

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to the Seattle Police Department; the ban on the ownership, purchase, rent, storage, or use of less lethal weapons; and amending Section 3.28.146 to the Seattle Municipal Code.

..body

WHEREAS, in 2020, tens of thousands of community members joined mass demonstrations in Seattle in support of black lives and against police violence; and

WHEREAS, the Seattle Police Department responded to these protests against police violence with devices designed to cause severe discomfort and/or pain, including tear gas, pepper spray and explosive devices such as blast balls and stun grenades; and

WHEREAS, Seattle’s Office of Professional Accountability reported on June 3, 2020 that they had received 15,000 complaints of police misconduct related to the SPD’s response to these protests; and

WHEREAS, studies into the impacts of policing at protests have determined that escalating force by police at protests leads to increasing violence; and

WHEREAS, on June 15, 2020, the city Council adopted Ordinance 126102 banning the ownership, purchase, rent, storage, or use of crowd control weapons, defined as kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort; and

WHEREAS, on July 24, 2020, Judge James Robart of the U.S. District Court of Washington imposed a temporary restraining order against enactment of Ordinance 126102 and asked

1 the Office of Police Accountability, the Community Police Commission, and the Office
2 of the Inspector General to review its possible impact on court-mandated police reforms;
3 and

4 WHEREAS, on August 10, 2021, Judge Richard Jones of the U.S. District Court of Washington
5 issued a preliminary injunction extending a ban on SPD’s use of less lethal chemical and
6 projectile weapons against peaceful protesters; and

7 WHEREAS, on September 11, 2020, as requested in Ordinance 126102 and consistent with the
8 advisory roles established in the Accountability Ordinance (Ordinance 125315),
9 subsection 3.29.030.B, the Office of Police Accountability, the Community Police
10 Commission, and the Office of the Inspector General reported their findings with respect
11 to the impact of banning less lethal weapons to the Council’s Public Safety and Human
12 Services Committee. The findings showed consensus among the three reports to allow
13 specific non-crowd control uses of Pepper Spray, 40-millimeter Launchers and Noise
14 Flash Diversionary Devices, and to ban Patrol use of Tear Gas;

15 NOW, THEREFORE,

16 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

17 Section 1. Section 3.28.146 of the Seattle Municipal Code, last amended by Ordinance
18 126102, is renumbered, recodified and amended as follows:

19 **3.28.146 Prohibition of the use of less lethal weapons**

20 A. Unless exempted or excepted, no City department shall own, purchase, rent, store or
21 use less lethal (~~((crowd control))~~) weapons.

22 B. Law enforcement agencies operating under mutual aid agreements are prohibited from
23 using less lethal (~~((crowd control))~~) weapons while rendering aid to the Seattle Police Department.

1 Seattle Police Department mutual aid agreements for crowd control must prohibit other law
2 enforcement agencies from using less lethal ~~((crowd control))~~ weapons for the purpose of crowd
3 dispersal; and

4 C. As used in this Section 3.28.146, “less lethal ~~((crowd control))~~ weapons” means kinetic
5 impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water
6 cannons, disorientation devices, ultrasonic cannons, or any other device that is primarily
7 designed to be used on multiple individuals for crowd control and is designed to cause pain or
8 discomfort.

9 D. Oleoresin capsicum (OC) spray, forty-millimeter launchers and noise flash
10 diversionary devices are not ~~((is not a crowd control weapon))~~ less lethal ~~((crowd~~
11 ~~control))~~ weapons for purposes of owning, purchasing, renting, or storing under subsection
12 3.28.146.A., unless such weapons are used for crowd dispersal purposes. ~~((Use of OC spray is~~
13 ~~prohibited under subsection 3.28.146.A if:~~

- 14 1. ~~It is used in a demonstration, rally, or other First Amendment-protected event;~~
15 ~~or~~
16 2. ~~When used to subdue an individual in the process of committing a criminal act~~
17 ~~or presenting an imminent danger to others, it lands on anyone other than that individual.)~~

18 E. A person shall have a right of action against the City for physical or emotional injuries
19 proximately caused by the use of less lethal ~~((crowd control))~~ weapons that occur after this
20 ordinance takes effect.

21 F. Absent evidence establishing a greater amount of damages, the damages payable to an
22 individual for injuries proximately caused in violation of this Section 3.28.146 shall be \$10,000,

1 added to attorney fees and court fees. This does not preclude any other legal recovery or process
2 available to a person under federal and state law.

3 Section 2. In accordance with *United States of America v. City of Seattle*, 12 Civ. 1282
4 (JLR), during the pendency of the consent decree Council requests that notice of this action be
5 submitted by the City Attorney to the Department of Justice, the Court, and the Monitor.

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1 Section 3. Council will engage with the Labor Relations Director and staff as they work
2 with the City's labor partners in the implementation of this prohibition.

3 Section 4. This ordinance shall take effect and be in force 30 days after its approval by
4 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
5 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

6 Passed by the City Council the _____ day of _____, 2020,
7 and signed by me in open session in authentication of its passage this _____ day of
8 _____, 2020.

9 _____
10 President _____ of the City Council

11 Approved by me this _____ day of _____, 2020.

12 _____
13 Jenny A. Durkan, Mayor

14 Filed by me this _____ day of _____, 2020.

15 _____
16 Monica Martinez Simmons, City Clerk

17 (Seal)
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