

ORDINANCE NO. 3141

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, ADOPTING A POLICY GOVERNING THE USE OF MILITARY EQUIPMENT.

THE CITY COUNCIL OF THE CITY OF WHITTIER DOES HEREBY FIND AND RESOLVE AS FOLLOWS:

**WHEREAS**, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481"), adding Chapter 12.8, "Funding, Acquisition and Use of Military Equipment", to Division 7 of Title 1 of the Government Code (sections 7070 – 7075), relating to the use of military equipment by California law enforcement agencies;

**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;

**WHEREAS**, the Whittier Police Department possesses certain equipment that qualifies as "military equipment" under AB 481 and intends to acquire additional military equipment;

**WHEREAS**, AB 481 requires enforcement agencies possessing and using such qualifying equipment to prepare a publicly released, military equipment use policy document covering authorized use and acquisition of such equipment;

**WHEREAS**, the policy must be approved by the City Council by ordinance, and reviewed annually thereafter; and

**WHEREAS**, the military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the objectives of officer and civilian safety;

**WHEREAS**, the proposed Military Equipment Use Policy ("Policy") will safeguard the public's health, welfare, safety, civil rights, and civil liberties;

**WHEREAS**, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safety;

**WHEREAS**, 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 use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance;

**WHEREAS**, the Police Department has submitted the proposed Policy to the City Council and has made those documents available on the Police Department's website for at least 30 days prior to the public hearing concerning the military equipment at issue;

**WHEREAS**, the Policy satisfies the requirements of Government Code Section 7070(d);

**WHEREAS**, the City Council finds it to be in the best interest of the City to and hereby does approve the Military Equipment Policy; and

**WHEREAS**, all legal prerequisites prior to the adoption of this Ordinance have occurred.

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

**Section 1: Recitals.** The City Council finds that all the above statements are correct.

**Section 2: Policy.** (a) The Military Equipment Policy is hereby adopted and shall govern the use of military equipment by the Whittier Police Department.

(b) The Policy shall be made publicly available on the Police Department's website for as long as the military equipment is available for use or as otherwise ordained by the City Council.

(c) The Police Department shall submit an annual military equipment report to the City Council containing the information required by Government Code Section 7072 and the City Council shall thereafter determine whether each type of military equipment identified therein complied with the standards for approval set forth in Government Code Section 7071(d).

(d) To the extent required by applicable law, the City Council shall on an annual basis and at a regular meeting thereof review this ordinance and vote on whether to renew it pursuant to Government Code Section 7071(e)(2).

(e) The definitions set forth in Government Code section 7070 shall apply to this ordinance. Any provision of state law referred to herein shall mean and include any amended or successor provision thereof.

**Section 3: CEQA.** Adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA) because Section 15378(b)(2) of the CEQA Guidelines states a "project" subject to CEQA excludes "continuing maintenance activities, such as purchases of supplies, personnel-related actions, general policy and procedure making." Moreover, Section 15061 (b)(3) (General Rule) exempts this ordinance from CEQA because it can be seen with certainty that there is no possibility that the passage of this Ordinance will have a significant effect on the environment.

**Section 4: Inconsistencies.** Any provision of the Whittier Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

**Section 5: Uncodified Ordinance.** This Ordinance shall not be codified in the Whittier Municipal Code unless and until the City Council so ordains.

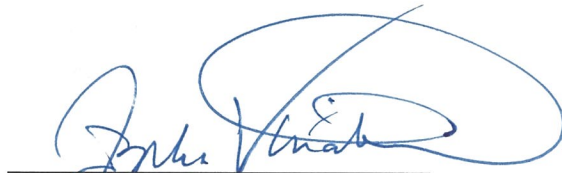
**Section 6: Severability.** If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, state, or federal law, regulation, or codes dealing with life safety factors.

**Section 7: Effective Date.** This Ordinance shall become effective thirty (30) days following from its adoption.

**Section 8. Future Amendments.** If the City Council desires in the future to amend the Policy approved by this ordinance, to the extent that it is lawful at the time to do so, such policy amendment may be accomplished by either ordinance or resolution, notwithstanding that the policy initially adopted the Policy via ordinance.

**Section 9: Certification.** The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be posted or published in the manner as required by law.

APPROVED AND ADOPTED on this 11<sup>th</sup> day of October 2022.




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JOSEPH A. VINATIERI, Mayor

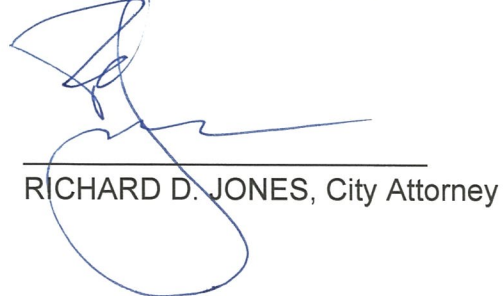
ATTEST:




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RIGOBERTO GARCIA JR., City Clerk

APPROVED AS TO FORM:




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RICHARD D. JONES, City Attorney

Date: 10/17/2022

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 3141 was introduced on the 27<sup>th</sup> day of September 2022, and was adopted by the City Council of the City of Whittier at the regular meeting held on the 11<sup>th</sup> day of October 2022, by the following vote:

AYES: 5 Council Members: Vinatieri, J. Martinez, Dutra, Warner, O. Martinez  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

  
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RIGOBERTO GARCIA JR., City Clerk

(seal)