

**ORDINANCE NO. 18-1126**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO ADD A NEW SECTION 6-108 TO TITLE 6 OF THE RED BANK CITY CODE WITH RESPECT TO THE IMPLEMENTATION AND MANAGEMENT OF THE STATE PLAN OF OPERATIONS RELATIVE TO ACQUISITION BY THE RED BANK POLICE DEPARTMENT OF U.S. DEPARTMENT OF DEFENSE TRANSFER OF MILITARY GRADE PERSONAL PROPERTY, VEHICLES, AND MISCELLANEOUS EQUIPMENT AS AUTHORIZED BY THE PROVISIONS OF TITLE 10, U.S.C. SECTION 2576(A), ET SEQ.**

**WHEREAS**, pursuant to Title 10 United States Code Section 2576(a), et seq. the United States Department of Defense is authorized to release and transfer possession of certain military grade assets of the United States for utilization by Local Law Enforcement Agencies, such as the Red Bank Police Department, for the purposes of support of various law enforcement activities, etc. Said authorization and enabling legislation is additionally on occasion referred to as the “1033 Program” and/or the “LESO Program”; and

**WHEREAS**, as required by the enabling legislation, the LESO Program is required to be administered, as is relevant herein, initially by the Governor of the State of Tennessee who/which acts in turn by and through the duly constituted, authorized and appointed Department of General Services for the State of Tennessee and;

**WHEREAS**, the Department of General Services for the State of Tennessee has enacted its State Plan of Operation, to govern such programs and transfers and that the same has been proposed, in contract form, between the State of Tennessee, and the City of Red Bank, which Contract is hereby approved by the City Commission for the City of Red Bank, Tennessee and by Resolution dated the 4<sup>th</sup> day of September, 2018 by which the City Commission has and does hereby authorize the Chief of Police of the City of Red Bank to sign and accept the said State Plan of Operations Contract Form on behalf of the City of Red Bank;

**WHEREAS**, the City Commission hereby adopts this Ordinance to govern and address with greater particularity the actions of the City, the City Manager and the Chief of Police with respect to the LESO Program and the referred State Plan of Operation, long term, short term, intermediate and of all and any of the aspects of the LESO Program and of the City’s interaction with the State Plan of Operation, and to govern the day to day implementation of the LESO Program by the City of Red Bank.

**NOW, THEREFORE BE IT ORDAINED** by the City Commission of the City of Red Bank, Tennessee:

That there is hereby enacted a new and additional Chapter and Section to Title 6 of the Red Bank City Code, codified at new section 6-108 hereby as follows:

SECTION 1. Section 6-108, LESO Program, Implementation:

(A) The City Commission hereby approves this City’s participation in the State of Tennessee sponsored LESO Program such that the City may be eligible to receive military grade personal property, assets and equipment made available to various local law enforcement agencies such as the Red Bank Police Department by the United States Department of Defense and as authorized by the provisions of Title 10 of the United States Code, Section 2576(A) et seq. and as further authorized and implemented by the Governor of the State of Tennessee, acting by and through the Tennessee Department of General Services.

(B)(1) The Chief of Police is authorized to execute for and on behalf of the City, following final approval of the form of contract by the City Manager and City Attorney, the authorizing and implementing Contract and agreement with respect to the City’s participation in the said “LESO Program” and entitled State Plan of Operations Between the State of Tennessee and the City of Red Bank, Tennessee.

(2) The City Manager and Chief of Police are authorized and directed to return an executed copy of the said State Plan of Operations Between the State of Tennessee and the City of

Red Bank, Tennessee to the Department of General Services and to perform any and all additional administrative tasks necessary in order to implement and carry out its broadly stated purposes.

(C)(1) Notwithstanding any other provisions set forth as contained within the terms, provisions and conditions of said State Plan of Operations Between the State of Tennessee and the City of Red Bank, Tennessee, the Chief of Police shall not make any applications or requests for transfers of any personal property, equipment, commodities, vehicles, assets, expendables (such as ammunition) without the written approval of the City Commission, by resolution duly adopted, and preceded by a written request prepared by the Chief of Police and submitted to the City Commission through the City Manager explaining the necessity and requesting authority and approval from the City Commission to make further application to the State of Tennessee / Department of Defense and providing a detailed rationale for such requested acquisition(s) together with a projected budget / cost benefit analysis with respect to acquisition, usage, oversight, maintenance and anticipated length of service of any and all such assets. In forwarding same to the City Commission, the City Manager shall recommend in writing, whether to approve or reject same and shall give explanation for such recommendations.

(2) No application shall be made to the Department of General Services for any manned or unmanned aircraft, fixed or rotary winged aircraft, unmanned aerial vehicles, wheeled armored vehicles, wheeled vehicles, wheeled vehicles of any sort, armored vehicles of any sort, all-terrain vehicles utilizing any combination of wheels and/or tracks and/or treads, any specialized ammunition and whether or not over or under .50 caliber ammunition (except for standard issue arms and/or ammunition for previously authorized police department issued service weapons), and explosives or pyrotechnics of any kind or nature, all as defined in the State Plan of Operations Between the State of Tennessee and the City of Red Bank as "Controlled Property," without express written approval, via duly adopted resolution of the City Commission of the City of Red Bank, and only after written report of the City Manager detailing budgetary and potential liability issues.

(D) No application shall be filed with the Tennessee Department of General Services, or any other entity under the LESO Program except upon express written approval of the City Commission.

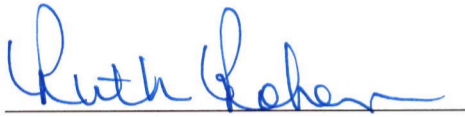
(E) The City Manager and the Chief of Police shall jointly develop a written plan and policy to address all aspects of implementation of the hereinabove referenced LESO Program, to include but not be limited to the following provisions:

(1) The Chief of Police shall certify to the City Commission, with copy to the City Manager, coincident with the end of each fiscal year that the City and the Police Department are in compliance of all aspects of the State Plan of Operations Between the State of Tennessee and the City of Red Bank authorized hereby and entered in and by and between the State of Tennessee and the City of Red Bank including but not limited to any and all requirements, rules, regulations and standards related to "controlled equipment" as defined in the State Plan of Operations, any and all inventory requirements as further specified and set forth in the State Plan of Operations, any and all reporting and accounting requirements to the Department of General Services or any other governmental entity, with respect to conducting a certified annual inventory and reporting all as is required by the State Plan of Operations. A program compliance review certifying compliance with all the terms and conditions of any State Plan of Operation, any and all records management, and all terms, conditions as set forth in the State Plan of Operations shall be tendered to the City Manager who shall make same available to the City Commission and shall be provided by the Chief of Police during the month of June of each year.

(2) The policy written, promulgated and filed by the City Manager and Chief of Police shall be submitted to the City Commission for review, modification, objection and/or approval prior to any application(s) for access to or possession of any of the military grade properties, commodities, equipment, vehicles, or any other assets from the State Department of General Services and/or indirectly from the Department of Defense / United States Government.

SECTION 2. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

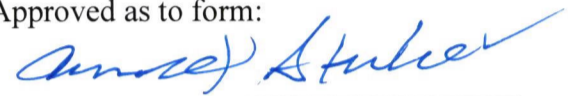
  
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City Recorder

  
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Mayor

July 17, 2018  
Passed on First Reading

August 7, 2018  
Passed on Second and Final Reading

Approved as to form:

  
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City Attorney