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BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA
ORDINANCE NUMBER _____

ORDINANCE TO ADD CHAPTER 10.66 "MILITARY EQUIPMENT USE POLICY" TO
TITLE 10 "PUBLIC PEACE, MORALS AND WELFARE" OF THE ORDINANCE CODE OF THE
COUNTY OF FRESNO

The Board of Supervisors of the County of Fresno hereby finds and declares the following:

WHEREAS, on September 20, 2021, Governor Gavin Newsom signed Assembly Bill (AB) 481 into law, adding Chapter 12.8, "Funding, Acquisition, and Use of Military Equipment," to Division 7 of Title 1 of the Government Code (§ 7070 through and including § 7075) relating to the use of military equipment (defined herein) by law enforcement agencies, which are a sheriff's department (the Sheriff's Office in the case of the County of Fresno), a district attorney's office, and a county probation department, and state agencies; and

WHEREAS AB 481 became effective on January 1, 2022; and

WHEREAS, the portions of AB 481 concerning law enforcement agencies are addressed in this ordinance; and

WHEREAS, the stated legislative intent of AB 481 is, among other things, for governing bodies that oversee law enforcement agencies to have in place legally enforceable safeguards, including transparency, oversight and accountability measures, before such law enforcement agencies fund, acquire, or use military equipment; and

WHEREAS, the Board of Supervisors of the County of Fresno is the governing body of each of the law enforcement agencies of the County of Fresno; and

WHEREAS, AB 481 requires law enforcement agencies to obtain approval of their applicable governing body, by adoption of a military equipment use policy by ordinance, at a regular open meeting of the governing body held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with § 54950) of Part 1 of Division 2 of Title 5 of the Government Code; the "Brown

1 Act”), prior to such law enforcement agencies engaging in certain actions covered by AB 481, such
2 as seeking funding for, acquiring, and/or using military equipment, or for continuing the use of
3 military equipment acquired prior to January 1, 2022; and

4 WHEREAS, the Probation Department has informed the Board of Supervisors that the
5 Probation Department does not have or use any military equipment; and

6 WHEREAS, prior to the Board of Supervisors taking any and all of the actions with respect
7 to this ordinance:

8 (a) The Board of Supervisors has, pursuant to AB 481, received the proposed
9 military equipment use policy for the Sheriff’s Office, as set forth in this ordinance, and the proposed
10 military equipment use policy for the District Attorney’s Office, as set forth in this ordinance, and
11 prior to the consideration of such military equipment use policies and adoption of this ordinance by
12 the Board of Supervisors, such military equipment use policies and this ordinance were on file with
13 the Clerk of the Board of Supervisors as well as available on each such law enforcement agency’s
14 internet website, as applicable, at least 30 days prior to the public hearing of the Board of
15 Supervisors concerning the military equipment at issue, and such military equipment use policies
16 and this ordinance were presented to the Board of Supervisors as an agenda item for an open
17 session of a regular meeting of the Board of Supervisors held pursuant to the Brown Act, at which
18 meeting the Board of Supervisors gave all interested members of the public, including any groups
19 or organizations, a full and fair opportunity participate in the Board of Supervisors approval process,
20 including, to be heard and to present any public comments and information either for or against
21 such military equipment use policies and this ordinance; and

22 (b) The Board of Supervisors has, pursuant to AB 481, made all of the
23 determinations that this ordinance complies with all of the standards for approval under
24 Government Code § 7071, subdivision (d)(1), as set forth in this ordinance.

25 WHEREAS, AB 481 requires that in order to facilitate public participation, any proposed or
26 final military equipment use policy of a law enforcement agency shall be made publicly available
27 on the internet website of the relevant law enforcement agency for as long as the military equipment
28 is available for use; and

1 Section 10.66.070 – Approval of Annual Budget Subject to Requirements of this Chapter

2 Section 10.66.080 – Renewal of this Ordinance

3 Section 10.66.010 – Title

4 This chapter shall be known as the Military Equipment Use Policy.

5 Section 10.66.020 – Purpose.

6 A. The purpose of this chapter is to provide the Board of Supervisors' approval of the
7 funding, acquisition, and/or use of military equipment, including continuation of the use of military
8 equipment acquired prior to January 1, 2022, by each law enforcement agency under its then-
9 current military equipment use policy as well as such law enforcement agency's public reporting
10 requirements.

11 B. A law enforcement agency's lack of military equipment at any time shall not prohibit
12 such law enforcement agency from subsequently funding, acquiring, and/or using military
13 equipment, under this chapter, or the Board of Supervisors from subsequently approving such law
14 enforcement agency's proposed or subsequently existing military equipment use policy under this
15 chapter.

16 Section 10.66.030 – Definitions

17 A. "Law enforcement agency" means any of the following, as applicable, and law
18 enforcement agencies mean all of the following, collectively, under this chapter:

- 19 1. The Sheriff's Office of the County of Fresno.
- 20 2. The District Attorney's Office of the County of Fresno.
- 21 3. The Probation Department of the County of Fresno, provided however, subject to
22 section 10.66.020, the Probation Department of the County of Fresno does not fund, have, or
23 use any military equipment, and therefore, notwithstanding anything to the contrary in this
24 chapter, so long as such condition exists, the requirements under this chapter for a law
25 enforcement agency shall not be imposed upon the Probation Department of the County of
26 Fresno.

27 B. "2022-23 military equipment use policies" mean the 2022-23 Military Equipment Use
28 Policy for the Sheriff, entitled Fresno County Sheriff's Office, Assembly Bill 481 Funding,

1 Acquisition, and Use of Military Equipment Policy, dated October 27, 2022, and the 2022-23 Military
2 Equipment Use Policy for the District Attorney's Office, entitled Fresno County District Attorney's
3 Office, Assembly Bill 481 Funding, Acquisition, and Use of Military Equipment Policy, dated May
4 24, 2023, which are on file with the Clerk of the Board of Supervisors, each as approved by the
5 Board of Supervisors under this chapter.

6 C. All other terms used in this chapter, which are defined in Government Code § 7070, shall
7 have the same meaning given to them in Government Code § 7070, or any amended or successor
8 provision thereof that may be enacted after the adoption of or any amendment to this chapter.

9

10 Section 10.66.040 – Military Equipment Use Policies – Determinations, Approvals, and Public
11 Access

12 A. The Board of Supervisors hereby determines that the 2022-23 military equipment use
13 policies comply with all of the following standards for approval under Government Code § 7071,
14 subdivision (d)(1):

15 1. The military equipment identified in the 2022-23 military equipment use policies is
16 necessary because there is no reasonable alternative that can achieve the same objective
17 of Sheriff's deputy or District Attorney's investigator safety, as applicable, and civilian safety;

18 2. The 2022-23 military equipment use policies will safeguard the public's welfare,
19 safety, civil rights, and civil liberties; and

20 3. If purchasing the equipment, the equipment is reasonably cost effective compared
21 to available alternatives that can achieve the same objective of Sheriff's deputy or District
22 Attorney's investigator, safety, as applicable, and civilian safety; and

23 4. Prior military equipment use by the Sheriff's Office and the District Attorney's Office
24 complied with their respective military equipment use policy that was in effect at the time,
25 or if prior uses did not comply with the 2022-23 military equipment use policies, as
26 applicable, corrective action has been taken to remedy nonconforming uses and ensure
27 future compliance.

28 //

1 Based on all of such determinations by the Board of Supervisors, (i) the Board of
2 Supervisors hereby approves the 2022-23 military equipment use policies, and (ii) to the extent that
3 the 2022-23 military equipment use policies, or any portion thereof, have existed prior to such
4 approval of the Board of Supervisors, the Board of Supervisors hereby ratifies such military
5 equipment use policies, and all of the military equipment that has been funded, acquired, and/or
6 used thereunder.

7 B. Each law enforcement agency shall make its military equipment use policy, which is
8 approved by the Board of Supervisors under this chapter, accessible to the public through the front
9 page of such law enforcement agency's internet website including, but not limited to, by way of a
10 point of access such as an icon, link, list, or drop down list, which includes in such point of access
11 the phrase "military equipment use policy."

12 The Sheriff's Office internet website is located at:

13 www.fresnosheriff.org

14 The District Attorney's internet website is located at:

15 <https://www.co.fresno.ca.us/departments/district-attorney>

16 Provided however, if the Sheriff's Office or the District Attorney's Office replace either such
17 internet website, as applicable, with a new internet web site, the new internet website shall be used
18 by the Sheriff's Office or the District Attorney's Office, as applicable, and the Board of Supervisors
19 will amend this chapter to set forth the location of such new internet web site as soon as is
20 practicable under the then-current circumstances.

21 Section 10.66.050 – Military Equipment Coordinators

22 A. The Sheriff and the District Attorney each shall designate a member of his or her
23 respective law enforcement agency to act as the military equipment coordinator of each such law
24 enforcement agency.

25 B. The military equipment coordinator is in charge of the military equipment program
26 of his or her respective law enforcement agency and shall report to the Operations Support Bureau
27 Commander of the law enforcement agency. The responsibilities of the military equipment
28 coordinator include:

1 1. Acting as liaison between his or her respective law enforcement agency and
2 the Board of Supervisors, as well as any other law enforcement agency, for matters related
3 to the requirements of this ordinance.

4 2. Identifying equipment that qualifies as military equipment in the then-current
5 possession of his or her respective law enforcement agency, or the equipment such law
6 enforcement agency intends to acquire that requires approval by the Board of Supervisors.

7 3. Conducting an inventory of all military equipment of his or her respective law
8 enforcement agency at least annually.

9 4. Collaborating with any other agency that may use military equipment within
10 the jurisdiction of his or her respective law enforcement agency.

11 5. Preparing for, scheduling, and coordinating the annual community
12 engagement meeting under Section 10.66.060.C. of this chapter, to include:

13 i. Publicizing the meeting.

14 ii. Providing responses to any public questions regarding the law enforcement
15 agency's funding, acquisition, and use of equipment.

16 6. Preparing the annual military equipment report required under Section
17 10.66.060.B. of this chapter for submission to the department head of his or her respective
18 law enforcement agency and ensuring that the report is made available on such law
19 enforcement agency's internet website as required under Section 10.66.060.B. of this
20 chapter.

21 7. Establishing the written procedure for a person or organization to register a
22 complaint or concern, or how that person or organization may submit a question about the
23 use of a type of military equipment, and how the law enforcement agency will respond in a
24 timely manner.

25 Section 10.66.060 – Annual Reporting

26 A. Each law enforcement agency department head or his or her designee shall submit
27 to the Board of Supervisors an annual military equipment report, which includes all information
28 required by Government Code § 7072, subdivision (a), for each type of military equipment that has

1 been approved by the Board of Supervisors within one year of adoption of this ordinance, and
2 annually thereafter for as long as the military equipment is available for use.

3 B. Each law enforcement agency department head or his or her designee shall also make
4 each annual military equipment report required by this Section 10.66.060 publicly available on the
5 law enforcement agency's website, which is referenced in Section 10.66.040.B. of this chapter, for
6 as long as the military equipment is available for use.

7 C. Within 30 days of submitting and publicly releasing the annual military equipment report
8 pursuant to this Section 10.66.060, each law enforcement agency shall hold at least one well-
9 publicized and conveniently located community engagement meeting, at which the general public
10 may discuss and ask questions regarding the annual military equipment report and the law
11 enforcement agency's funding, acquisition, or use of military equipment.

12

13 Section 10.66.070 – Approval of Annual Budget Subject to Requirements of this Chapter

14 Upon approval of the law enforcement agency's annual budget by the Board of Supervisors,
15 authority to replace then-existing military equipment and/or replenish related supplies shall be at
16 the discretion of the law enforcement agency, subject to the requirements of this chapter and any
17 other County ordinances, policies, and guidelines for the acquisition of equipment and supplies.

18

19 Section 10.66.080 – Renewal of this Ordinance

20 A. The Board of Supervisors shall annually review this ordinance and, subject to
21 Section 10.66.080.B, vote on whether to renew this ordinance at a regular meeting held pursuant
22 to the Brown Act.

23 B. The Board of Supervisors shall determine, based on the annual military equipment
24 report submitted by each law enforcement agency to the Board of Supervisors pursuant to Section
25 10.66.060.A. of this chapter, whether each type of military equipment identified in that report has
26 complied with the standards for approval under Government Code § 7071, subdivision (d)(1); and
27 if the Board of Supervisors determines that a type of military equipment identified in such annual
28 military equipment report has not complied with such standards for approval, the Board of

1 Supervisors shall either disapprove a renewal of the authorization for that type of military equipment
2 or require modifications to the military equipment use policy in a manner that will resolve the lack
3 of compliance.

4

5 **Section 2.** This ordinance shall take effect on the 30th day after final adoption.

6

7 THE FOREGOING, was passed and adopted by the following vote of the Board of Supervisors of
8 the County of Fresno this _____ day of _____, 2023, to wit:

9 AYES:

10 NOES:

11 ABSENT:

12 ABSTAINED:

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14

Sal Quintero, Chairman of the Board of Supervisors
of the County of Fresno

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17 **ATTEST:**

18 Bernice E. Seidel
19 Clerk of the Board of Supervisors
County of Fresno, State of California

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By: _____

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Deputy

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FOR ACCOUNTING USE ONLY:

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Fund: 0001

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Subclass: 10000

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ORG: 31113360

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Account: 7295

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