

ORDINANCE NUMBER O- 21827 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 02 2024

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO ADOPTING THE UPDATED MILITARY
EQUIPMENT USE PROCEDURE AND RENEWING
APPROVAL FOR MILITARY EQUIPMENT UNDER
ASSEMBLY BILL 481.

WHEREAS, Assembly Bill 481 (AB 481), codified in California Government Code (Government Code) sections 7070 through 7075, requires the Police Department (Department) to obtain the approval of the City Council (Council) by an ordinance adopting its Military Equipment Use Procedure (Procedure) prior to requesting military equipment from the federal government, seeking funds for military equipment, including grants and donations, acquiring military equipment, collaborating with another law enforcement agency in the use of military equipment in San Diego, using any new or existing military equipment in a manner not previously approved by the Council, or entering into an agreement for funding, receipt, acquisition, use of, or collaboration in the use of military equipment; and

WHEREAS, AB 481 defines military equipment in Government Code section 7070(c) to include a wide range of equipment as described in the Department's updated 2024 Procedure (also known as Department Procedure 1.57 – Military Equipment); and

WHEREAS, on May 3, 2022, the Council adopted San Diego Ordinance O-21451 (Ordinance O-21451), adopting the Procedure and approving military equipment under the terms described in state law; and

WHEREAS, after approval, AB 481 requires the Department to submit to the Council an Annual Report for each type of approved military equipment; and

WHEREAS, each year the Council must review the Annual Report and the ordinance approving military equipment and vote whether to renew the ordinance; and

WHEREAS, in reviewing the Annual Report, the Council shall determine whether the military equipment has complied with the standards described in Government Code section 7071(d), including: (1) the equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; (2) the equipment use procedure will safeguard the public's welfare, safety, civil rights, and civil liberties; (3) the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and (4) if there has been any non-compliance, that corrective measures have been taken to remedy nonconforming uses and ensure future compliance; and

WHEREAS, on July 18, 2023, the Council adopted San Diego Ordinance O-21679 (Ordinance O-21679), renewing approval for military equipment under Government Code section 7071(e); and

WHEREAS, to promote public safety, civil rights, and officer safety, the Department desires to continue using, seeking funding for, acquiring, and collaborating, when necessary, with other law enforcement agencies, in the use of the military equipment described in the Procedure; and

WHEREAS, although the federal government allows local law enforcement agencies to obtain certain types of military equipment through a program authorized by section 2576a of Title 10 of the United States Code, commonly known as the "1033 Program" or "LESO Program," the Department has not participated in this program since 2020, and does not intend to participate in the future; and

WHEREAS, since the adoption of Ordinance O-21679 on July 18, 2023, the Department has added additional equipment, including small, unmanned aircraft systems (drones) and a command vehicle as outlined in the updated Procedure; and

WHEREAS, as required by Government Code sections 7071 and 7072, the Department posted the 2023 Annual Report and the updated Procedure online and held a community meeting on April 4, 2024; and

WHEREAS, the mission of the Department is to provide the highest quality police services to the communities it serves; and

WHEREAS, the Department values transparency and public input, and welcomes open dialogue about its practices and operations; and

WHEREAS, the preservation and sustainability of public safety, civil rights, and officer safety is paramount; and

WHEREAS, the Department responds to a wide variety of critical incidents, instances of civil unrest, and life and death situations, and operates in numerous unpredictable, dynamic environments; and

WHEREAS, a variety of equipment options is needed for safe and effective resolution of those situations; and

WHEREAS, each situation is evaluated by incident commanders or supervisors who, based on circumstances and Department directives, determine which equipment should be used; and

WHEREAS, the Department's diverse catalogue of military equipment and associated training gives police officers the confidence and capability to de-escalate volatile situations, enhance the safety of the public and officers, and bring critical incidents to a safe resolution; and

WHEREAS, from time to time, the Department may be asked to assist or need to be assisted by other law enforcement agencies, which may include use of military equipment; and

WHEREAS, partnerships with other law enforcement agencies are an integral part of maintaining the continuity of public safety within the region; and

WHEREAS, the Council has examined the Department's 2023 Annual Military Equipment Report and updated Procedure; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That under Government Code section 7071(d), the Council finds that the military equipment described in the updated Procedure is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

Section 2. That under Government Code section 7071(d), the Council further finds that the updated Procedure will safeguard the public's welfare, safety, civil rights, and civil liberties.

Section 3. That under Government Code section 7071(d), the Council further finds that continued use of existing military equipment and purchase of military equipment described in the Procedure is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

Section 4. That under Government Code section 7071(d), the Council further finds that prior uses of military equipment complied with the Procedure in effect at the time.

Section 5. That the 2024 Procedure, on file with the City Clerk as document number

00-21827, is hereby adopted.

Section 6. That by adoption of the 2024 Procedure, the Council approves military equipment under the terms of AB 481.

Section 7. That Ordinance O-21451 (May 3, 2022) and all subsequent renewing ordinances to date are hereby renewed.

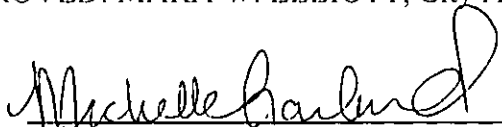
Section 8. That this approval is not intended to and shall not supersede existing processes to seek approval for the appropriation and expenditure of specific funds through the annual budget process, or existing processes for the approval and execution of contracts, donations, and grants, or the requirement to seek approval for qualifying technologies under the Transparent and Responsible Use of Surveillance Technology Ordinance.

Section 9. That the Council shall review this ordinance annually and vote whether to renew the ordinance, consistent with the requirements of state law.

Section 10. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 11. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 

Michelle A. Garland
Senior Chief Deputy City Attorney

MAG:hm:cm
February 22, 2024
Or.Dept: PSE
Doc. No. 3570727

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 25 2024.

DIANA J.S. FUENTES
City Clerk

By *Kristell Medina*
Deputy City Clerk

Approved: 7/1/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(NOTE: The date of final passage is July 2, 2024, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

Passed by the Council of The City of San Diego on JUN 25 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 02 2024.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Krystell Medina, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 04 2024, and on JUL 02 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Krystell Medina, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>21827</u>