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 single-underline italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough 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 funding, acquisition, and use of certain law enforcement equipment consistent with the criteria
set forth in California Government Code Section 7071(d). That ordinance covered the Police Department. On December 13, 2022, the Board adopted the ordinance approving the Police Department's Use of Equipment Policy, the codified portion of which is designated Chapter 96H, including Section 96H.1. July 11, 2022, the Rules Committee of the Board amended that ordinance to include approval of the Police Department's Use of Equipment Policy. That ordinance, in File No. 220641 of the Board of Supervisors, is still pending before the Board, and is scheduled for an additional hearing at the Rules Committee.

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

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

(a) The Sheriff prepared an inventory of existing equipment covered by California Government Code Sections 7070 et seq. and an equipment use policy ("Inventory" and "Policy" respectively) to govern the use by the Sheriff's Department of the equipment covered by Government Code Sections 7070 et seq. and listed in the Inventory. A copy of the Inventory and Policy are in Board File No. 221062, and are incorporated herein by reference.

(b) The Board of Supervisors hereby finds that

(1) The equipment set forth in the Inventory is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;
(2) The Policy will safeguard the public's welfare, safety, civil rights, and civil liberties;

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

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

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

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

(a) Annual Report. By no later than December 13, 2023, as required by state law, within one year of the effective date of this ordinance, the Sheriff shall submit to the Board an annual equipment report for each type of equipment in the Inventory, and annually thereafter for as long as the equipment is available for use.

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

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

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

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

(4) The total annual cost for each type of equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs,
and from what source funds will be provided for the equipment in the calendar year following
submission of the annual equipment report.

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

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

(c) As required by state law, within 30 days of submitting and publicly releasing its
required annual equipment report, the Sheriff shall hold at least one well-publicized and
conveniently located community engagement meeting, at which the general public may
discuss and ask questions regarding the annual equipment report and the Sheriff's funding,
aquisition, or use of equipment. A meeting before the Sheriff's Department Oversight Board
shall satisfy the requirements of this Section.

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

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

CHAPTER 96H: POLICE-DEPARTMENT LAW ENFORCEMENT EQUIPMENT

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

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

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

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

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.
Section 6. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Jana Clark
JANA CLARK
Deputy City Attorney
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.

January 23, 2023 Rules Committee - CONTINUED

January 30, 2023 Rules Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

January 30, 2023 Rules Committee - RECOMMENDED AS AMENDED

February 07, 2023 Board of Supervisors - RE-REFERRED
   Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai and Stefani
   Excused: 1 - Walton

April 24, 2023 Rules Committee - RECOMMENDED

May 02, 2023 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

May 09, 2023 Board of Supervisors - FINALLY PASSED
   Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Safai, Stefani and Walton
   Excused: 1 - Ronen
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/9/2023 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

5/19/23
Date Approved