

# Capitola City Council

## Agenda Report



**Meeting:** May 11, 2023

**From:** Police Department

**Subject:** Annual Military Equipment Use Report

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**Recommended Action:** Adopt a resolution renewing Chapter 2.60 of the Capitola Municipal Code, Capitola Military Equipment Use Policy 709, and finding that the annual Military Equipment Report complies with the standards of approval outlined in Government Code Section 7071(d).

**Background:** Effective January 1, 2022, Assembly Bill 481 (codified in Government Code §7070, et seq.) requires legislative bodies to adopt ordinances approving military equipment use policies. Adopting such policies was required before law enforcement agencies could continue to engage in activities related to the use of “military equipment” as defined in the Government Code. The Capitola Police Department has “military equipment” in its inventory and engages in critical public safety activities in coordination with other local jurisdictions.

Pursuant to AB 481, on April 28, 2022, the City Council adopted Ordinance No. 1051, adding Chapter 2.60 to the Capitola Municipal Code (CMC), which approved a military equipment use policy for police services and included an inventory (report) of the City’s military equipment. The Government Code and municipal code require the City Council to conduct an annual review of the Military Equipment Use Ordinance and Policy and vote on whether to renew the Ordinance and Policy. As explained in more detail below, the Government Code also requires an annual review of the military equipment report.

**Discussion:** The proposed resolution (Attachment 1) would confirm that the City Council has reviewed the Capitola Military Equipment Use Ordinance (Attachment 2), the Capitola Police Military Equipment Use Policy 709 (Attachment 3), and the annual military equipment report (Attachment 4). As required by Government Code §7071(e)(1) and CMC 2.60.030(F):

The City Council shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and vote on whether to renew the ordinance at a regular meeting held pursuant to the Brown Act.

On April 28, 2022, the City Council adopted Ordinance No. 1051 implementing CMC Chapter 2.60 as well as the Capitola Police Military Equipment Use Policy 709, which are attached hereto as Attachments 2 and 3, respectively.

The Police Department is responsible for ensuring that all provisions of Government Code §7071 and §7072 and CMC Chapter 2.60 are met. The City Council is required by law to complete an annual review of the ordinance and policy and has the opportunity to renew it or make any necessary changes.

Policy 709 approves the continued use, by authorized and trained personnel, of equipment currently in the Police Department’s inventory when the use is necessary to maintain safety.

Policy 709 also allows continued collaboration with other law enforcement agencies in the deployment or other use of military equipment within the City when exigent circumstances require a swift response. The Department works closely with other local, county, state, and federal law enforcement agencies 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. In exigent circumstances, there is sometimes the need to deploy military equipment from or lend military

equipment to outside entities to promote the safety and security of the community. When military equipment is used under exigent circumstances, the proposed ordinance requires prompt reporting on the use to the City Council.

In addition, pursuant to Government Code §7071(e)(2) and CMC 2.60.050, the City Council shall determine, based on the annual military equipment report (Attachment 4), whether each type of military equipment identified in that report has complied with the standards of approval outlined in §7071(d) and CMC 2.60.030(D). The standards for approval are set forth below. Staff believes that Council can make the required findings because:

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 proposed Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties by ensuring required reporting, 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.

Fiscal Impact: There would not be any new, unplanned direct fiscal impacts to continuing the use of equipment already in the Department's inventory or continuing to collaborate with other law enforcement agencies, including in mutual aid circumstances. The maintenance costs of existing equipment are within the Department's budget. Additional equipment sought, as identified in the annual military equipment report (Attachment 4), is accounted for within the Department's adopted budget.

There will be staff time associated with compliance, annual review, reporting, and community engagement meetings, all of which are required pursuant to applicable provisions of the Government Code. Staff plans to hold a community meeting on May 17, 2023, at 5 PM to go over the annual Military Equipment Report.

Environmental Analysis: Pursuant to California Public Resources Code § 21065 and the California Environmental Quality Act ("CEQA") Guidelines § 15378, there is no possibility that this ordinance will have a significant impact on the physical environment and is not a project as defined under CEQA.

Attachments:

1. Resolution
2. Chapter 2.60 Military Equipment Use Ordinance
3. Military Use Policy (709)
4. 2022 Annual Military Equipment Report

Report Prepared By: Andrew Dally, Chief of Police

Reviewed By: Julia Moss, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager