

RESOLUTION NO. 24-140

Resolution Of The City Council Of The City Of Emeryville Approving And Accepting The Emeryville Police Department's 2024 Annual Military Equipment Use Report Pursuant To Government Code Section 7071 And Renewing City Of Emeryville Ordinance No. 22-006 "Approving Emeryville Police Department Policy Manual Policy 707- Military Equipment"

WHEREAS, Government Code Section 7071 et seq. codifies Assembly Bill 481 and requires legislative bodies to adopt ordinances approving military equipment use policies before law enforcement agencies can continue to engage in activities related to the use of military equipment; and

WHEREAS, the Emeryville Police Department has a very limited amount of "military equipment" in its inventory (41 semi-automatic rifles) which are not often used, and may engage in limited critical public safety activities in coordination with other jurisdictions in possession of military equipment on police-related matters, including safeguarding the public's welfare and safety, working on regional task forces, conducting training exercises, providing mutual aid and responding to emergencies; and

WHEREAS, on September 6, 2022, the Emeryville City Council adopted Ordinance No. 22-006 which approved Emeryville Police Department Policy Manual Policy 707- Military Equipment which includes an inventory report of the police department's military equipment and procedures for use and maintenance of the same; and

WHEREAS, Emeryville' Military Equipment Policy 707 establishes a military equipment use policy that is consistent with Police Department's current practices, complies with the requirements of the Government Code, will continue to ensure ongoing regulation and compliance with the law going forward and will continue to provide a means of community engagement and transparency regarding the use of military equipment by the Department; and

WHEREAS, Government Code Section 7071 requires the City Council to conduct an annual review of its ordinance approving the City's Military Equipment Policy and to vote on whether to renew the ordinance; and

WHEREAS, in order to facilitate the aforesaid ordinance review, the City Council is also required to conduct an annual review of the Police Department's 2024 Annual Report on military equipment prepared and submitted pursuant to Sections 7071 and 7072 of the Government Code; and

WHEREAS, notice of the Council's consideration of both Ordinance No. 22-006 and the 2024 Annual Report have been provided in accordance with applicable law; and

WHEREAS, the City Council desires to find that the 2024 Annual Report on military equipment contains the information required by Government Code Section 7072; and

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WHEREAS, the City Council has also reviewed and desires to renew Ordinance 22-006.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Emeryville hereby finds:

1. The above recitals are true and correct and are incorporated herein.
2. The 2024 Annual Report referenced in the above recitals and attached to the staff report prepared for the City Council's consideration is incorporated herein by reference.
3. The 2024 Annual Report is approved and accepted.
4. Ordinance 22-006 is hereby renewed and remains in effect.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, November 19, 2024, by the following vote:

AYES:	<u>5</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters, Kaur and Priforce
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

Signed by:

73C7D1936D4A437
MAYOR

ATTEST:

DocuSigned by:

April Richardson
9AF9F67CE0284D8...
CITY CLERK

APPROVED AS TO FORM:

DocuSigned by:

John Kennedy
2C934D02DB55467...
CITY ATTORNEY

ATTACHMENTS

- Exhibit A – Police Department 2024 Annual Report Inventory List

Emeryville Police Department – 2024 Annual Report

Military Equipment Inventory

The only Military Equipment owned by the City of Emeryville are 41 semi-automatic rifles. State law defines “Category 10 Military Equipment” as specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency¹. While these 41 rifles are standard issue service weapons, neighboring jurisdictions have included them in their Military Equipment Inventory and staff recommended their inclusion in the City’s Inventory for consistency with surrounding jurisdictions and to promote transparency consistent with the intent of AB 481.

Pursuant to Government Code Section 7071, the law enforcement agency shall submit to the City Council an annual military equipment report of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The following six (6) categories are required as part of the annual reporting requirements.

1. Purpose and Use

The rifles are used as a precision weapon when sworn personnel reasonably anticipate an armed encounter, to address threats that may be protected by body armor or where the distance prevents a handgun from proficiently or effectively addressing the threat. Emeryville Policy Department policies “300-Use of Force” and “305-Firearms” describe authorized use of the rifle.

The use of the patrol rifles was consistent throughout this annual reporting period. The patrol rifles are taken out on patrol regularly during this reporting period by officers assigned to patrol operations. Officers carry the patrol rifles in their assigned patrol vehicles, in a locked cradle, during their shift.

2. Complaints

The Department proactively seeks feedback and complaints related to the use of the identified military equipment. During this reporting period, the Department did not receive any complaints or feedback on the use of the patrol rifles.

3. Internal Audits

¹ This inventory includes weapons personally owned by officers but deployed for official use in the course of duty.

All sworn personnel deploying these rifles must have completed a 16-hour POST (Peace Officer Standards and Training) certified “Firearms/Tactical Rifle” course. Annual qualification requirements are described in Emeryville Police Department policy “305-Firearms”. In addition, POST requires 4 hours of training every two years.

During the officer’s training, each patrol rifle was inspected as part of the safety evaluation and audit systems. No violations of the patrol rifle safety standards or military use policy were identified during this reporting period.

4. Annual Cost & Fiscal Impact

The expected lifespan for each patrol rifle is projected to be 5-15 years. The annual cost is detailed below:

- Colt AR-15 and Colt M4: Initial cost - \$999; annual maintenance – approximately \$50
- Smith & Wesson M&P-15 and M&P-15T: Initial cost - \$899; annual maintenance - approximately \$50
- Smith & Wesson M&P VTAC, Bravo Company MFG M-4, Colt LE Carbine, Noveske N4, Noveske N15, Rock River Arms LAR-15, and Spike’s Tactical ST15: Initial cost - personally owned/purchased; annual maintenance - approximately \$50

5. Quantity, Description, and Capabilities

The quantity of patrol rifles possessed is as follows:

- 13 Colt AR-15 rifles; 8 Colt M4 rifles; 8 Smith & Wesson M&P-15 rifles; 3 Smith & Wesson M&P-15T rifles; 2 Smith & Wesson M&P-15 VTAC rifles; 1 Bravo Company MFG M-4 rifle; 2 Colt LE Carbine rifle; 1 Noveske N4 rifle; 1 Noveske N15 rifle; 1 Rock River Arms LAR-15 rifle; 1 Spike’s Tactical ST15 rifle (total: 41 AR-15 style rifles)
- These rifles are 16” barrel AR-15 platform rifles. The rifles are gas operated, semi-automatic rifles with the ability to be fired from shoulder level. The rifles include a collapsible stock and 30 round magazine and are chambered for .223 or 5.56 caliber.
- These rifles can be fired from shoulder level and have a long spirally grooved barrel intended to make bullets spin. The rifle barrel’s design provides greater accuracy over a long distance. The rifles also have the ability to defeat soft body armor.

6. Acquisition of Additional Military Equipment

The Department does not intend to acquire additional military equipment. However, if an existing patrol rifle becomes worn or damaged to the point where the patrol rifle is no longer serviceable or safe, the Department may seek to acquire a replacement.