

ORDINANCE NO. 547

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES ADOPTING HERCULES POLICE DEPARTMENT POLICY 709; MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE

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

WHEREAS, AB 481 requires law enforcement agencies to obtain approval of the governing body, by way of an ordinance adopting a military equipment use policy, prior to taking certain actions relating to the funding, acquisition, or use of “military equipment” as defined in Government Code section 7070; and

WHEREAS, AB 481 further requires that such a policy include certain components, including but not limited to those listed in Government Code section 7070(d); and

WHEREAS, the Hercules Police Department has reviewed Lexipol LLC’s Policy 709: Military Equipment (the “Policy”) and has found it to be in compliance with the requirements of AB 481; and

WHEREAS, the City Council has determined that the Policy complies with the requirements of AB 481 and that with respect to the Policy: (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) any required corrective action has been taken to remedy use of military equipment inconsistent with the Policy and future compliance is ensured; and

WHEREAS, approval of the Policy authorizes funding, acquisition, and use of military equipment only as allowed by the Policy and requires annual reporting and approval in accordance with the Policy; and,

WHEREAS, adoption of this Ordinance is not a project as defined by the California Environmental Quality Act (“CEQA”) because it is an organizational or administrative activity that will not result in direct or indirect physical changes to the environment pursuant to CEQA Guidelines 15378(b)(5); and,

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

SECTION 1. RECITALS. The City Council hereby incorporates the above recitals into this Ordinance by this reference.

SECTION 2. AMENDMENT. Hercules Police Department Policy 709; Military Equipment Funding, Acquisition, and Use Approved.

The City Council hereby approves City of Hercules Police Department Policy 709: Military Equipment, a copy of which is attached hereto and by this reference incorporated herein. A copy of approved Policy 709 has been added to the City's website for continuous access by the Council, staff and the public.

SECTION 3. CEQA DETERMINATION

The City Council finds that adoption of this Ordinance is not a project as defined by the California Environmental Quality Act ("CEQA") because it is an organizational or administrative activity that will not result in direct or indirect physical changes to the environment pursuant to CEQA Guidelines 15378(b)(5).

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the 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 deleted.

SECTION 5. EFFECTIVE DATE AND PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance and shall publish or post the Ordinance as required by law. This Ordinance shall be effective thirty (30) days from date of final adoption.

SECTION 6. NO CODIFICATION

This ordinance shall not be codified in the Hercules Municipal Code

THE FOREGOING ORDINANCE was passed and adopted at a regular meeting of the Hercules City Council on the 23rd day of May 2023, by the following vote:

AYES: T. Grimsley, C. Kelley, D. Bailey Vice Mayor D. Romero and Mayor Walker-Griffin

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

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ATTES



Eibleis Melendez, City Clerk

DocuSigned by:

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Alex Walker-Griffin, Mayor