

ORDINANCE NO. 03-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE ADOPTING A POLICY FOR THE USE OF MILITARY EQUIPMENT BY THE CITY OF ORANGE POLICE DEPARTMENT

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill No. 481 (AB 481), relating to the use of military equipment by law enforcement agencies; and

WHEREAS, AB 481, codified as Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the applicable governing body, 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. The term “military equipment” is defined in California Government Code section 7070; and

WHEREAS, AB 481 allows the governing body of a city to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations; and

WHEREAS, the proposed military equipment use policy is attached hereto as Exhibit “A” and incorporated herein by this reference (the “Military Equipment Policy”); and

WHEREAS, the Military Equipment Policy was published on the City of Orange Police Department’s internet website on April 4, 2022, more than 30 days before the Military Equipment Policy was first considered at a public meeting before the City Council on May 10, 2022; and

WHEREAS, the Military Equipment Policy meets the requirements of California Government Code section 7070, subdivision (d).

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I

The recitals stated above are true and correct, incorporated herein, and form the basis for the adoption of this Ordinance.

SECTION II

- (1) The proposed Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15060(c)(2) and 15060(c)(3), because the Ordinance simply provides procedural noticing and posting requirements. The

proposed Ordinance does not cause changes to the residential density established in the General Plan. It does not involve a specific site or development project, and does not otherwise result in a physical change that could cause an impact to the environment. Adoption of the Ordinance is therefore not a "project" as defined in CEQA Guideline 15378.

- (2) The proposed Ordinance is exempt from CEQA per CEQA Guideline 15061(b)(3) because it can be seen with certainty, after review and evaluation of the facts regarding the Ordinance and its application, that there is substantial evidence that adoption of the Ordinance would not have a significant effect on the environment and the common sense exemption applies.
- (3) In the unlikely event adoption of the Ordinance would constitute a project under CEQA, it is categorically exempt from the provisions of CEQA per CEQA Guideline 15321(a) (Class 21, Enforcement Actions by Regulatory Agencies) because said adoption is an action taken by the City as a regulatory agency and involves "enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency."

SECTION III

Based on the above facts, in addition to information provided to the City Council at the public meeting, the City Council approves and adopts the Military Equipment Policy, based on the following findings:

1. The military equipment identified in the Military Equipment Policy is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
2. The Military Equipment Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. The military equipment identified in the Military Equipment Policy is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. All prior military equipment use complied with the City's policies that were in effect at the time.

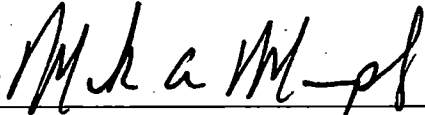
SECTION IV

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V

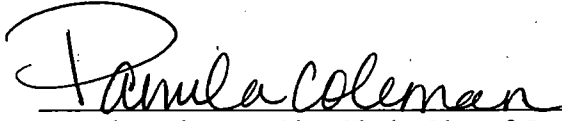
The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this 14th day of June, 2022.



Mark A. Murphy, Mayor, City of Orange

ATTEST:

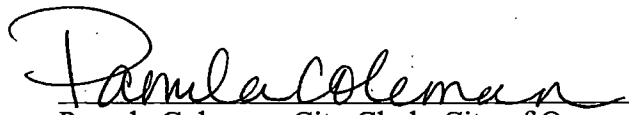


Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 10th day of May, 2022, and thereafter at the regular meeting of said City Council duly held on the 14th day of June, 2022 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Murphy, Nichols, Monaco, Barrios, Dumitru, Gutierrez
NOES: COUNCILMEMBERS: Tavoularis
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None



Pamela Coleman, City Clerk, City of Orange

Attachment: Exhibit A