

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW
REPEALING CHAPTER 2, ARTICLE IV, DIVISION I, SECTION 2.69.3 OF THE
MOUNTAIN VIEW CITY CODE AND FINDING THAT THIS ACTION IS NOT SUBJECT
TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 (“AB 481”), codified in California Government Code Section 7070 *et seq.*, relating to the use of military equipment by California law enforcement agencies; and

WHEREAS, the purpose of AB 481 is to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how “military equipment”, as that term is defined by California Government Code section 7070(c), is funded, acquired, or used by law enforcement agencies; and

WHEREAS, AB 481 requires law enforcement agencies seeking to fund, acquire or use military equipment to obtain approval from the governing body by an ordinance adopting a military equipment use policy prior to funding, acquiring or using any military equipment; and

WHEREAS, AB 481 requires the governing body to review any ordinance that it has adopted approving the funding, acquisition, or use of military equipment at least annually and vote on whether to renew the ordinance at a regular meeting; and

WHEREAS, the Mountain View Police Department is in possession of equipment that qualifies as military equipment under AB 481 and is, therefore, required to comply with AB 481’s policy adoption and renewal requirements; and

WHEREAS, on May 10, 2022, the City of Mountain View adopted Mountain View Police Department Policy 709 - Military Equipment (“Policy”) and enacted Section 2.69.3 of the Mountain View City Code approving the funding, acquisition, and use of military equipment by the Mountain View Police Department; and

WHEREAS, given the adoption and annual renewal requirements of any ordinance adopting a military equipment use policy and the fact that the military equipment use policy must include, among other things, a description of each type of military equipment, the quantity sought, its capabilities, and expected lifespan, the ordinance adopting the City’s military equipment use policy should not be part of the municipal code but should instead be by a uncodified ordinance that can be easily renewed each year with the updated policy duly attached and referenced therein; and

WHEREAS, consequently, City staff recommends that the City Council repeal Section 2.69.3 of the

Mountain View City Code and adopt an ordinance that meets the requirements of AB 481 but remains uncodified so it can be easily reviewed, revised and renewed annually; now, therefore,

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Code Amendments. Chapter 2, Article IV, Division I, Section 2.69.3 of the Mountain View City Code is hereby repealed in its entirety.

SECTION 2. CEQA. Pursuant to California Code of Regulations section 15060(c)(2), this action is not subject to the California Environmental Quality Act (“CEQA”) because it will not result in a direct or a reasonably foreseeable indirect physical change in the environment.

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

SECTION 4. Publication. Pursuant to Mountain View City Charter section 522, at least two (2) days prior to final adoption of this ordinance, the City Clerk shall post the ordinance in three (3) prominent places in the City and publish in the City’s official newspaper notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the ordinance are posted.

SECTION 5. Effective Date. Pursuant to Mountain View City Charter section 519, this ordinance shall become effective thirty (30) days after the date of its adoption.
