

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING THE GARDEN GROVE POLICE DEPARTMENT MILITARY EQUIPMENT USE POLICY PURSUANT TO GOVERNMENT CODE 7071 AND RESCINDING ORDINANCE NO. 2935.

City Attorney Summary

This Ordinance adopts the Garden Grove Police Department Military Equipment Use Policy pursuant to Government Code 7071 and replaces Ordinance No. 2935, which provided the initial approval of the Department's Military Equipment Use Policy.

WHEREAS, the mission of the Garden Grove Police Department (Department) is to provide the highest quality police services to the communities it serves; and

WHEREAS, the Department values transparency and public input, and welcomes open dialogue about its practices and operations; and

WHEREAS, the preservation and sustainability of public safety, civil rights, and officer safety is paramount; and

WHEREAS, the Department responds to a wide variety of critical incidents, instances of civil unrest, and life and death situations, and operates in numerous unpredictable, dynamic environments; and

WHEREAS, a variety of equipment options is needed for safe and effective resolution of those situations; and

WHEREAS, each situation is evaluated by incident commanders or supervisors who, based on circumstances and Department directives, determine which equipment should be used; and

WHEREAS, the Department's diverse catalogue of military equipment, as defined in state law, and associated training gives police officers the confidence and capability to deescalate volatile situations, enhance the safety of the public and officers, and bring critical incidents to a safe resolution; and

WHEREAS, from time to time, the Department may be asked to assist or need to be assisted by other law enforcement agencies, which may include use of military equipment, as defined in state law; and

WHEREAS, partnerships with other law enforcement agencies are an integral part of maintaining the continuity of public safety within the region; and

WHEREAS, Assembly Bill 481 (AB 481) became effective on January 1, 2022;
and

WHEREAS, AB 481 defines military equipment in Government Code section 7070(c) to include a wide range of equipment as described in the Department's Military Equipment Policy 706; and

WHEREAS, AB 481 requires the Department to obtain the approval of the City Council by an ordinance adopting its Policy 706 prior to requesting military equipment from the federal government, seeking funds for military equipment, including grants and donations, acquiring military equipment, collaborating with another law enforcement agency in the use of military equipment in Garden Grove, using any new or existing military equipment in a manner not previously approved by the City Council, or entering into an agreement for funding, receipt, acquisition, use of, or collaboration in the use of military equipment; and

WHEREAS, to promote public safety, civil rights, and officer safety, the Department desires to continue using, seeking funding for, acquiring, and collaborating, when necessary, with other law enforcement agencies, in the use of the military equipment described in its Policy 706; and

WHEREAS, on June 14, 2022, the Council adopted Ordinance No. 2935 approving the Department's initial Military Use Policy which was, at that time, identified as General Order 2.29 and which is substantively the same as Policy 706; and

WHEREAS, the Department has presented its annual report regarding the Department's use of military equipment to the Council and the Council finds that the annual report meets the requirements of Government Code section 7072; and

WHEREAS, the Council has examined the Department's Policy 706 and finds that the Police Department has submitted all information described in Government Code section 7070(d) and 7072(a), enabling the City Council to make the findings in this ordinance; and

WHEREAS, pursuant to Government Code section 7071(d), the City Council finds that the military equipment described in Policy 706 is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and

WHEREAS, pursuant to Government Code section 7071(d), the City Council further finds that Policy 706 will safeguard the public's welfare, safety, civil rights, and civil liberties; and

WHEREAS, pursuant to Government Code section 7071(d), the City Council further finds that continued use of existing military equipment and purchase of military equipment described in Policy 706 is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and

WHEREAS, pursuant to Government Code section 7071(d), the City Council further finds that the Department will ensure use of existing military equipment described in Policy 706 will comply with the policy in the future; and

WHEREAS, the Department's Policy 706 has been prepared as its proposed military equipment use policy, and it has been published on the Garden Grove Police Department's internet website since June 2022.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The foregoing recitals are hereby incorporated in full and adopted as the City Council's findings pertaining to the Garden Grove Police Department's Military Equipment Use Policy.

SECTION 2: Based on the above recitals and findings, and the information provided to the City Council at the public meeting, the City Council determines that Policy No. 706 of the Garden Grove Police Department complies with standards for approval under Government Code section 7071:

1. The identified military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. Policy No. 706 will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. The purchase and use of the identified military equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. All military equipment use prior to the adoption of Policy No. 706 complied with applicable Department policy in effect at that time, and adoption of Policy No. 706 will ensure future compliance.

SECTION 3: Garden Grove Police Department Policy No. 706 pertaining Military Equipment, establishing the Department's Military Equipment Use Policy is hereby approved and adopted.

SECTION 4: The City Council approves seeking funds for military equipment described in Policy No. 706, including grants and donations, acquiring military equipment described in Policy No. 706, collaborating as needed with another law enforcement agency in the deployment or use of military equipment in Garden Grove or Orange County, using existing military equipment as described in Policy No. 706, and soliciting or entering into an agreement for funds, acquisition, use of, or collaboration for use of military equipment described in Policy No. 706.

SECTION 5: That this approval is not intended to and shall not supersede existing procedures to seek approval for the appropriation and expenditure of specific funds through the bi-annual budget process, or existing processes for the approval and execution of contracts, donations, and grants.

SECTION 6: That the City Council shall review this Ordinance annually and vote whether to renew the Ordinance, consistent with the requirements of state law.

SECTION 7: This Ordinance replaces Ordinance No. 2935 and upon its adoption Ordinance No. 2935 is hereby rescinded.

SECTION 8: If any section, subsection, subdivision, sentence, clause, phrase, word, 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, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 9: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

PASSED AND ADOPTED by the City Council this ____ day of _____, 2023, by the following vote:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

Mayor

ATTEST:

City Clerk