

ORDINANCE NO. 5409

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, TO
ADOPT A MILITARY EQUIPMENT USE POLICY FOR THE DISTRICT
ATTORNEY’S OFFICE PURSUANT TO ASSEMBLY BILL 481**

County Counsel Summary

This ordinance is in response to Assembly Bill (“AB”) 481, which was signed into law by Governor Gavin Newsom on September 30, 2021 and is codified at Government Code section 7070 et seq. AB 481 requires California law enforcement agencies to obtain approval of their applicable governing body, by an ordinance adopting a military equipment use policy prior to taking certain actions relating to the funding, acquisition, and/or use of military equipment. This ordinance establishes a military equipment use policy for the District Attorney’s Office. This ordinance establishes a military equipment use policy by adding the attached “Military Equipment” policy to the Monterey County District Attorney’s Office Bureau of Investigations.

The Board of Supervisors of the County of Monterey hereby ordains as follows:

SECTION 1. FINDINGS AND PURPOSE.

A. On September 20, 2021, Governor Gavin Newsom signed Assembly Bill (“AB”) 481 into law, which is codified at Government Code section 7070 et seq.

B. The legislative intent behind AB 481 is to increase the public transparency by which California law enforcement agencies fund, acquire, and/or use military equipment, as defined under AB 481.

C. AB 481 requires California law enforcement agencies to obtain approval of their applicable governing body, by an ordinance adopting a military equipment use policy prior to taking certain actions relating to the funding, acquisition, and/or use of military equipment.

D. AB 481 requires California law enforcement agencies that receive approval for a military equipment use policy to submit to the applicable governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter so long as the military equipment is available for use.

E. AB 481 requires the applicable governing body of the California law enforcement agency to annually review the military equipment use policy to either disapprove a renewal of the authorization of a type of military equipment or amend the military equipment use policy.

F. The Board of Supervisors believes that with respect to the attached Military Equipment Policy for the District Attorney's Office: 1) the identified equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; 2) the policy will serve to safeguard the public's welfare, safety, civil rights, and civil liberties; 3) in future instances in which equipment is to be purchased, the equipment will be reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and 4) corrective action has been taken, as necessary, to ensure that prior nonconforming use of military equipment is in compliance with new policies.

SECTION 2. The attached policy, titled "Military Equipment", shall be added to the Monterey County District Attorney's Office Bureau of Investigations Policy Manual.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this 28th day of November 2023 by the following vote:

AYES Supervisors Alejo, Church, Lopez, and Root Askew
NOES None
ABSENT Supervisor Adams
ASTAIN None

Motion Passed 4 to 0



Chair Luis A. Alejo
Monterey County Board of Supervisors

A T T E S T:

VALERIE RALPH
Clerk of the Board

By: Emmanuel H. Santos
Deputy Emmanuel H. Santos

APPROVED AS TO FORM:
DocuSigned by:
Kelly L. Donlon
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Kelly L. Donlon
Assistant County Counsel