

ORDINANCE NO. 1892

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA ADOPTING POLICE DEPARTMENT POLICY NO. 709, IN ACCORDANCE WITH ASSEMBLY BILL 481

WHEREAS, on September 30, 2021, Governor Newsom signed into law Assembly Bill (“AB”) 481 to address the funding, acquisition, and use of military equipment, as that term is defined by Government Code section 7070(c); and

WHEREAS, AB 481 requires adoption of a military equipment policy (“Policy”) by the City Council before the Fontana Police Department (“Department”) may take action to request military equipment; seek funds (such as grants or in-kind donations) for acquiring military equipment; actually acquire military equipment, either permanently or temporarily by owning, borrowing, or leasing; collaborate with other law enforcement agencies to deploy or use military equipment in the agency’s territorial jurisdiction; use new or existing military equipment in a manner not previously subject to AB 481’s scope; solicit or respond to a proposal for, or enter into an agreement with, any person or entity to seek funds for, apply for, acquire, use, or collaborate in using military equipment; or to acquire military equipment through any other means not specifically detailed in the statute; and

WHEREAS, to continue to use military equipment acquired prior to January 1, 2022, the law enforcement agency must commence the process of adopting the Policy no later than May 1, 2022; and

WHEREAS, in accordance with AB 481, the proposed Policy was made available on the website on the Department website at least thirty (30) days prior to the public hearing by the City Council to adopt the Policy; and

WHEREAS, once adopted, the Policy will be made publicly available on the Department website for as long as the covered military equipment is available for use; and

WHEREAS, in accordance with AB 481, the Policy is on the agenda as an open session item at a regular meeting of the City Council, and public comment on the item will be allowed in accordance with the Brown Act; and

WHEREAS, this Ordinance shall be reviewed by the City Council at least annually, and based on an annual military equipment report that will be submitted to the City Council pursuant to AB 481, the City Council shall determine whether each type of military equipment identified in the report has complied with the standards for continued approval.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA DOES
ORDAIN AS FOLLOWS:**

SECTION 1. RECITALS

The City Council finds that all recitals, facts, findings, and conclusions set forth above are true and correct and hereby incorporated by reference.

SECTION 2. FINDINGS

Pursuant to Government Code section 7071(d)(1), as may be amended or renumbered from time to time, the City Council hereby makes the following findings in support of its adoption of the Policy:

A. The military equipment identified in the Policy is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

B. The proposed Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

C. If the Department purchases military equipment pursuant to the Policy, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

D. Prior military equipment use complied with the Policy that was in effect at the time, or if prior uses did not comply with the accompanying Policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

SECTION 3. ADOPTION OF MILITARY EQUIPMENT POLICY

The City Council hereby adopts the Policy No. 709, Military Equipment Policy, along with any related Attachments, which are all attached hereto as Exhibit "A".

SECTION 4. CEQA.

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. EFFECTIVE DATE.

This ordinance shall be effective thirty (30) days from and after its final passage.

SECTION 6. SEVERABILITY.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court

of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Fontana hereby declare they would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. PUBLICATION.

The City Clerk is authorized and directed to cause this ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this ordinance to be published in the manner required by law using the alternative summary and posting procedure authorized under Government Code section 36933(c).

INTRODUCED at the regular meeting of Fontana Council on the 26th day of April 2022.

PASSED, APPROVED AND ADOPTED at the regular meeting of Fontana City Council on the 10th day of May 2022.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Ashton Arocho, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance introduced at a regular meeting of said City Council on the 26th day of April, 2022 and was finally passed and adopted not less than five days thereafter on the 10th of May, 2022, by the following wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

Exhibit “A”

[insert AB 481 policy]