

ITEM 4.4

**CITY MANAGER'S REPORT
JANUARY 8, 2024 CITY COUNCIL REGULAR MEETING**

ITEM: **SECOND READING AND ADOPTION OF ORDINANCE 24-453 OF THE CITY COUNCIL OF THE CITY OF LATHROP UPDATING THE MILITARY EQUIPMENT LIST FOR MILITARY EQUIPMENT USE POLICY NO. 706, FOR THE USE OF MILITARY EQUIPMENT BY THE LATHROP POLICE DEPARTMENT, IN COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 7070-7075, ASSEMBLY BILL 481**

RECOMMENDATION: **Waive Full Reading and Adopt Ordinance 24-453 Amending Chapter 9.20 Titled "Military Equipment Use Policy", of Title 9 "Public Peace and Welfare" of the Lathrop Municipal Code by Amending Section 9.20.050 titled "Active Policies" to Update Existing Military Equipment List for Military Equipment Use Policy No. 706, by Incorporating Funding, Acquisition, and Use of New Military Equipment for the Lathrop Police Department, in Compliance with California Government Code Sections 7070-7075, Assembly Bill (Chieu)**

RECOMMENDED ACTION:

The City Council to conduct a second reading and adopt Ordinance 24-453 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP AMENDING CHAPTER 9.20 TITLED "MILITARY EQUIPMENT USE POLICY", OF TITLE 9 "PUBLIC PEACE AND WELFARE" OF THE LATHROP MUNICIPAL CODE BY AMENDING SECTION 9.20.050 TITLED "ACTIVE POLICIES" TO UPDATE EXISTING MILITARY EQUIPMENT LIST FOR MILITARY EQUIPMENT USE POLICY NO. 706, BY INCORPORATING FUNDING, ACQUISITION, AND USE OF NEW MILITARY EQUIPMENT FOR THE LATHROP POLICE DEPARTMENT, IN COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 7070-7075, ASSEMBLY BILL (CHIEU)


SUMMARY:

On December 11, 2023, the City Council approved the introduction and first reading of the subject Ordinance by the following vote:

AYES: Akinjo, Lazard, Torres-O'Callaghan, and Dhaliwal
NOES: None
ABSTAIN: None
ABSENT: Diallo

The Ordinance will take effect 30 days after adoption.

SUBMITTED BY:



Teresa Vargas, City Clerk

12/26/23

Date

ORDINANCE NO. 24-453

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP AMENDING CHAPTER 9.20 TITLED "MILITARY EQUIPMENT USE POLICY", OF TITLE 9 "PUBLIC PEACE AND WELFARE" OF THE LATHROP MUNICIPAL CODE BY AMENDING SECTION 9.20.050 TITLED "ACTIVE POLICIES" TO UPDATE EXISTING MILITARY EQUIPMENT LIST FOR MILITARY EQUIPMENT USE POLICY NO. 706, BY INCORPORATING FUNDING, ACQUISITION, AND USE OF NEW MILITARY EQUIPMENT FOR THE LATHROP POLICE DEPARTMENT, IN COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 7070-7075, ASSEMBLY BILL (CHIEU); AND

WHEREAS, on September 30, 2021, Governor Newsom signed into law seven (7) major peace officer reform bills, including Assembly Bill (AB) 481 (codified in California Government Code Sections 7070-7075), authored by Assembly Member David Chieu to address the funding, acquisition and use of items lawmakers deem to be considered military equipment; and

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

WHEREAS, AB 481 required each law enforcement agency's governing body to adopt a written military equipment use policy by ordinance in a public forum by April 30, 2022, to continue using this previously acquired military equipment, effective May 1, 2022; and

WHEREAS, during that time the City of Lathrop was under the jurisdiction of the San Joaquin County Sheriff's office, while working to transition into its own Police Department by July 1, 2022; and

WHEREAS, in preparation of the transition, on June 13, 2022, the City Council adopted Ordinance 22-436, amending Title 9 "Public Peace and Welfare" of the Lathrop Municipal Code (LMC) by adding Chapter 9.20 titled "Military Equipment Use Policy" to establish a policy for the proper use, funding and acquisition of military style equipment as set forth by AB 481 in compliance with California Government Code Section 7071; and

WHEREAS, Policy No. 706 authorized the new Lathrop Police Department to fund, acquire, and use of thirty-five 5.56mm semiautomatic rifles and ammo, and eight 40mm launchers and rounds; and

WHEREAS, on December 12, 2022, the City Council adopted Ordinance 22-441, amending Chapter 9.20 titled "Military Equipment Use Policy", by adding Section 9.20.050 titled "Active Policies" to incorporate new Lathrop Police Department Policy No. 606, regulating "Unmanned Aerial System (UAS) Operations", and formally codifying previously approved Military equipment Use Policy No. 706, in the Lathrop Municipal Code, in compliance with California Government Code Section 7071; and

WHEREAS, Policy No. 606 authorized the new Lathrop Police Department to fund, acquire, and use four (4) unmanned aerial system (known as drones); and

WHEREAS, staff requests that the City Council hold a public hearing to consider an ordinance amending Chapter 9.20, titled "Military Equipment Use Policy", of Title 9 "Public Peace and Welfare" of the Lathrop Municipal Code, by amending Section 9.20.050 titled "Active Policies" to updated existing Military Equipment List for Military Equipment Use Policy No. 706, by incorporating funding, acquisition, and use of new military equipment for the Lathrop Police Department, in compliance with California Government Code Sections 7070-7075, Assembly Bill (Chieu); and

WHEREAS, the City Council of the City of Lathrop having received the information required under AB 481 regarding the proposed use of military equipment as defined in said law, deems it to be in the best interest of the City to approve and adopt the amended Military Equipment List for Military Equipment Use Policy No. 706; and

WHEREAS, the amended military equipment list for Military Equipment Use Policy No. 706 will be incorporated by reference in LMC Section 9.20.050 titled "Active Policies".

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lathrop does hereby ordain as follows:

Section 1.

That the amended Lathrop Police Department Military Equipment List for Military Equipment Use Policy No. 706, on file with the Lathrop Police Department, is hereby updated and adopted and will be incorporated by reference in Section 9.20.050.

Section 2.

Title 9 of the Lathrop Municipal Code, titled "Public Peace and Welfare" is hereby amended by adding new military equipment to Section 9.20.050 titled "Active Policies", to Chapter 9.20 titled "Military Equipment Use Policy", to incorporate new military equipment categories to Military Equipment Use Policy No. 706, to read in its entirety as follows.

CHAPTER 9.20 MILITARY EQUIPMENT USE POLICY

9.20.050 Active policies.

The Lathrop Police Department has obtained approval of the City of Lathrop City Council, by ordinance adopting the following military equipment use policies, incorporated here by reference:

- A. Military Equipment Use Policy No. 706, adopted by Ordinance 22-436, for the funding, acquisition and use of thirty-five 5.56mm semiautomatic rifles and ammo, and eight 40mm launchers and rounds.
- B. Military Equipment Use Policy No. 606, adopted by Ordinance 22-441, fund, acquire, and use of unmanned aerial system (known as drones). (Ord. 22-441 § 2)
- C. Military Equipment Use Policy No. 706, amended by Ordinance 24-_____, to add the funding, acquisition and use of eleven 5.56mm semiautomatic rifles and ammo, eight Remington 870 less lethal launchers - drag stabilized 12-gauge bean bag rounds, fifty sets of five units of super-sock bean bags ammunitions, and three thousand 5.56mm & 9mm specialty impact munitions.

Section 3.

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4. Severability.

If any section, subsequent subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section 5. Effective Date.

This Ordinance shall take legal effect 30 days from and after the date of its passage.

Section 6. Publication.

Within fifteen days of the adoption of this Ordinance, the City Clerk shall cause a copy of this Ordinance, to be published in full accordance with Section 36933 of the Government Code

THIS ORDINANCE was introduced at a regular meeting of the City Council of the City of Lathrop on the 11th day of December 2023, and was **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Lathrop on the ___ day of _____ 202___, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk

Salvador Navarrete, City Attorney

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