

ORDINANCE NO. NS-300.990

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AMENDING SECTIONS A22-35 AND A22-36 OF CHAPTER III OF DIVISION A22 OF THE COUNTY OF SANTA CLARA ORDINANCE CODE RELATING TO ADOPTION OF THE OFFICE OF THE DISTRICT ATTORNEY'S MILITARY EQUIPMENT USE POLICY

Summary

This Ordinance amends Sections A22-35 and A22-36 to the County's Ordinance Code to adopt the revised County of Santa Clara Office of the District Attorney's Military Equipment Use Policy pursuant to Government Code Section 7071.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

SECTION 1. Section A22-35 of Chapter III of Division A22 of Title A of the Ordinance Code of the County of Santa Clara relating to Findings for the adoption of the Office of the District Attorney's Military Equipment Use Policy is hereby amended to read as follows:

Sec. A22-35. Findings for the adoption of the Office of the District Attorney's Military Equipment Use Policy.

The Board of Supervisors finds as follows:

- (a) On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies.
- (b) Assembly Bill 481 reflects a legislative recognition of the impact of military equipment on public safety, welfare, civil rights, and civil liberties. Assembly Bill 481 also reflects legislative intent to ensure that appropriate legal safeguards are in place to govern the use of military equipment in communities and to ensure that the public has a right to participate and provide meaningful input on a law enforcement agency's decision to fund, acquire, or use military equipment.
- (c) Assembly Bill 481, codified at Government Code sections 7070-7075, requires law enforcement agencies to obtain approval of the applicable governing board, 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, as that term is defined in Government Code section 7070.
- (d) Assembly Bill 481 requires agencies that receive approval of a military equipment use policy to publish on their website and submit to the governing body a military equipment use report within one year of approval, and annually thereafter.

- (e) Assembly Bill 481 requires these agencies to hold at least one well-publicized and conveniently located community engagement meeting within 30 days of submitting and publicly releasing an annual military equipment use report.
- (f) The County of Santa Clara Office of the District Attorney published an annual military equipment use report on its website in August 2024, held a public community engagement meeting within 30 days, and submitted the annual military equipment use report to the Board of Supervisors September 24, 2024.
- (g) Assembly Bill 481 allows the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations.
- (h) The County of Santa Clara Office of the District Attorney has prepared a military equipment use policy, Bureau of Investigation Policy 609, that meets the requirements of Government Code section 7070(d).
- (i) Bureau of Investigation Policy 609 was publicly posted on the agency's website on August 20, 2024, and the policy is available for inspection from the Office of the District Attorney.
- (j) The Office of the District Attorney presented Bureau of Investigation Policy 609 to the Board of Supervisors at its meeting on September 24, 2024.

SECTION 2. Section A22-36 of Chapter III of Division A22 of Title A of the Ordinance Code of the County of Santa Clara relating to Adoption of Office of the District Attorney Military Equipment Use Policy is hereby amended to read as follows:

Sec. A22-36. Adoption of Office of the District Attorney Military Equipment Use Policy.

- (a) Based on the findings of Ordinance Code section A22-35 and the military equipment use policy, the military equipment annual use report, and other materials submitted by the Office of the District Attorney, the Board of Supervisors makes the following determinations:
 - (1) The military equipment listed in Bureau of Investigation Policy 609 is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 - (2) The military equipment listed in Bureau of Investigation Policy 609 is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
 - (3) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

- (4) Prior military equipment use by the Office of the District Attorney complied with the military equipment use policy that was in effect at the time.
- (b) The Office of the District Attorney military equipment use policy, contained in Bureau of Investigation Policy 609, is hereby adopted. Bureau of Investigation Policy 609 is incorporated by reference as though fully set forth herein. Complete copies of Bureau of Investigation Policy 609 are available for inspection on the Office of the District Attorney's website and from the Office of the District Attorney.
- (c) Bureau of Investigation Policy 609 shall be amended only upon the approval of the Board of Supervisors in accordance with the procedures described in Government Code section 7071.

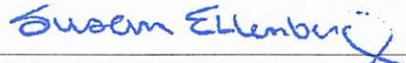
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on OCT 08 2024 by the following vote:

AYES: ~~ARENAS, CHAVEZ, ELLENBERG~~
LEE, SIMITIAN

NOES: NONE

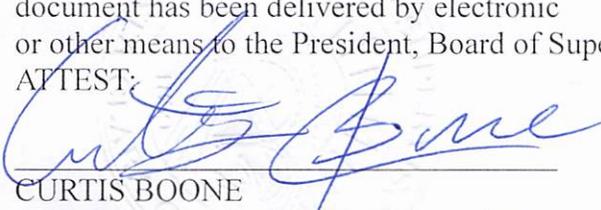
ABSENT: NONE

ABSTAIN: ELLENBERG


SUSAN ELLENBERG, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:


CURTIS BOONE
Acting Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:


HILARY KERRIGAN
Deputy County Counsel

3115475