

ORDINANCE NO. 1706

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF
BUENA PARK, CALIFORNIA, ADOPTING A MILITARY
EQUIPMENT USE POLICY FOR THE BUENA PARK POLICE
DEPARTMENT IN COMPLIANCE WITH ASSEMBLY BILL 481

A. RECITALS

(i) On September 30, 2021, California Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481") relating to the use of military equipment by law enforcement agencies in the State of California;

(ii) AB 481 (codified at California Government Code sections 7070 through 7075) requires law enforcement agencies to obtain approval from the applicable governing body of a military equipment use policy as a condition precedent to taking certain actions relating to the funding, acquisition, or use of "military equipment," as the term "military equipment" is defined in California Government Code section 7070; and

(iii) A legislative body approval of a military use policy must occur by ordinance that is adopted at a regular meeting of the governing body held pursuant to Ralph M. Brown Act (Government Code § 54950 *et seq.*, the "Brown Act").

B. ORDINANCE

NOW THEREFORE, THE CITY COUNCIL FOR THE CITY OF BUENA PARK DOES
ORDIAN AS FOLLOWS:

Section 1. Based on staff reports, presentations, public comments, and all other evidence presented to the City Council in connection with this consideration of this matter, the City Council finds and declares that:

(a) Buena Park Police Department's Policy 409 – Military Equipment Use (the "Department Policy") attached hereto as Exhibit "A" meets and satisfies the requirements of subsection (d) of Section 7070 of the Government Code;

(b) The City Council is the governing legislative body of the Buena Park Police Department ("Department"), and the Department commenced the process for seeking the City Council's approval of the Department Policy by submitting a proposed copy thereof to the City Council during its public meeting held on April 26, 2022, and the proposed Department Policy has been made available for public review and inspection on the Department's internet website since April 27, 2022;

(c) The City Council has considered the Department Policy as an open session agenda item during a regular meeting and has allowed for public comment on the item in accordance with the Brown Act; and

(d) All other legal prerequisites to the City Council's consideration and approval of the Department Policy by way of this Ordinance have been duly performed.

Section 2. Based on staff reports, presentations, public comments, and all other evidence presented to the City Council in connection with this consideration of this matter, and in compliance with subsection (d)(1) of Section 7071 of the Government Code, the City Council finds and declares that:

(a) The military equipment identified in the Department Policy is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;

(b) The Department Policy and military equipment identified therein will safeguard the public's welfare, safety, civil rights, and civil liberties;

(c) To the extent the Department Policy provides for the purchase of military equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and

(d) Prior military equipment use by the Department complied with the military equipment use policy that was in effect at the time, or to the extent prior uses did not comply with the accompanying military equipment use policy then in effect, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(e) As a result of the foregoing, the City of Buena Park and Department have satisfied the conditions precedent under AB 481 to the City Council's consideration and approval of the Department Policy by way of this Ordinance.

Section 3. Based on the findings and determines set forth above, the City Council hereby approves the Department Policy as attached hereto, and in connection therewith the City Council directs and orders as follows:

(a) The Department Policy shall be made publicly available on the internet website of the Department for as long as the military equipment is available for use;

(b) The Department shall prepare and submit the annual military equipment report required by Section 7072 to the City Council within one (1) year from the date of this Ordinance, and thereafter annually for so long as the military equipment is available for use;

(c) The City Council shall review this Ordinance at least once per calendar year at a regular meeting held pursuant to the Brown Act, at which time the City Council will consider the determinations required by subsection (e)(2) of Section 7071 of the Government Code and vote on whether to renew this Ordinance.

Section 4. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the Guidelines for the California Environmental Quality Act ("Guidelines"), in that it is an ordinance of general policy and procedure and does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA"), and it has no potential for resulting in either a direct or reasonably foreseeable indirect physical charge in the environment.

Section 5. SEVERABILITY. This City Council declares that should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action or competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

Section 6. EFFECTIVE DATE; CERTIFICATION. This Ordinance shall take effect 30 days after its passage and adoption pursuant to Government Code section 36937. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted in the manner required by law.

PASS AND ADOPTED this 14th day of June, 2022, by the following called vote:

AYES: COUNCILMEMBERS: Brown, Traut, Sonne, Swift, Park

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ATTEST:


City Clerk




Mayor

I, Adria M. Jimenez, MMC, City Clerk of the City of Buena Park, California, do hereby certify that the foregoing resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Buena Park held on the 14th day of June 2022.


City Clerk