

## **ORDINANCE NO. 1326**

### **AN UNCODIFIED ORDINANCE OF THE CITY OF FOLSOM APPROVING THE FOLSOM POLICE DEPARTMENT'S MILITARY EQUIPMENT USE POLICY IN COMPLIANCE WITH AB 481**

The City Council of the City of Folsom does hereby ordain as follows:

#### **SECTION 1 PURPOSE**

The purpose of this ordinance is to authorize the Folsom Police Department's acquisition and use of Military Equipment through approval of the attached Military Equipment Use Policy in accordance with AB 481 (Government Code sections 7070 through 7072.)

#### **SECTION 2 POLICY**

The proposed Military Equipment Use Policy is attached to this Ordinance as Exhibit A.

#### **SECTION 3 FINDINGS**

- A. On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of "military equipment" by law enforcement agencies.
- B. Assembly Bill 481, codified at Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval from the applicable governing body, by an ordinance adopting a "military equipment" use policy, at a regular meeting held pursuant to open meeting laws, before taking certain actions related to the funding, acquisition, or use of "military equipment".
- C. The term "military equipment" is defined in Government Code section 7070.
- D. Assembly Bill 481 allows a law enforcement agency's governing body to approve the funding, acquisition, or use of "military equipment" within its jurisdiction only if it makes specified determinations.
- E. Once approved, the Folsom Police Department's Military Equipment Use Policy will be contained in the Folsom Police Department's Policy Manual and identified as Policy 707- City Council Military Equipment Approval.
- F. The proposed Military Equipment Use Policy was published on the Folsom Police Department's public website on March 25 2022.
- G. The proposed Military Equipment Use Policy was presented to City Council on May 10, 2022.

- H. The proposed Military Equipment Use Policy meets the requirements of Government Code section 7070, subdivision (d).

#### **SECTION 4 DETERMINATIONS**

Based on the information presented to the City Council at the public meeting on May 10, 2022, and the findings above, the City Council makes the following determinations:

1. The Military Equipment identified in the proposed Military Equipment Use Policy, attached hereto as Exhibit A, is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
2. The proposed Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. The piece of Military Equipment proposed to be purchased this year is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safety.
4. Prior Military Equipment use complied with applicable policies. The Folsom Police Department did not have a Military Equipment Use Policy in effect before the date of this ordinance, but the other applicable policies were followed.
5. The proposed Military Equipment Use Policy, attached hereto as Exhibit A, is approved and adopted.

#### **SECTION 5 NO MANDATORY DUTY OF CARE**

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care toward persons or property within or without the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

#### **SECTION 6 SEVERABILITY**

If any section, subsection, sentence, clause, or phrase in this Ordinance or the attached policy or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or the attached policy or any part thereof. The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

## **SECTION 7 EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on May 10, 2022 and the second reading occurred at the regular meeting of the City Council on May 24, 2022.

On a motion by Council Member \_\_\_\_\_ seconded by Council Member \_\_\_\_\_, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 24th day of May 2022, by the following roll-call vote:

**AYES:** Councilmember(s):  
**NOES:** Councilmember(s):  
**ABSENT:** Councilmember(s):  
**ABSTAIN:** Councilmember(s):

\_\_\_\_\_  
Kerri M. Howell, MAYOR

ATTEST:

\_\_\_\_\_  
Christa Freemantle, CITY CLERK