

ORDINANCE NO. 2657 (N.C.S.)

AN ORDINANCE OF THE CITY OF SALINAS ADDING ARTICLE III TO CHAPTER 27 OF THE SALINAS MUNICIPAL CODE PERTAINING TO THE MILITARY EQUIPMENT USE POLICY IN COMPLIANCE WITH ASSEMBLY BILL 481

City Attorney Impartial Analysis

As required by Assembly Bill 481, signed into law by Governor Newsom on September 30, 2021, this Ordinance pertains to the adoption of a Military Use Policy. Pursuant to this Ordinance, the Salinas Police Department would be required to obtain the approval of the City Council, by adoption of a Military Equipment Use Policy, prior to taking certain actions relating to the funding, acquisition, or use of “military equipment” as defined. This Ordinance would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The Ordinance will be subject to annual review by the City Council.

WHEREAS, On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 (creating Government Code section 7070, et seq.), relating to the use of military equipment by law enforcement agencies; and

WHEREAS, Assembly Bill 481 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 use of military equipment; and

WHEREAS, Assembly Bill 481 seeks to provide transparency, oversight, and an opportunity for public input on decisions regarding whether and how military equipment is funded, acquired, or used; and

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

WHEREAS, the Salinas Police Department is in possession of certain items of equipment that qualify as “military equipment” under Assembly Bill 481; and

WHEREAS, the proposed military equipment use policy is found within Salinas Police Department Policy 709 Military Equipment; and

WHEREAS, Salinas Police Department Policy 709 Military Equipment was published on the Salinas Police Department’s internet website on March 23, 2022; the Salinas Police Department Policy 709 Military Equipment was presented to City Council on March 29, 2022; and

WHEREAS, the Policy and supporting information must be approved by the governing body (the City Council) by ordinance, and reviewed annually.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS AS FOLLOWS:

SECTION 1: Article III is hereby added to Chapter 27 of the Salinas Municipal Code and shall read as follows:

Article III. Military Equipment Policy

Sec. 27-03.01 Military Equipment Policy.

- (a) The City Council finds and determines the following:
 - (1) The military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;
 - (2) The proposed military equipment use policy (“Policy”) will safeguard the public’s welfare, safety, civil rights and civil liberties;
 - (3) The equipment is reasonably cost-effective compared to available alternatives that can achieve the same objective of officer and civilian safety (if any);
 - (4) Prior military equipment use complied with the applicable equipment use policy (which included equipment now defined as military equipment) 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.
- (b) The Salinas Police Department has submitted a proposed Policy to the City Council and has made those documents available on the Police Department’s website for at least thirty (30) days prior to the public hearing concerning the military equipment at issue.
- (c) The Policy was considered by the City Council in an open session of a regular meeting, noticed in accordance with the Ralph M. Brown Act. At which public comment was permitted.
- (d) The Policy shall be made publicly available on the Salinas Police Department’s website for as long as the military equipment is available for use.
- (e) The Salinas Police Department shall submit an annual military equipment report to the City Council, containing the information required by Government Code section 7072, and the City Council shall determine whether each type of military equipment identified in that report has complied with the standards for approval set forth in (a)(1)-(4) above.

(f) The City Council shall review this ordinance, and vote on whether to renew it, on an annual basis at a regular meeting, in accordance with Government Code section 7071(e)(2).

(g) The City Council approves the use of the Policy and finds that it satisfies the requirements of Government Code section 7070(d).

SECTION 2. 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.

SECTION 3: EFFECTIVE DATE. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this 23rd day of August 2022, by the following vote:

AYES: Councilmembers: Barrera, Cromeenes, Gonzalez, Osornio and Mayor Craig

NOES: Councilmember Rocha

ABSENT: Councilmember McShane

ABSTAIN: None

APPROVED:

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Kimbley Craig
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Kimbley Craig, Mayor

ATTEST:

DocuSigned by:
Patricia Barajas
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Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
Christopher A. Callihan
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Christopher A. Callihan, City Attorney