

ORDINANCE NO. 22-____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE
ADOPTING EMERYVILLE POLICE DEPARTMENT POLICY 707: MILITARY
EQUIPMENT**

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 Emeryville Police Department has reviewed Lexipol LLC’s Policy 707: 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: (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 (although the City has no plans to seek grants of surplus property in 2022); 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 EMERYVILLE HEREBY
ORDAINS AS FOLLOWS:**

SECTION ONE. PURPOSE AND INTENT

The purpose and intent of this Ordinance is to comply with AB 481.

Ordinance No. _____

Ordinance Adopting Emeryville Police Department Policy 707: Military Equipment

City Council Meeting | July 19, 2022

Page 2 of 4

SECTION TWO. EMERYVILLE POLICE DEPARTMENT POLICY 707: MILITARY EQUIPMENT APPROVED.

The City Council hereby approves City of Emeryville Police Department Policy 707: Military Equipment, a copy of which is attached hereto and by this reference incorporated herein. A copy of approved Policy 707 has been added to the City's website for continuous access by the Council, staff and the public.

SECTION THREE. 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 FOUR. SEVERABILITY

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared severable. If, for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining section, paragraphs, clauses, or phrases.

SECTION FIVE. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code section 33693.

SECTION SIX. NO CODIFICATION

This Ordinance shall not be codified in the Emeryville Municipal Code.

Ordinance No. _____

Ordinance Adopting Emeryville Police Department Policy 707: Military Equipment

City Council Meeting | July 19, 2022

Page 2 of 4

This Ordinance was **INTRODUCED AND FIRST READ** by the City Council of the City of Emeryville at a regular meeting on Tuesday, July 19, 2022, and **PASSED AND ADOPTED** by the City Council at a regular meeting on Tuesday, September 6, 2022, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

DocuSigned by:
John Kennedy
2C934D02DB55467

CITY ATTORNEY

ATTACHMENTS

- Exhibit A – Emeryville Police Department Policy Manual
- Exhibit B – AB 481 Military Equipment Inventory