

Capitola City Council

Agenda Report

Meeting: April 28, 2022

From: Police Department

Subject: Consider Adding a Section to the Municipal Code in Accordance with Assembly Bill 481



Recommended Action: Pass an ordinance adding Section 2.60 to the Capitola Municipal Code, approving a Military Equipment Use Policy for Police Services.

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 before law enforcement agencies engage in specified activities related to the use of what the state legislature has now defined as “military equipment” in Government Code §7070. The Capitola Police Department has some equipment that qualifies as “military equipment” in inventory and engages in critical public safety activities in coordination with other local jurisdictions, which will be prohibited within 180 days unless an ordinance meeting the requirements of the Government Code §7071 is adopted.

City Council approved a first reading of the proposed ordinance on April 14, 2022.

Discussion: The Capitola Department (CPD) does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use. Notwithstanding, California Government Code § 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing board for approval.

The proposed ordinance (Attachment 1) would approve a Military Equipment Use Policy (Attachment 2) that is consistent with the Police Department’s current policy and meets the relevant requirements of AB 481. As required by Government Code §7071(b), the proposed policy was posted on the Department’s website at: www.cityofcapitola.org/police on March 13, 2022. If adopted, the Police Department would be responsible for ensuring that all provisions of Government Code §§7071 and 7072 are met. The Council would be required by law to review the ordinance and policy at least annually and can renew it or make any necessary changes.

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

The proposed policy would also allow the 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 community members. When military equipment is used under exigent circumstances, the proposed ordinance requires reporting on the use to the City Council within a specified time frame.

Government Code §7071(d)(1) sets forth the findings that Council must make to adopt the proposed policy and ordinance. 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 are 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. 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. Maintenance costs of existing equipment are within the Department's 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.

Public Notice: The proposed Military Equipment Use Policy was made public via the Police Department's website at least 30 days before the April 14, 2022, Council Meeting. Instead of the full text of the ordinance being published within 15 days after passage, the City Clerk has directed a summary of the proposed ordinance be published in the Santa Cruz Sentinel on April 22, 2022 and will publish and post the ordinance summary within 15 days of its adoption.

Attachments:

1. Proposed Ordinance
2. Proposed Military Use Policy #706
3. Capitola Police Department Equipment

Report Prepared By: Andrew Dally, Chief of Police

Reviewed By: Chloé Woodmansee, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager