



# City of Huntington Beach

**File #:** 22-337

**MEETING DATE:** 5/3/2022

## REQUEST FOR CITY COUNCIL ACTION

**SUBMITTED TO:** Honorable Mayor and City Council Members

**SUBMITTED BY:** Sean Joyce, Interim City Manager

**VIA:** Eric Parra, Chief of Police

**PREPARED BY:** Ingrid Ono, Administrative Assistant

**Subject:**

**Adoption of Uncodified Police Equipment Use Policy Emergency Ordinance No. 4254 and Uncodified Police Equipment Use Policy Ordinance No. 4255 consistent with Assembly Bill No. 481 and making a Finding of Exemption under CEQA**

**5 Affirmative Votes are required to adopt Emergency Ordinance No. 4254 per City Charter Section 501**

**Statement of Issue:**

Assembly Bill 481 ("AB 481"), effective January 1, 2022, requires law enforcement agencies to obtain approval from their respective governing bodies of an equipment use policy before purchasing, using, raising funds for, or acquiring military type equipment. AB 481 requires the policy be posted on the Police Department's website at least 30 days before the Council's consideration of the policy, which must be adopted by ordinance no later than May 1, 2022. The attached policy satisfies the requirements of AB 481 including posting on the Department's website on March 18, 2022. Due to the legislation's expanded noticing requirements and to ensure that the Department retains the ability to utilize critical equipment and functions at all times, staff recommends that the City Council adopt the attached Emergency Ordinance 4254 and Ordinance 4255.

**Financial Impact:**

None

**Recommended Action:**

A) Adopt Uncodified Police Equipment Use Policy Emergency Ordinance 4254, "An Emergency Ordinance of the City Council of the City of Huntington Beach Adopting a Military Equipment Use Policy Consistent With Assembly Bill No. 481, and Making a Finding of Exemption Under CEQA"; and,

B) Approve for Introduction Uncodified Police Equipment Use Policy Ordinance 4255, "An Ordinance of the City Council of the City of Huntington Beach Adopting a Military Equipment Use Policy

Consistent With Assembly Bill No. 481, and Making a Finding of Exemption Under CEQA.”

**Alternative Action(s):**

Do not approve and direct staff accordingly.

**Analysis:**

AB 481 requires the governing body that oversees a law enforcement agency to approve an ordinance adopting a “military equipment” use policy at a regular meeting of the governing body held in accordance with the Brown Act. The legislation outlines the required scope of the policy, and continued obligations for annual review of the policy.

**Scope of the Policy.**

The term “military equipment” pursuant to AB 481 includes, but is not limited to things like, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less lethal 40mm projectile launchers, long range acoustic devices, and flashbangs. Many law enforcement agencies across the country have used this type of equipment for years to enhance citizen and officer safety. Although defined as “military equipment” in AB 481, a majority of the listed equipment is commercially manufactured for civilian law enforcement purposes. Each of the listed pieces of equipment serves a specific purpose in our officers’ efforts to protect the safety and security of our residents and visitors, which is also included in the proposed policy.

AB 481 requires that the military equipment use policy must include the following information:

1. A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
3. The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
4. The legal and procedural rules that govern each authorized use.
5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
6. The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
7. The procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law

enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

#### Procedural Requirements.

As noted above, AB 481 requires law enforcement agencies to post their proposed military equipment use policies on their website at least 30 days prior to City Council consideration of the policy. Accordingly the attached policy was posted to the Department's website on March 18, 2022, more than 30 days prior to City Council's consideration of this item.

In order for the City Council to approve and adopt this Policy, the City Council must make the following findings:

1. The military equipment identified in the proposed policy is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
2. The military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. The military equipment identified in the proposed policy is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safety.

The Police Department is constantly evolving when it comes to options for utilizing equipment that enhances the safety and security of our residents and visitors. As such, we continually test and evaluate new technologies to assist our officers in providing the highest level of service compared to other equipment alternatives. The Department also works closely with the Finance Department to ensure that the City benefits from complete competitive bid processes whenever appropriate to maintain fiscal responsibility while balancing community needs.

Finally, in addition to posting the military equipment use policy on the law enforcement agency's website prior to this initial adoption, each agency must submit an annual military equipment report to the governing body detailing the equipment used in the preceding year and hold at least one community engagement meeting within 30 days of releasing the annual report. This report must include a summary of how the equipment was used, a summary of complaints received, the result of any internal audit and actions taken in response, the total annual cost and the quantity possessed of each type of military equipment, and any additional equipment the agency intends to acquire in the next year. Each year the governing body must review the annual report and determine whether each type of military equipment identified in that report has complied with the standards for approval set forth above and vote on whether to renew it, in accordance with Government Code Section 7071(e) (2).

#### **Environmental Status:**

Not applicable.

#### **Strategic Plan Goal:**

Financial Sustainability, Public Safety or Other

**Attachment(s):**

1. Uncodified Emergency Ordinance No. 4254
2. Uncodified Ordinance No. 4255
3. HBPD Equipment Use Policy