

**ORDINANCE NO. 22-1446**

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH ADOPTING A MILITARY USE EQUIPMENT POLICY, IN ACCORDANCE WITH ASSEMBLY BILL 481.**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Recitals.

- A. On September 30, 2021, Governor Newsom signed into law Assembly Bill (“AB”) 481 to address the funding, acquisition, and use of military equipment, as that term is defined by Government Code section 7070(c).
- B. AB 481 requires adoption of a military use equipment policy (“Policy”) by the City Council before the Hermosa Beach Police Department (“Department”) may take action to request military equipment; seek funds (such as grants or in-kind donations) for acquiring military equipment; actually acquire military equipment, either permanently or temporarily by owning, borrowing, or leasing; collaborate with other law enforcement agencies to deploy or use military equipment in the agency’s territorial jurisdiction; use new or existing military equipment in a manner not previously subject to AB 481’s scope; solicit or respond to a proposal for, or enter into an agreement with, any person or entity to seek funds for, apply for, acquire, use, or collaborate in using military equipment; or to acquire military equipment through any other means not specifically detailed in the statute.
- C. In accordance with AB 481, the proposed Policy was made available on the website on the Department website at least thirty (30) days prior to the public hearing by the City Council to adopt the Policy.
- D. In accordance with AB 481, the Policy is on the agenda as an open session item at a regular meeting of the City Council, and public comment on the item will be allowed in accordance with the Brown Act.
- E. This Ordinance will be reviewed by City Council at least annually and based on an annual military equipment report that will be submitted to the City Council pursuant to AB 481.

**SECTION 2.** Findings. Pursuant to Government Code section 7071(d)(1), as may be amended or renumbered from time to time, the City Council hereby makes the following findings in support of its adoption of the Policy:

- A. The military equipment identified in the Policy is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- B. The proposed Policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.

- C. If the Department purchases military equipment pursuant to the Policy, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- D. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

**SECTION 3.** Adoption of the Military Equipment Policy. The City Council hereby adopts the Military Use Equipment Policy, which are all attached hereto as Exhibit “A”.

**SECTION 4.** Environmental Review. The City Council finds that adoption and implementation of this ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Hermosa Beach, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

**SECTION 6.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

**SECTION 7.** Pursuant to California Government Code section 36937, this ordinance shall take effect thirty (30) days after its final passage.

**SECTION 8.** The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Hermosa Beach’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and cause it to be published or posted in accordance with California law.

**PASSED, APPROVED and ADOPTED** this 10<sup>th</sup> day of May, 2022 by the following vote:

AYES: Councilmembers Campbell, Massey, Mayor Pro Tem Jackson, and Mayor Detoy.  
NOES: None.  
ABSTAIN: None.  
ABSENT: None.

*NO DES*

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**PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

**ATTEST:**

**APPROVED AS TO FORM:**

*Myra Maravilla*

*Michael Jenkins*

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Myra Maravilla,  
City Clerk

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Michael Jenkins,  
City Attorney

## Military Equipment

### 706.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

#### 706.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

**Governing body** – City Council of the City of Hermosa Beach ("City Council").

**Military equipment** – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this policy.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this Policy.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools. "Flashbang" grenades and explosive breaching tools, "tear gas" and pepper balls, excluding standard, service-issued handheld pepper spray.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray. (see above)
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).

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- The following projective launch platforms and their associated munitions: 40mm projectile launchers, "bean bag", rubber bullet, and specialty impact munition (SIM) weapons.
- Kinetic energy weapons and munitions.
- Any other equipment as determined by City Council to require additional oversight.

#### **706.2 POLICY**

It is the policy of the Hermosa Beach Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

#### **706.3 MILITARY EQUIPMENT COORDINATOR**

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually, and or prior to preparing the annual military equipment report. This inventory includes the aggregate cost and quantity for each type of ammunition controlled by this policy that was purchased since the submission of the previous year's annual military equipment report.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Hermosa Beach Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting, within thirty (30) days of submitting and publicly releasing an annual military equipment report. This will include:
  1. Publicizing the details of the meeting.
  2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website within thirty (30) days of submission (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner. The Military Equipment Coordinator may be used as a subject matter expert if a complaint involves the possession or use of military equipment.

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#### **706.4 MILITARY EQUIPMENT INVENTORY**

The following constitutes a list of qualifying equipment for the Department:

The Department's inventory of military equipment is attached to this policy as Exhibit "A" and is incorporated into this policy by this reference. Exhibit "A" will be updated annually during preparation for the annual equipment report, and its updated version will be replaced within this policy prior to the annual equipment report being submitted to the City Council.

#### **706.5 APPROVAL**

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

#### **706.6 COORDINATION WITH OTHER JURISDICTIONS**

Military equipment used by any member of this Department shall be approved for use in accordance with this Policy. Military equipment used by other jurisdictions that are providing mutual aid to the City of Hermosa Beach, or otherwise engaged in law enforcement operations in the City, shall comply with their respective military equipment use policies in rendering mutual aid or carrying out a law enforcement function related to a criminal matter under their investigation.

#### **706.7 ANNUAL REPORT**

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment

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approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

The annual military equipment report shall, at a minimum, include the following information:

- (a) A summary of how the military equipment was used and the purpose of its use.
- (b) A summary of any complaints or concerns received concerning the military equipment.
- (c) The results of any internal audits, any information about violations of this policy, and any actions taken in response.
- (d) The total annual cost of each type of military equipment. This will include acquisition, personnel, training, transportation, maintenance, storage, upgrades, and other ongoing costs. This will also include from what source the funds will be provided for the military equipment in the calendar year following the submission of the annual military equipment report.
- (e) The quantity possessed for each type of military equipment.
- (f) If the Department intends to acquire additional military equipment in the next year, the report will include the quantity sought for each type of military equipment.

### **706.8 COMMUNITY ENGAGEMENT**

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

### **706.9 ISSUING AUTHORITY**



Effective Date

Updated Date

W. Paul LeBaron, Chief of Police    March 28, 2022

September 11, 2024