

ORDINANCE NO. 936

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELL GARDENS, CALIFORNIA, ADOPTING A MILITARY EQUIPMENT POLICY GOVERNING THE USE OF MILITARY EQUIPMENT PURSUANT TO ASSEMBLY BILL 481

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 (creating Government Code Section 7070, et seq.), relating to the use of military equipment by California law enforcement agencies; and

WHEREAS, AB 481 became effective January 1, 2022, and is codified at Sections 7070 through 7075 of Chapter 12.8 to Division 7 of Title 1 of the California Government Code; and

WHEREAS, AB 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used; and

WHEREAS, the term “military equipment” is defined in California Government Code Section 7070; and

WHEREAS, AB 481 requires, among other things, that a law enforcement agency obtain approval of the governing body, by an ordinance adopting a military equipment use policy that includes a description of the equipment, quantity, capabilities, expected lifespan, purposes and authorized uses, fiscal impact, legal and procedural rules governing authorized uses, required training, and mechanisms to ensure compliance with the agency’s use policy, prior to taking certain actions relating to the funding, acquisition or use of military equipment, including military equipment acquired prior to January 1, 2022; and

WHEREAS, the Bell Gardens Police Department is in possession of certain items of equipment that qualify as “military equipment” under AB 481; and

WHEREAS, the Bell Gardens Police Department has prepared a proposed Military Equipment Policy, attached hereto as Exhibit “A” and incorporated herein; and

WHEREAS, pursuant to Government Code Section 7071(a)(2), if seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, the Bell Gardens Police Department was obligated to, and has met the requirement, of commencing a City Council approval process for the Military Equipment Policy no later than May 1, 2022; and

WHEREAS, the Bell Gardens Police Department made the proposed Military Equipment Policy available on the Police Department’s website for at least 30 days prior to the public meeting concerning the proposed Military Equipment Policy at issue; and

WHEREAS, as required by AB 481, the City Council determines as follows:

- (a) the military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and
- (b) the proposed Military Equipment Policy will safeguard the public's health, welfare, safety, civil rights, and civil liberties; and
- (c) 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 complied with the applicable equipment use policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses did not comply with the accompanying Military Equipment Policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance; and

WHEREAS, as further required by Government Code Section 7071(a)(2), if the City Council does not approve the continuing use of military equipment, including by adoption pursuant to a Military Equipment Policy, within 180 days of submission of the proposed Military Equipment Policy to City Council, the Bell Gardens Police Department shall cease its use of the military equipment until it receives the approval of City Council in accordance with this Ordinance; and

WHEREAS, the Military Equipment Policy and supporting information must be approved by the governing body by ordinance, and reviewed annually; and

WHEREAS, the City Council of the City of Bell Gardens, having received the information required under AB 481 regarding the Bell Gardens Police Department's use of military equipment as defined in said law, deems it to be in the best interest of the City to approve the Military Equipment Policy as set forth herein.

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

SECTION 1. Recitals. The recitals above are true and correct and incorporated herein by reference.

SECTION 2. Approval of Military Equipment Policy. The City Council, having received the information required under AB 481 regarding the Bell Gardens Police Department's use of military equipment as defined in said law, deems it to be in the best interest of the City to and hereby approves the Military Equipment Policy attached hereto as Exhibit "A." The Military Equipment Policy shall govern the approval, acquisition, use and reporting of military equipment by the Bell Gardens Police Department.

SECTION 3. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. This Ordinance is also exempt under CEQA Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect

on the environment.

SECTION 4. Uncodified Ordinance. This Ordinance shall not be codified in the Bell Gardens Municipal Code unless and until the City Council so ordains.

SECTION 5. 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, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it 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 6. Effective Date. This Ordinance shall take effect thirty (30) days after its final passage.

SECTION 7. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance, causing it to be posted as required by law, and it shall be effective thirty (30) days after its adoption.

PASSED, APPROVED and ADOPTED this 14th day of August, 2023.

THE CITY OF BELL GARDENS

Francis de Leon Sanchez, Mayor

APPROVED AS TO FORM:

ATTEST:

Stephanie Vasquez
City Attorney

Daisy Gomez
City Clerk

I, DAISY GOMEZ, City Clerk of the City of Bell Gardens, hereby CERTIFY that Ordinance No. 936 was introduced and placed upon its first reading at a regular meeting of the Bell Gardens City Council held on Monday, July 24, 2023, and that thereafter said ordinance was duly adopted at a regular meeting of the Bell Gardens City Council held on Monday, August 14, 2023 and was approved and passed by the following vote:

AYES: Council Members Barcena, Pulido; Mayor Pro Tem Chavez; Mayor De Leon Sanchez
NOES: None
ABSTAIN: None
ABSENT: None

EXHIBIT A - MILITARY EQUIPMENT POLICY

