

UNCODIFIED EMERGENCY ORDINANCE NO. 4254

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF HUNTINGTON BEACH ADOPTING A
MILITARY EQUIPMENT USE POLICY CONSISTENT WITH
ASSEMBLY BILL NO. 481, AND MAKING A FINDING OF
EXEMPTION UNDER CEQA

WHEREAS, the City of Huntington Beach is a charter city and municipal corporation duly created and existing under a charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs.

WHEREAS, the California Legislature passed, and the Governor signed, Assembly Bill 481 (AB 481), which requires City Council approval, via adoption of a “military equipment use policy” by ordinance, prior to the funding, acquisition, or use of “military equipment,” as defined in the Legislation, by May 1, 2022.

WHEREAS, the Huntington Beach Police Department (HBPD) is in possession of certain items of equipment that qualify as “military equipment” under AB 481 and further intends to acquire and use other items of military equipment as critical tools to safeguard the public’s health, welfare, safety, civil rights, and civil liberties.

WHEREAS, the HBPD’s ability or inability to use its “military equipment” has the potential to impact the health, safety, and welfare of residents in the City, particularly as to its ability to prevent and address crime in the City. As such, and notwithstanding any argument concerning the applicability of AB 481 to charter cities, the City Council finds that there is an immediate need to adopt a military equipment use policy in order to protect the public health, safety, and welfare, and to avoid any period of time wherein the HBPD is unable to utilize its own vital resources.

WHEREAS, the HBPD has submitted and proposed a military equipment use policy consistent with AB 481, and has made the proposed policy available on the HBPD website for at least 30 days prior to the public hearing concerning the military equipment at issue.

WHEREAS, pursuant to Huntington Beach Charter section 501, the City may introduce, enact and adopt an emergency ordinance at a regular or special meeting which takes effect immediately, if passed by five affirmative votes and expires 120 days thereafter.

WHEREAS, while the HBPD has been diligently preparing the “military equipment” use policy since AB 481 was signed and has met the extensive notice provisions in the law, including a mandatory publication of the proposed policy 30 days prior to the City Council’s consideration of the policy, the Ordinance could not be made ready for hearing in time to accommodate the 30-day delay in effectiveness of a regularly-processed ordinance. If this Ordinance does not become effective prior to May 1, 2022, the HBPD may be curtailed in its ability to use less-lethal tools, and could hinder the effectiveness of the HBPD in preventing and addressing crime, which in turn would put the health, safety, and welfare of citizens at increased risk.

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

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1 Mandatory Findings. The City Council finds that:

- A. The military equipment inventoried in proposed HBPD Policy 706 attached hereto and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objectives of officer and civilian safety.
- B. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- C. The equipment is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safety.

SECTION 2. Military Equipment Use Policy Adopted. HBPD Policy 706 is hereby approved and adopted.

SECTION 3. Annual Council Review. The HBPD shall submit an annual military equipment report consistent with the information required by Government Code Section 7070 et. seq, and the City Council shall thereafter determine whether each type of military equipment therein complies with the standards for approval. The City Council shall, on an annual basis, review this Ordinance and vote on whether to renew its approval until such time that the Council approval provision required by AB 481 is amended, overturned, or revoked.

SECTION 4. CEQA. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds and determines that the Ordinance is exempt from CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment and because it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

SECTION 5. Effective Date and Term. This Ordinance is adopted as an emergency ordinance for the immediate preservation of the public peace, health and safety pursuant to Charter Section 501, and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption by a 5/7 vote of the City Council for a term of 120 days.

SECTION 6. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, 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 remainder of this ordinance and shall not affect other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. The City Council hereby declares it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Certification and Publication. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published in the manner required by law.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2022.

Mayor

ATTEST:

APPROVED AS TO FORM:

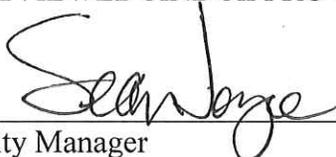
City Clerk



City Attorney

REVIEWED AND APPROVED:

INITIATED AND APPROVED:



City Manager



Chief of Police

UNCODIFIED ORDINANCE NO. 4255

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SECTION 5. Effective Date. This Ordinance shall become effective 30 days after its passage.

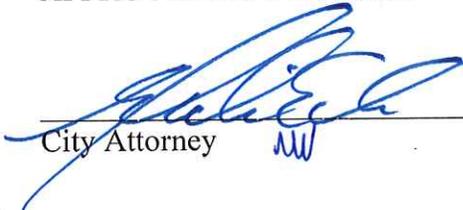
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Mayor

APPROVED AS TO FORM:



City Attorney

ATTEST:

City Clerk



REVIEWED AND APPROVED:



City Manager

INITIATED AND APPROVED:



Chief of Police