

URGENCY ORDINANCE NO. 26-

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES CALLING AN ELECTION AND REQUESTING THAT THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS HOLD AN ELECTION, TO BE CONSOLIDATED WITH THE NOVEMBER 3, 2026, STATEWIDE GENERAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF HERCULES A TRANSACTION AND USE (SALES) TAX OF ONE PERCENT; TO DIRECT THE COUNTY OF CONTRA COSTA ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION ON THE CITY'S BEHALF; TO DIRECT THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND TO AUTHORIZE ARGUMENTS FOR THE BALLOT MEASURE

WHEREAS, Federal and state governments favor bigger cities like San José and San Francisco, and at the same time, the State now has its own budget deficit; and

WHEREAS, Hercules can be self-reliant with locally controlled funding for residents' core services, with money that cannot be taken by the state; and

WHEREAS, Hercules long-term financial stability and accountability can be maintained; and

WHEREAS, all money raised by this measure will stay local to fund and maintain services residents rely on such as neighborhood police patrols, fast 911 response times, parks, and the youth and senior services that make Hercules a safe, well-maintained place to live -- and none of the money can be taken by the Federal Government, State or County; and

WHEREAS, the City wishes to continue to address meeting water quality health standards; and

WHEREAS, the City and its residents prioritize responsible, long-term planning; and

WHEREAS, pursuant to Resolution No. 26-030, on June 9, 2026, the City Council of the City of Hercules called and noticed a general municipal election to be consolidated with the statewide general election held on November 3, 2026 ("the Election"); and

WHEREAS, pursuant to Elections Code Section 10400 *et seq.*, two or more municipal elections called by the same governing body may be consolidated upon an order by the county board of supervisors when the governing body requests consolidation; and

WHEREAS, Elections Code Section 10002 requires the City to reimburse the County in full for the services performed upon presentation of a bill to the City by the County Elections Official; and

WHEREAS, pursuant to Revenue and Taxation Code Section 7285.9, the City of Hercules has the authority to adopt an additional local transactions and use tax; and

WHEREAS, pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council of the City of Hercules has the authority to submit ballot measures to be considered by Hercules voters at regular municipal elections; and

WHEREAS, the City Council of the City of Hercules wishes to submit a transactions and use tax ordinance, attached hereto as **Exhibit A** (“Hercules Public Safety/ Financial Stability Measure” or “the Measure”), to the voters of the City of Hercules; and

WHEREAS, the Hercules Public Safety/ Financial Stability Measure proposes a transactions and use tax at the rate of one percent (1%); and

WHEREAS, pursuant to Revenue and Taxation Code Section 7251.1, state law caps the total rate for transactions and use taxes in any county to two percent (2%); and

WHEREAS, Senate Bill 762 (“SB 762”), which has been approved by the Senate and the Assembly and has been submitted to the Governor for his signature, would authorize the City of Hercules to impose up to a one percent (1%) transactions and use tax without counting that tax against the two percent (2%) cap specified in Revenue and Taxation Code Section 7251.1; and

WHEREAS, pursuant to Government Code Sections 36934 and 36937, a city may adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety; and

WHEREAS, as set forth in more detail in the declaration of the facts constituting the urgency in Section 2 below, the City’s revenues are not adequate to sustain its current levels of service; and

WHEREAS, the Hercules Public Safety/ Financial Stability Measure is necessary for the City to maintain its current level of service.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Hercules finds and determines the forgoing recitals are true and correct and hereby adopts and incorporates them into this Ordinance.

Section 2. The City Council of the City of Hercules has the power to enact an urgency ordinance, not in conflict with general laws, through the exercise of the powers provided to cities in Article XI, Section 7, of the California Constitution, and in compliance with Government Code Sections 36934 and 36937. The adoption of this Ordinance is necessary for the immediate preservation of the public peace, health, or safety, as those terms are used in Government Code Section 36937(b), in at least the following respects:

- (a) The City of Hercules is confronting mounting structural fiscal pressures driven by inflationary cost increases, aging infrastructure, deferred maintenance obligations, rising public safety costs, and growing community needs; and

- (b) The City of Hercules is currently facing a significant structural fiscal imbalance despite implementing meaningful corrective actions, reducing non-essential spending, and pursuing operational efficiencies across departments; and
- (c) The City of Hercules continues to experience increasing pressure on essential municipal services and infrastructure systems; and
- (d) Budget constraints have impacted the City of Hercules' core public safety and administrative operations, while continued reliance on reserves to sustain ongoing services is not sustainable over the long term; and
- (e) Without the Hercules Public Safety/ Financial Stability Measure, the City of Hercules will face increasingly difficult decisions involving service reductions, delayed infrastructure investments, and diminished emergency response capacity; and
- (f) The Hercules Public Safety/ Financial Stability Measure will help the City maintain its financial stability and enhance fiscal accountability; and
- (g) Although SB 762, which will allow the City of Hercules to enact a transactions and use tax of up to one percent (1%) that will not be subject to the two percent (2%) cap in Section 7251.1 of the Revenue and Taxation Code, was approved by the Senate on January 27, 2026, and by the Assembly on July 2, 2026, it is still awaiting the Governor's signature; and
- (h) Under Section 9222 of the Elections Code, the last date to call an election for a ballot measure and to submit that measure to the County for the November 3, 2026, General Election is August 7, 2026, and therefore the City of Hercules can no longer wait for the Governor's signature and there is no longer sufficient time to adopt an ordinance on the City Council's usual schedule.

Section 3. Pursuant to the requirements of the laws of the State of California relating to general law cities, the ordinance attached hereto as **Exhibit A** shall be submitted to the voters of the City of Hercules for their consideration and approval at the consolidated statewide general election to be held on Tuesday, November 3, 2026, and the voters shall be presented with the following ballot question:

Hercules Public Safety/ Financial Stability Measure.

Shall the measure providing Hercules with locally controlled funding to maintain financial stability/general city services, such as fast 911 response; neighborhood police patrols; water quality standards; keeping public areas/parks safe/ clean; repairing deteriorating streets/potholes; and retaining/attracting local businesses, by establishing a one-cent (1%) sales tax generating approximately \$4,000,000 annually until ended by voters; requiring audits, public disclosure, and funds only for Hercules, be adopted?

_____ Yes _____ No

Section 4. The City Clerk is hereby directed to forward a copy of this Ordinance to the County Clerk for the consolidated statewide general election to be held on November 3, 2026.

Section 5. The Measure will pass only if a majority of the votes cast by electors voting on the Measure are “yes” votes and will, if passed, take precedence over any other conflicting measure receiving less votes in this election.

Section 6. Pursuant to Elections Code Section 9280, the City Council hereby directs the City Attorney to prepare an impartial written analysis of the Measure, not to exceed five hundred (500) words, showing the effect of the Measure on existing law and the operation of the Measure. The impartial analysis shall be filed by the date set for the filing of primary arguments.

Section 7. Pursuant to Elections Code Section 9282, the City Council hereby authorizes the Mayor to prepare and submit on behalf of the City Council a written argument in favor of the Measure as well as a rebuttal argument. All written arguments filed by any person in favor or against the Measure shall be accompanied by the names and signatures of the persons submitting the arguments as required by applicable law. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.

Section 8. Pursuant to Elections Code Section 9285, when the City Clerk has selected the primary arguments for and against the Measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the primary argument in favor of the Measure to the authors of the primary argument against, and copies of the primary argument against to the authors of the primary argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.

Section 9. The City of Hercules agrees that the deadline dates are as designated by the Contra Costa County Elections Official:

- (a) The last day to submit this Ordinance to place the Hercules Public Safety/ Financial Stability Measure on the ballot is August 7, 2026.
- (b) The last day for submission of primary arguments for and against the Measure shall be 5:00 p.m. on August 19, 2026.
- (c) The last day for submission of rebuttal arguments for or against the Measure shall be by 5:00 p.m. on August 24, 2026.

Section 10. Pursuant to Elections Code Section 10400 *et seq.*, the election for this Measure shall be consolidated with the statewide general election to be conducted on November 3, 2026, and that the City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418.

Section 11. The City Council hereby authorizes the City Clerk to work with the Contra Costa County Elections Official to ensure that the November 3, 2026, consolidated election is properly and lawfully conducted as provided by law and to transmit a certified copy of this Ordinance to the Contra Costa County Board of Supervisors and the Contra Costa County Elections Official.

Section 12. Pursuant to Elections Code Section 10002, the City Council requests that the Board of Supervisors of Contra Costa County permit the Contra Costa County Elections Official to provide such services as may be necessary for the holding of the consolidated election, which shall be held in all respects as if there were only one election.

Section 13. The City Council directs the City Clerk to make available in print and for public examination a copy of this Ordinance and the full text of the Measure, in accordance with California Elections Code Sections 9223 and 9295.

Section 14. The Measure would enact an ordinance to add Chapter 8-11 to the Hercules Municipal Code, which is attached hereto as **Exhibit A**. The text of the Measure, together with the City Attorney's impartial analysis, and any arguments for or against the Measure, and any rebuttal arguments, are to be mailed to all qualified electors with the ballot. In addition to other notices and publications required by law, the City Clerk shall cause the text of the Measure to be published in the official newspaper within the time required by law. The City Clerk is authorized to give such notices and to fix such times and dates as are required by law or which are appropriate to properly conduct the election.

Section 15. In all respects the election shall be held and conducted as provided for by applicable law. The City Clerk is authorized and directed to procure and furnish any official ballots, notices, printed materials, and all supplies or equipment that may be necessary in order to properly and lawfully conduct the election.

Section 16. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines") including without limitation Public Resources Code Section 21065, CEQA Guidelines Sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment and pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273 as the approval of government revenues to fund existing services. The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose and to adopt it is not a commitment to any particular action. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If any revenue from the tax is to be used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines Section 15060, review under CEQA is not required.

Section 17. Pursuant to Government Code Section 36937, this Ordinance shall become effective immediately upon its passage and adoption.

The foregoing Ordinance was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the twenty-eighth day of July 2026 by the following vote of the Council:

AYES:

NOES:

ABSENT:

Chris Kelley, Mayor

ATTEST:

Eibleis Melendez, City Clerk