

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF BURLINGAME RENEWING THE
BURLINGAME POLICE DEPARTMENT MILITARY EQUIPMENT
USE POLICY; CEQA DETERMINATION: EXEMPT PURSUANT TO
STATE CEQA GUIDELINES SECTION 15378 AND 15061(b)(3)**

WHEREAS, California Assembly Bill 481 (AB 481) became effective January 1, 2022, which requires law enforcement agencies to adopt a Military Equipment Use Policy ("Policy") prior to taking certain actions relating to the funding, acquisition, or use of military equipment as defined by the statute; and

WHEREAS, AB 481 requires adoption of the Policy before the law enforcement agency can take action to request military equipment; seek funds (such as grants or in-kind donations) for acquiring military equipment; actually acquire military equipment, either permanently or temporarily by owning, borrowing, or leasing; collaborate with other law enforcement agencies to deploy or use military equipment in the agency's territorial jurisdiction; use new or existing military equipment in a manner not previously subject to AB 481's scope; solicit or respond to a proposal for, or enter into an agreement with, any person or entity to seek funds for, apply for, acquire, use, or collaborate in using military equipment; or to acquire military equipment through any other means not specifically detailed in the statute; and;

WHEREAS, Government Code Section 7070 provides a list of types of equipment that are to be considered military equipment for purposes of compliance with AB 481 and the Government Code; and while the Burlingame Police Department does not possess any tactical equipment as obtained from the military, nor does it possess any equipment that was designed for military use, it does possess some types of equipment that are listed in Section 7070; additionally, the Burlingame Police Department participates in a regional S.W.A.T. team, which possesses and utilizes additional types of equipment that qualify as military equipment according to the Government Code; and

WHEREAS, AB 481 provides that the Policy must be adopted by ordinance at a regular meeting of the governing body, i.e., the City Council for the law enforcement agency; and

WHEREAS, on May 2, 2022, the City Council enacted Ordinance No. 2005, adopting a Military Equipment Use Police for the Burlingame Police Department, and approving use of the military equipment described in the Policy; and

WHEREAS, pursuant to AB 481, this Ordinance shall be reviewed by the City Council at least annually, and based on an annual military equipment report that must be submitted to

the City Council, the City Council shall determine whether each type of military equipment identified in the report has complied with the standards for continued approval; if the City Council cannot make such a determination, it shall either disapprove a renewal of the authorization for that type of equipment, or require modifications to the Policy in a manner to resolve the lack of compliance; and

WHEREAS, the Burlingame Police Department prepared an Annual Report of military equipment used in 2024 (Exhibit B to the accompanying staff report), and publicly released the Annual Report on its webpage 30 days prior to the Public Hearing; thereafter, on April 8, 2025, the Department held a well-publicized community meeting at the Burlingame Community Center which was open to the general public for the purpose of presenting the 2024 Annual Report and answering questions regarding the deployment of the Department's military equipment; and

WHEREAS, the City Council has reviewed the 2024 Annual Report, and at a regular meeting considered renewal of the ordinance authorizing use of military equipment; and

WHEREAS, in order to comply with AB 481 and the California Government Code, the City Council wishes to renew the ordinance authorizing the continued use of military equipment;

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

Section 1. Incorporation of Recitals

The recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.

Section 2. Findings

Pursuant to Government Code sections 7071(e)(1),(2), and (d)(1), as may be amended or renumbered from time to time, the City Council hereby makes the following findings in support of its adoption of the Policy:

- A. The military equipment identified in the Policy is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- B. The proposed Policy will safeguard the public's welfare, safety, civil rights,

and civil liberties.

- C. If the Police Department purchases military equipment pursuant to the Policy, 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.

Section 3. Military Equipment Use Policy Adopted

In light of the findings set forth in Section 2, and in accordance with AB 481, the City Council, as the Governing Body described in AB 481, renews the Burlingame Police Department Military Equipment Use Policy and use of the military equipment described therein.

Section 4. CEQA Determination

The City Council finds and determines this Ordinance is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

Section 5. Severability

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of Burlingame hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 6. Effective Date

This Ordinance shall go into effect 30 days following its adoption.

Section 7. Publication The City Clerk is directed to publish this ordinance in a manner required by law.

Section 8. Codification

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

I, MEAGHAN HASSEL-SHEARER, City Clerk of the City of Burlingame, certify that the foregoing ordinance was introduced at a regular meeting of the City Council held on 21st day of April 2025, and adopted thereafter at a regular meeting of the City Council held on the ____ day of _____ by the following votes:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

ATTEST:

Meaghan Hassel - Shearer, City Clerk

