles).

Richmond Police Department

Richmond PD CA Policy Manual

Military Equipment Use Policy

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

707.2 POLICY

It is the policy of the Richmond Police Department that members of this department comply with the provisions of Government Code §7071 with respect to military equipment. Violations of this policy by member(s) of the Richmond Police Department will be investigated in accordance with the Department's Personnel Complaints policy.

707.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police shall designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as a liaison to the City Council for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the City Council.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Richmond Police Department.
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police (prior to submission to the City Council) and ensuring the report is made available on the department website.

707.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Richmond Police Department, as well as provides legal and procedural rules for use and training requirements.

[Military Equipment Inventory](#)

707.5 APPROVAL OF THIS POLICY

The Chief of Police or authorized designee shall obtain approval from the City Council by way of an ordinance approving the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the City Council, a public hearing is held, and the policy is available on the Department's website for at least 30 days prior to any public hearing concerning the military equipment at issue

Richmond Police Department

Richmond PD CA Policy Manual

Military Equipment Use Policy

(Government Code §7071). The military equipment policy must be approved by the City Council prior to engaging in any of the following (Government Code §7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the City Council.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

The City Council must be able to make the following findings in approving the Military Equipment Use policy as required by Government Code §7071(d)(1) in order to use military equipment:

- (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.

707.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this jurisdiction shall be approved for use and in accordance with this Department policy. Military equipment used by other jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid.

707.7 MILITARY EQUIPMENT ANNUAL REPORT

Upon approval of this military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the City Council for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment

Richmond Police Department

Richmond PD CA Policy Manual

Military Equipment Use Policy

is available for use (Government Code § 7072). In considering the annual report and ordinance annually, the City Council needs to consider whether it can continue to make the findings in California Government Code §7071(d)(1).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

707.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

707.9 COMMUNITY CONCERNS AND COMPLAINTS

Pursuant to Government Code §7070(d)(7), members of the public may register complaints or concerns or submit questions by any of the following means:

1. Email: AB481@richmondpd.net
2. In-person or mail:
 - Richmond Police Department
 - Attn: AB481 Coordinator
 - 1701 Regatta Boulevard, Richmond, CA 94804

The Department is committed to responding to complaints, concerns, and/or questions received and should respond within ten business days of receiving the correspondence. Any complaints shall be referred to the Community Police Review Commission as the independent oversight body. All instances of non-compliance with the policy will also be reported to the City Council via the annual military equipment report.

707.10 MILITARY EQUIPMENT TRAINING

Military equipment shall only be used after applicable training, including any course required by the Commission on Peace Officer Standards and Training (P.O.S.T.), has been completed unless exigent circumstances exist.

707.11 CITY COUNCIL APPROVAL

Pursuant to California Government Code §7071, the City Council of Richmond approved this Policy pursuant to Ordinance ### on October 4, 2022. The City Attorney and City Council should be notified in writing of any changes to this policy. All amendments to the policy must be reviewed and approved by City Council.

Richmond Police Department

Richmond PD CA Policy Manual

Military Equipment Use Policy

707.12 COMPLIANCE

The Department's AB481 Coordinator will ensure that Department members comply with this policy. The AB481 Coordinator will conduct an annual audit with assistance from members of the Office of Professional Accountability. Any violations will be referred to the Office of the Chief of Police and handled in accordance with the Department's Personnel Complaints policy. All instances of non-compliance will be reported to the City Council via the annual military equipment report.