



AGENDA SUMMARY EUREKA CITY COUNCIL

TITLE: Eureka Police Department Equipment

DEPARTMENT: City Attorney, Eureka Police Department

PREPARED BY: Assistant City Attorney Robert Black; Police Chief Jarvis

PRESENTED FOR: Action Information only Discussion

RECOMMENDATION

1. Hold a Public Hearing; and
2. Waive full reading, read by title only and Introduce Bill No. 1033-C.S., "An Ordinance of the City Council of the City of Eureka Adding Eureka Municipal Code Chapter 104, Sections 104.01 through 104.08 for the Military Equipment Use to Title IX General Regulations".

FISCAL IMPACT

No Fiscal Impact Included in Budget Additional Appropriation

COUNCIL GOALS

This item is to Ensure a Safe, Healthy, Equitable Community. It is not tied to a specific task.

APPROVAL OF THIS POLICY

The Chief of Police or the authorized designee shall obtain approval from the City Council by way of an ordinance approving 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 City Council, a public hearing is held, and the policy is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Cal. Gov. Code § 7071). The military equipment policy must be approved by the City Council prior to engaging in any of the following (Cal. Gov. Code § 7071):

1. Requesting military equipment made available pursuant to 10 USC § 2576a.
2. 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.
3. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
4. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.

5. Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the City Council.
6. 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.
7. Acquiring military equipment through any means not provided above.

BACKGROUND and ANALYSIS

California Assembly Bill 481 was signed by Governor Newsom on September 30, 2021, and requires that law enforcement agencies obtain approval from the agency's governing body (the City Council) prior to: purchasing, raising funds for, or acquiring "military equipment"; using "military equipment"; and collaborating with other law enforcement agencies in the deployment or use of "military equipment" within the governing body's territorial jurisdiction (Cal. Gov. Code § 7071). The purpose of this chapter is to provide guidelines for the approval, acquisition and reporting requirements of military equipment per Cal. Gov. Code §§ 7070-7072.

The term "military equipment" does not necessarily indicate equipment that has been used by the military, obtained from the military, or is even considered military grade. Items now deemed to be "military equipment" are widely and regularly used by law enforcement agencies all over the country for a variety of law enforcement related critical incidents and include, but are not limited to, unmanned aerial or ground vehicles (i.e. drones or bomb disposal robots), armored vehicles, command post vehicles, battering rams, pepper balls, impact munitions, tear gas, and commonly used long rifles (Cal. Gov. Code §7070).

The stated intent of the new law is to increase transparency, accountability and oversight surrounding the acquisition and use of the designated "military equipment" by state and local law enforcement.

Council approval must take the form of an ordinance (Attachment A) adopting a publicly released, written military equipment use policy (Attachment B), which must address a number of specific topics. These topics include the type, quantity, capabilities, purposes, and authorized uses of each type of "military equipment", the fiscal impact of their acquisition and use, the legal and procedural rules that govern their use, the training required by any officer allowed to use the equipment, the mechanisms in place to ensure policy compliance, and the procedures by which the public may submit complaints. The City Council is required to consider the proposed military equipment policy in open session and may approve the policy only if it makes the following findings:

- The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

- 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.
- 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.

SUGGESTED MOTION

“I move the City Council waive full reading, read by title only, and Introduce Bill No. 1033-C.S., An Ordinance of the City Council of the City of Eureka Adding Eureka Municipal Code Chapter 104, Sections 104.01 through 104.08 for the Military Equipment Use to Title IX General Regulations.

REVIEWED AND APPROVED BY:

- City Attorney
- City Clerk/Information Technology
- Community Services
- Development Services
- Finance
- Fire
- Human Resources
- Police
- Public Works