

**ORDINANCE NO. 22-01**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA ADOPTING A MILITARY EQUIPMENT USE POLICY AND DECLARING THE ORDINANCE TO BE AN URGENCY ORDINANCE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION**

**WHEREAS**, On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies; and

**WHEREAS**, Assembly Bill 481 codified in California Government Code Sections 7070 through 7075, requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a "military equipment" use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or continued use of military equipment. The term "military equipment" is defined in California Government Code Section 7070; and

**WHEREAS**, Assembly Bill 481 allows the governing body of a city to approve the funding, acquisition, or continued use of military equipment within its jurisdiction only if it makes specified determinations; and

**WHEREAS**, the proposed military equipment use policy is found within the attached Exhibit "A" to this ordinance and is incorporated by reference as if set out in full; and

**WHEREAS**, this ordinance and the Grover Beach Police Department's Military Equipment Use Policy attached as Exhibit "A" which is hereby incorporated by reference as if set out in full, meets the requirements of California Government Code sections 7070, subdivision (d) and 7071 subdivision (a) (1).

**NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVER BEACH AS FOLLOWS:**

**PART 1. WHEREAS INCORPORATION.** The above WHEREAS provisions are hereby incorporated into this ordinance as if set out in full.

**PART 2. DETERMINATIONS**

In accordance with Government Code Section 7071, and in addition to information provided to the City Council at the meeting of March 14, 2022, the City Council determines as follows:

1. The military equipment identified in the Grover Beach Military Equipment Use Policy is necessary, because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.

2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

3. The military equipment identified in Exhibit "A" is identified as currently owned or to be purchased and is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

4. The City did not previously have a prior military equipment use policy but as to any prior uses that do not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

5. The City Council, therefore, hereby approves and adopts the attached Exhibit "A" as the City's Military Equipment Use Policy.

### **PART 3. URGENCY DECLARATION**

The City Council declares this ordinance to be an urgency measure, to take effect immediately upon its adoption pursuant to California Government Code Section 36937 (b). The facts constituting the urgency are as follows:

On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of "military equipment" by law enforcement agencies. Assembly Bill 481 requires a law enforcement agency to obtain approval from the applicable governing body, via adoption of a "military equipment" use policy by ordinance, prior to the agency funding, acquiring, or using military equipment.

The Grover Beach Police Department has been diligently preparing the Military Equipment Use Policy since AB 481 was signed. Nevertheless, given the extensive requirements and notice provisions in the law, which includes mandatory publication of the proposed policy 30-days prior to public hearing consistent with Government Code Section 7071 (b), and requirements and need to purchase additional equipment as enumerated in Exhibit "A", the policy and ordinance could not be made ready for hearing in time to accommodate the 30-day delay in effectiveness of the ordinance.

If this ordinance does not become effective immediately upon adoption of the City Council, the City may be prohibited from using "military equipment", as the term is defined in California Government Code Section 7070, until the ordinance becomes effective. Such a delay would curtail the Grover Beach Police Department's ability to acquire and use less lethal tools and hinder the effectiveness of the Grover Beach Police Department in preventing and addressing crime in the City, which in turn would put the health, safety, and welfare of citizens at increased risk.

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

**PART 5.** All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

**PART 6. EFFECTIVE DATE.** This ordinance will become effective immediately as an urgency ordinance upon approval by the City Council consistent with Government Code Section 36937 (b) and substantiated by the declaration contained with Part 3.

INTRODUCED, APPROVED, and ADOPTED at a regular meeting of the City Council held on March 14, 2022, as an urgency ordinance consistent with Government Code Section 36934, on the following roll call vote, to wit:

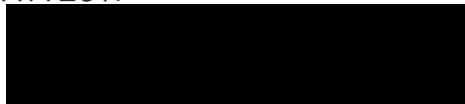
AYES: Council Members – Miller, Robert, Rushing, and Mayor Lee  
NOES: Council Members – None  
ABSENT: Council Members – Mayor Pro Tem Bright  
ABSTAIN: Council Members – None

APPROVED:



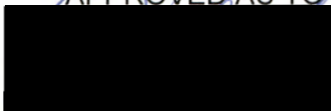
JEFF LEE, MAYOR

ATTEST:



WENDI SIMS, CITY CLERK

APPROVED AS TO FORM:



DAVID P. HALE, CITY ATTORNEY

## EXHIBIT A

### Grover Beach Police Department Military Equipment Use Policy (AB 481)

#### PURPOSE

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

#### POLICY

It is the policy of the Grover Beach Police Department that there are legally enforceable safeguards, including transparency, oversight, and accountability measures in place to protect the public's welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

#### PHILOSOPHY

The acquisition of military equipment and its deployment in our communities may impact the public's safety and welfare. The public has a right to know about any funding, acquisition, or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

#### PROCEDURE

##### A. DEFINITIONS

1. Governing Body – The elected entity that oversees the Grover Beach Police Department
2. Military Equipment – Any of a wide variety of items as defined by California Government Code section 7070, subsections (c)(1) through (c)(16).

##### B. GENERAL

1. The Department shall obtain approval of the governing body annually prior to engaging in any of the following activities:
  - a. Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
  - 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.

funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

- e. The quantity possessed for each type of military equipment.
- f. If GBPD intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.
- i. Within 30 days of submitting and publicly releasing an annual military equipment report, GBPD shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and GBPD's funding, acquisition, or use of military equipment. This shall occur as a part of GBPD's presentation to the governing body.

#### E. CATALOGING OF MILITARY USE EQUIPMENT

All military use equipment kept and maintained by the Grover Beach Police Department shall be cataloged in a way which addresses each of the following requirements:

- 1. The manufacturer's description of the equipment.
- 2. The capabilities of the equipment.
- 3. The purposes and authorized uses for which the Department proposes to use the equipment.
- 4. The expected lifespan of the equipment.
- 5. The fiscal impact of the equipment, both initially and for on-going maintenance.
- 6. The quantity of the equipment, whether maintained or sought.

#### F. COMPLIANCE

- 1. The Operations Commander will ensure that all Department members comply with this policy. The Operations Commander will conduct an annual audit with the assistance of the Support Services Commander. The Chief of Police or designee will be notified of any policy violations and, if needed, the violation(s) will be referred to the Internal Affairs Division and handled in accordance with Policy 1014. All instances of non-compliance will be reported to City Council via the annual military equipment report.
- 2. Any member of the public can register a question or concern regarding military use equipment by contacting the Grover Beach Police Department via email at [police@gbpd.org](mailto:police@gbpd.org). A response to the question or concern shall be completed by the Department in a timely manner.
- 3. Any member of the public can submit a complaint to any member of the Department and in any form (i.e. in person, telephone, email, etc.). Once the complaint is received, it shall be routed to the Internal Affairs Division in accordance with Policy 1014 (Personnel Complaints).

## 2. Armored Vehicles

- a. Description, quantity, capabilities, and purchase cost
  - i. 2008 Lenco Bearcat
    - 1. Cost: \$180,000
    - 2. Quantity: 1
    - 3. Description: Armored vehicle that seats 6-8 personnel with an open floor plan that allows rescue of injured personnel or community members. The armor can stop various projectiles providing great safety to the officers and community.
- b. Purpose: To be used in response to critical incidents to enhance safety of the community, officers, and to improve scene containment and assist in resolving critical incidents.
- c. Authorized Use: The use of the armored vehicle is limited to GBPD staff members that have received training in the use and operation of the vehicle. Deployments of the vehicle are to be authorized by a Commander or the Chief of Police.
- d. Lifespan: Estimated at 20 years
- e. Fiscal Impact: Annual Maintenance of approximately \$2500
  - f. Training: All drivers/operators shall attend training in vehicle operations and practical driving instruction.

## 3. 40mm Launchers and Rounds, Bean Bags

- a. Description, quantity, capabilities, and purchase cost
  - i. Penn arms, 40mm single shot launcher
    - 1. Cost: \$850
    - 2. Quantity: 6
    - 3. Description: Single shot launcher that fires standard 40mm less lethal ammunition
  - ii. Penn arms, 40mm multi launcher
    - 1. Cost: \$2720
    - 2. Quantity: 1
    - 3. Description: Multiple shot launcher that fires standard 40mm less lethal ammunition
  - iii. 40mm rounds, CTS 4504
    - 1. Cost: \$1,057
    - 2. Quantity: 120
    - 3. Description: Foam projectile shot from a 40mm launcher
  - iv. Bean Bag Rounds, Accusox Brand
    - 1. Cost: \$1,200
    - 2. Quantity: 400
    - 3. Description: Kevlar/Cotton sock type material filled with lead pellets
- b. Purpose: To limit escalation of conflict where employment of lethal force is prohibited or undesirable

## 5. Distraction Devices

- a. Description, quantity, capabilities, and purchase cost
  - i. Defense Tech 15 GM Low Roll
    - 1. Cost: \$50/each
    - 2. Quantity: 6
    - 3. Description: Distraction device that delivers a loud “bang” and flashing light
- b. Purpose: A distraction device is commonly used when trying to distract dangerous suspects during emergency situations such as hostage calls, search warrants, and violent crimes. These devices use atmospheric over-pressure and brilliant white light to temporarily distract for a tactical advantage.
- c. Authorized Use: Distraction devices are only to be used by trained operators. Use is covered by GBPD policy. These devices are commonly used in high-risk situations commonly handled by a SWAT team.
- d. Training: Prior to use, officers must attend and pass training provided by a POST certified instructor.
- e. Lifespan: Until used.
- f. Fiscal Impact: No annual maintenance.

## 6. Tear Gas

- a. Description, quantity, capabilities, and purchase cost
  - i. Defense Tech Riot Control Discharge Grenade, OC
    - 1. Cost: \$35/each
    - 2. Quantity: 6
    - 3. Description: Delivers large plumes of smoke and OC agent
  - ii. Defense Tech Riot Control Discharge Grenade, CS Smoke
    - 1. Cost: \$25/each
    - 2. Quantity: 4
    - 3. Description: Delivers large plumes of smoke and CS agent
  - iii. Defense Tech Triple Chaser Riot Control Discharge Grenade, CS
    - 1. Cost: \$44/each
    - 2. Quantity: 2
    - 3. Description: Delivers large plumes of CS agent
- b. Purpose: To limit the escalation of conflict where employment of lethal force of prohibited or undesirable.
- c. Authorized Use: Only officers trained in the use of chemical agents by a POST certified trainer are authorized to deploy chemical agents.
- d. Training: Sworn members using chemical agents are to attend a POST certified training prior to use.
- e. Lifespan: 5 years from manufacturing date.
- f. Fiscal Impact: No annual maintenance.

f. Fiscal Impact: None

#### **10. Riot Helmets**

a. Description, quantity, capabilities and purchase cost

i. Protech Helmets

1. Cost: \$575 each

2. Quantity: 25

3. Description: Black strap closure helmets with ballistic protection

b. Purpose: To be used during situations requiring proper head protection against objects or gunfire.

c. Authorized Use: Users are limited to those that have been provided department training on the use and setup of the equipment.

e. Lifespan: 10 years

f. Fiscal Impact: None

#### **11. Riot Shields**

a. Description, quantity, capabilities and purchase cost

i. Plastic Shields

1. Cost: \$275 each

2. Quantity: 8

3. Description: black shield with arm and shoulder mounting straps

b. Purpose: To be used during situations requiring protection of officers from objects.

c. Authorized Use: Users are limited to those that have been provided department training on the use and setup of the equipment.

e. Lifespan: 10 years

f. Fiscal Impact: None

#### **12. Riot Batons**

a. Description, quantity, capabilities and purchase cost

i. Batons

1. Cost: \$25 each

2. Quantity: 8

3. Description: Black riot baton

b. Purpose: To be used during situations requiring protection of officers from hostile crowds.

c. Authorized Use: Users are limited to those that have been provided department training on the use and setup of the equipment.

e. Lifespan: 10 years

f. Fiscal Impact: None