

ORDINANCE NO. __

AN ORDINANCE OF THE CITY OF BEAUMONT FOR THE ADOPTION OF A MILITARY EQUIPMENT USE POLICY, OTHERWISE REFERRED TO HEREIN AS A SPECIALIZED POLICE EQUIPMENT USE POLICY, PURSUANT TO ASSEMBLY BILL 481 AND GOVERNMENT CODE §7070 FOR BEAUMONT POLICE DEPARTMENT

THE CITY COUNCIL OF THE CITY OF BEAUMONT HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings. The acquisition of military equipment, otherwise referred to herein as specialized police equipment or equipment, and its deployment in our communities impacts the public's safety and welfare, may increase risk of civilian deaths, may pose risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. The public has a right to know about any funding, acquisition, or use of equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how this equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input. Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public's welfare, safety, civil rights, and civil liberties before this equipment is funded, acquired, or used. The lack of a public forum to discuss the acquisition of this equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

The City Council finds that the Use Policy will apply to specialized police equipment (military equipment) acquired prior to January 1, 2022, and will provide the public with the highest, industry leading standards of public safety, mitigating damages and injuries to both the public and law enforcement personnel. The City Council also finds that the Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

Section 2. Purpose. To establish a funding, use and acquisition policy that is developed with consideration of the public's concerns about safety, civil rights and the public's welfare. On September 30, 2021, California Governor Gavin Newsom signed AB 481, which became effective January 1, 2022. AB 481 identifies certain specialized law enforcement equipment as 'military equipment' and requires oversight from the City Council for purchase and use of what the bill has deemed 'military equipment.' The law requires the Beaumont Police Department to create a Use Policy that has been adopted by the City Council after holding public meetings to seek the public's input.

Section 3. Authority. This ordinance is adopted pursuant to AB 481, codified at Chapter 12.8 to Division 7 of Title 1 of the Government Code commencing with §7070. These statutes provide for funding, acquisition, and use of 'military equipment,' otherwise referred to as specialized police equipment, for law enforcement agencies throughout the state of California.

Section 4. CEQA. The City Council hereby finds and determines that adoption of this ordinance is not a project within the meaning of section 15378 of the Guidelines for Implementation of the California Environmental Quality Act ("CEQA Guidelines") because it has no potential for resulting in physical change in the environment, either directly or ultimately. The City Council also

finds the approval of this ordinance is exempt under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this ordinance may have a significant effect on the environment

Section 5. Definitions. As used in this ordinance, the following terms shall have the following meanings:

A. "Governing Body" means the elected body that oversees a law enforcement agency. In this case, the governing body means the City Council of the City of Beaumont.

B. "Law Enforcement Agency" means a police department.

C. "Public Meetings/Public Hearings" means regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

D. "Military Equipment" means the following:

- (1) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
- (3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- (4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- (5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- (6) Weaponized aircraft, vessels, or vehicles of any kind.
- (7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
- (8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
- (9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

- (10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections §30510 and §30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
- (11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.
- (13) Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD).
- (14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.
- (15) Any other equipment as determined by a governing body or a state agency to require additional oversight.
- (16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

E. “Military Equipment Use Policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all the following:

- (1) Description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
- (2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
- (3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- (4) The legal and procedural rules that govern each authorized use.
- (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

- (6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
- (7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

F. "State agency" means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

G. "Type" means each item that shares the same manufacturer model number.

Section 6. Use Policy.

A. The Use Policy submitted for approval shall include:

- (1) A description of each type of equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
- (2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of equipment.
- (3) The fiscal impact of each type of equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- (4) The legal and procedural rules that govern each authorized use.
- (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Use Policy.
- (6) The mechanisms to ensure compliance with the equipment Use Policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
- (7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of equipment, and how the law enforcement

agency will ensure that each complaint, concern, or question receives a response in a timely manner.

B. This Ordinance approves:

- (1) Beaumont Police Department's Policy 709 Military Equipment attached hereto as Attachment A and may be amended in accordance with this ordinance.

Section 6. Compliance. The City Council shall determine, based on the annual equipment report submitted pursuant to Government Code §7072, whether each type of equipment identified in that report has complied with the standards for approval set forth as follows:

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

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

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

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

If the City Council determines that a type of equipment identified in that annual equipment report has not complied with the standards for approval set forth above, the City Council shall either disapprove a renewal of the authorization for that type of equipment or require modifications to the Use Policy in a manner that will resolve the lack of compliance.

Section 7. Annual Renewal. The City Council shall annually review this ordinance during a public hearing and either disapprove a renewal of the authorization for a type, as defined, of equipment or amend the equipment Use Policy if it determines, based on an annual equipment report prepared by the law enforcement agency, as provided, that the equipment does not comply with the above-described standards for approval.

Section 8. Severability. If any sentence, word, phrase, section or provision of this ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this ordinance.

Section 9. Publication and Certification. The City Clerk shall cause this ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance, and shall cause this ordinance and certification, together with proof of publication, to be entered in the book of ordinances of the Council of this City.

Section 10. Effective Date. This ordinance shall take effect thirty-one days after its adoption.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Beaumont, California, approves an amendment to the City Code.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Beaumont, California, held on the _____ day of _____ 2022, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Beaumont, California, held on the _____ day of _____, 2022.

AYES:
NOES:
ABSENT:
ABSTAIN:

Lloyd White, Mayor

Attest: _____
Steven Mehlman, City Clerk

Approved as to form:

John O. Pinkney, City Attorney

Attachment A

The Beaumont Police Department – Policy Manual
Policy 709 Military Equipment