

BOARD of SUPERVISORS



City Hall
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MEMORANDUM

TO: Paul Miyamoto, Sheriff

FROM: Victor Young, Assistant

A handwritten signature in cursive script that reads "Victor Young".

DATE: Clerk October 26, 2022

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 221062

Ordinance amending the Administrative Code to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain law enforcement equipment of the Sheriff's Department consistent with the criteria set forth in state law; and approving the Sheriff's Department's Use of Equipment Policy.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

cc: Johanna Saenz, Sheriff's Department
Katherine Johnson, Sheriff's Department
Tara Moriarty, Sheriff's Department
Rich Jue, Sheriff's Department
Christian Kropff, Sheriff's Department

[Administrative Code - Funding, Acquisition, and Use of Certain Sheriff's Department Equipment]

Ordinance amending the Administrative Code to require Board of Supervisors approval of a policy governing the funding, acquisition, and use of certain law enforcement equipment of the Sheriff's Department consistent with the criteria set forth in state law; and approving the Sheriff's Department's Use of Equipment Policy.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Background.

(a) On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481"), codified in California Government Code Sections 7070 *et seq.*, requiring law enforcement agencies to obtain approval by ordinance of an equipment use policy to allow the use of particularly defined new or existing law enforcement equipment for a purpose, in a manner, or by a person not previously approved by the governing body. Government Code Sections 7070 *et seq.* define the specific equipment subject to this requirement, the minimum requirements for the policy, and the standards for the approval of the governing body. The covered equipment is also summarized in Section 1 of the ordinance in Board of Supervisors File No. 220641.

(b) On May 24, 2022, the Mayor introduced an ordinance to add a chapter to the Administrative Code to require Board of Supervisors approval of a policy governing the

1 funding, acquisition, and use of certain law enforcement equipment consistent with the criteria
2 set forth in California Government Code Section 7071(d). That ordinance covered the Police
3 Department. On July 11, 2022, the Rules Committee of the Board amended that ordinance to
4 include approval of the Police Department's Use of Equipment Policy. That ordinance, in File
5 No. 220641 of the Board of Supervisors, is still pending before the Board, and is scheduled for
6 an additional hearing at the Rules Committee.

7 (c) As introduced, the codified portion of the ordinance in Board File No. 220641 is
8 designated Chapter 96G, including Section 96G.1, but it is anticipated that the chapter and
9 section numbers will be redesignated as Chapter 96H and Section 96H.1. For purposes of
10 the font used to show amendments to existing Code text in Section 4 of this ordinance, this
11 ordinance assumes that the aforementioned, previously introduced ordinance has been so
12 redesignated and has been enacted with the text as amended at the July 11 Rules Committee
13 hearing.

14
15 Section 2. Findings and Approval of Sheriff's Equipment Use Policy.

16 (a) The Sheriff prepared an inventory of existing equipment covered by California
17 Government Code Sections 7070 *et seq.* and an equipment use policy ("Inventory" and
18 "Policy" respectively) to govern the use by the Sheriff's Department of the equipment covered
19 by Government Code Sections 7070 *et seq.* and listed in the Inventory. A copy of the
20 Inventory and Policy are in Board File No. _____, and are incorporated herein by
21 reference.

22 (b) The Board of Supervisors hereby finds that

23 (1) The equipment set forth in the Inventory is necessary because there is no
24 reasonable alternative that can achieve the same objective of officer and civilian safety;

1 (2) The Policy will safeguard the public's welfare, safety, civil rights, and civil
2 liberties;

3 (3) The equipment set forth in the Inventory is reasonably cost effective; and

4 (4) The Policy satisfies the requirements of AB 481 as codified in California
5 Government Code Section 7070(d).

6 (c) The Board of Supervisors hereby approves the Policy for the Sheriff' that shall
7 govern the use of equipment listed in the Inventory.

8
9 Section 3. Annual Report, Posting, and Community Meeting.

10 (a) Annual Report. As required by state law, within one year of the effective date of
11 this ordinance, the Sheriff shall submit to the Board an annual equipment report for each type
12 of equipment in the Inventory, and annually thereafter for as long as the equipment is
13 available for use.

14 (b) As required by state law, the Sheriff also shall post on its website the annual
15 equipment report required for as long as the equipment is available for use. The annual
16 equipment report shall, at a minimum, include the following information for the immediately
17 preceding calendar year for each type of equipment included in the Inventory:

18 (1) A summary of how the equipment was used and the purpose of its use.

19 (2) A summary of any complaints or concerns received concerning the
20 equipment.

21 (3) The results of any internal audits, any information about violations of the
22 equipment use policy, and any actions taken in response.

23 (4) The total annual cost for each type of equipment, including acquisition,
24 personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs,

1 and from what source funds will be provided for the equipment in the calendar year following
2 submission of the annual equipment report.

3 (5) The quantity possessed for each type of equipment.

4 (6) If the Sheriff intends to acquire additional equipment covered by
5 Government Code Section 7070 in the next year, the quantity sought for each type of
6 equipment.

7 (c) As required by state law, within 30 days of submitting and publicly releasing its
8 required annual equipment report, the Sheriff shall hold at least one well-publicized and
9 conveniently located community engagement meeting, at which the general public may
10 discuss and ask questions regarding the annual equipment report and the Sheriff's funding,
11 acquisition, or use of equipment.

12 (d) California Government Code Section 7071(e)(1) requires the Board of Supervisors
13 to review any ordinance approving the funding, acquisition, or use of covered equipment,
14 annually, and determine whether to renew the ordinance consistent with applicable law. If the
15 Board of Supervisors determines that a type of covered equipment identified in the Sheriff's
16 annual Law Enforcement Equipment Report has not complied with state law, Government
17 Code Section 7071(e)(2) requires that the Board of Supervisors either disapprove a renewal
18 of the authorization for that type of equipment or require modifications to the Law Enforcement
19 Use of Equipment Policy to comply with state law.

20
21 Section 4. The Administrative Code is hereby amended by revising Chapter 96H and
22 Section 96H.1, to read as follows:

23 **CHAPTER 96H: ~~POLICE DEPARTMENT~~ LAW ENFORCEMENT EQUIPMENT**
24 **POLICY~~IES~~**

1 **SEC. 96H.1. FUNDING, ACQUISITION, AND USE OF CERTAIN ~~POLICE~~ LAW**
2 **ENFORCEMENT EQUIPMENT.**

3 (a) Pursuant to California Government Code Sections 7070 ~~et seq.~~et. seq., law
4 ~~enforcement agencies, including~~ the Police Department ~~and Sheriff's Department, is are~~ required to
5 obtain Board of Supervisors' approval of a Use of Equipment Policy prior to seeking funding
6 for, acquisition of, and use of certain law enforcement equipment.

7 (b) The Police Department ~~and Sheriff's Department~~ shall each submit a draft Use of
8 Equipment Policy to the Board of Supervisors for approval. Thereafter, ~~the Police~~
9 ~~Department~~each agency shall review its respective approved ~~Law Enforcement~~ Use of Equipment
10 Policy and submit a report regarding the covered equipment within one year of receiving
11 Board of Supervisors approval, and annually thereafter for as long as the covered equipment
12 is available for use. Each agency seeking approval of its Use of Equipment Policy ~~The Police~~
13 ~~Department~~ shall hold a public hearing on the Use of Equipment Policy and annual report prior
14 to submitting the annual report to the Board of Supervisors for its review and approval. The
15 Use of Equipment Policy and annual report shall be publicly available and posted on the
16 agency's ~~Police Department's~~ website for at least 30 days prior to said hearing.

17 (c) The Board of Supervisors may only approve the Use of Equipment Policy governing
18 the funding, acquisition, and use of certain law enforcement equipment consistent with the
19 criteria set forth in state law, referenced in subsection (a).

20
21 Section 5. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 6. Undertaking for the General Welfare. In enacting and implementing this
2 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
3 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
4 is liable in money damages to any person who claims that such breach proximately caused
5 injury.

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Jana Clark
11 JANA CLARK
12 Deputy City Attorney

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