

**CITY OF CAPITOLA**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA PURSUANT TO GOVERNMENT CODE SECTION 7071 RENEWING CHAPTER 2.60 OF THE CAPITOLA MUNICIPAL CODE ENTITLED MILITARY EQUIPMENT USE ORDINANCE, CAPITOLA MILITARY EQUIPMENT USE POLICY 709, AND FINDING THAT THE ANNUAL MILITARY EQUIPMENT REPORT COMPLIES WITH THE STANDARDS OF APPROVAL SET FORTH IN GOVERNMENT CODE SECTION 7071(d)**

**WHEREAS**, effective January 1, 2022, Assembly Bill 481 (AB 481) (Government Code sections 7071 *et. seq.*) requires legislative bodies to adopt ordinances approving military equipment use policies, which are required before law enforcement agencies can continue to engage in activities related to the use of military equipment; and

**WHEREAS**, the Capitola Police Department has “military equipment” in its inventory and engages in critical public safety activities in coordination with other jurisdictions on police related matters, including safeguarding the public’s welfare and safety, working on regional task forces, conducting training exercises, providing mutual aid and responding to emergencies; and

**WHEREAS**, in exigent circumstances, there is sometimes the need to deploy military equipment from or lend military equipment to other local jurisdictions to promote the safety and security of community members; and

**WHEREAS**, on April 14, 2022, the City Council adopted Ordinance No. 1051, adding Chapter 2.60 to the Capitola Municipal Code, which approved Military Equipment Use Policy 709 for police services, and included a report (inventory) of the City’s military equipment; and

**WHEREAS**, Capitola Military Equipment Use Policy 709 sets forth a military equipment use policy that is consistent with the Police Department’s current practices, complies with all the requirements of the Government Code and the Capitola Municipal Code, will continue to ensure ongoing regulation and compliance with the law going forward and will continue to provide a means of community engagement and transparency regarding use of military equipment by the Department; and

**WHEREAS**, the Government Code and the Capitola Municipal Code require the City Council to conduct an annual review of the Military Equipment Use Ordinance and Policy and vote on whether to the renew the Ordinance and Policy; and

**WHEREAS**, the City Council has conducted its annual review of the Military Equipment Use Ordinance contained in Chapter 2.60 of the Capitola Municipal Code as well as its annual review of Capitola Military Equipment Use Policy 709; and

**WHEREAS**, the City Council has also conducted its annual review of the military equipment report prepared and submitted pursuant to section 7072 of the Government Code and has considered the requirements contained in section 7071(d) of the Government Code;

**WHEREAS**, public notice has been provided in accordance with applicable law; and

**WHEREAS**, the City Council has reviewed and desires to renew Chapter 2.60 of the Capitola Municipal Code and the Capitola Military Equipment Use Policy 709.

**NOW, THEREFORE**, the City Council of the City of Capitola, California, **DOES HEREBY FIND** as follows:

Section 1. All of the statements and facts set forth above in the recitals are true and correct and incorporated herein by this reference. The recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken herein.

Section 2. The City Council finds that Chapter 2.60 of the Capitola Municipal Code and Capitola Military Equipment Use Policy 709 are exempt from the provisions of the California Environmental Quality Act ("CEQA") because they will not result in a direct or reasonably foreseeable indirect physical change in the environment and are not a "project," as defined in Section 15378 of the CEQA Guidelines.

Section 3. The City Council has reviewed Chapter 2.60 of the Capitola Municipal Code and hereby renews that Chapter without change.

Section 4. The City Council has reviewed Capitola Military Equipment Use Policy 709 and hereby renews the Policy with any changes duly noted in the Policy.

Section 5. The City Council has reviewed the annual military equipment report and finds that it complies with the standards of approval set forth in subdivision (d) of Government Code section 7071 because of the following:

1. Authorizing the use of military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The acquisition and use of this equipment is part of the Capitola Police Department's overall approach to Critical Incident Management, Use of Force, De-Escalation and public safety. The equipment will enable department members to properly respond to both planned and unplanned events efficiently and effectively.

2. The Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties by ensuring required reporting out, the opportunity for community engagement and feedback, and transparency and oversight regarding the acquisition and use of the specified military equipment in the City of Capitola.

3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

4. Prior military equipment use complied with the military equipment use policy that was in effect at the time of the use.

Section 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

PASSED and ADOPTED by the City Council of the City of Capitola at a regular meeting thereof this 3<sup>rd</sup> day of May, 2023, by the following vote:

**AYES:**

**NAYS:**

**ABSTAIN:**

**ABSENT:**

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Margaux Keiser

Mayor of the City of Capitola, California

ATTEST:

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Julia Moss, City Clerk

City of Capitola, California