

ORDINANCE NO. 2025-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA, RENEWING ORDINANCE NO. 2022-02, CHAPTER 9.26 OF THE MARINA MUNICIPAL CODE REGARDING ESTABLISHMENT OF A MILITARY EQUIPMENT POLICY FOR THE MARINA POLICE DEPARTMENT

WHEREAS, on September 30, 2021, Governor Gavin Newsome signed into law Assembly Bill 481 (“AB 481”), adding Chapter 12.8, “Funding, Acquisition and Use of Military Equipment,” to Division 7 of Title 1 of the Government Code (sections 7070-7075), relating to the use of military equipment by California law enforcement agencies; and

WHEREAS, AB 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired. Or used; and

WHEREAS, the Marina Police Department is in possession of certain items of equipment that qualify as “military equipment” under AB 481 and further intends to acquire other items of military equipment; and

WHEREAS, AB 481 requires, inter alia, that a law enforcement agency possessing and using such qualifying equipment must prepare a publicly released written, military equipment use policy document covering the inventory, description, quantity, purpose, capabilities, use, lifespan, acquisition, maintenance, authorized use, fiscal impacts, procedures, training oversight, and complaint process, applicable to the Department’s use of such equipment; and

WHEREAS, the policy must be approved by the City Council by ordinance, and reviewed annually thereafter; and

WHEREAS, the military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and

WHEREAS, the proposed Military Equipment Use Policy, Marina Police Department Policy 707, will safeguard the public’s health, welfare, safety, civil rights, and civil liberties; and

WHEREAS, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and

WHEREAS, prior military equipment use complied with the applicable equipment use policy (which included equipment now defined as military equipment) 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; and

WHEREAS, the Marina Police Department has submitted the proposed Policy to the City Council and has made those documents available on the Police Department’s website for at least 30 days prior to the public hearing concerning the military equipment at issue; and

WHEREAS, the Policy satisfied the requirements of Government Code Section 7070(d); and

WHEREAS, the City Council recognizes that there is a need to enact the restrictions contained in this Ordinance to protect the public health, safety, and welfare; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARINA HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council having received information required under AB 481 regarding the Marina Police Department's use of military equipment as defined in said law, deems it to be in the best interest of the City to and hereby does approve the Military Equipment Policy attached hereto **Exhibit A** which shall govern the use of military equipment by the Marina Police Department.

Section 2. Chapter 9.26 added to Title 9 of the Marina Municipal Code is renewed and to read as follows on the seven (7) pages attached hereto as **Exhibit B**.

Section 3. The City Council finds that the adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) (General Rule) of the CEQA Guidelines because it is not a "project" and because it can be seen with certainty that there is no possibility that the passage of this Ordinance will have a significant effect on the environment.

Section 4. Any provision of the Marina Municipal Code or appendices thereto *inconsistent* with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 5. This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the Ordinance shall be posted within fifteen (15) days after the adoption.

THE FOREGOING ORDINANCE was introduced following a public hearing held at a regular meeting of the City Council of the City of Marina on May 20, 2025 and will come for adoption as an Ordinance of the City of Marina at a regular meeting of the Council to be held on June 3, 2025.

AYES, COUNCIL MEMBERS: McAdams, McCarthy, Biala, Visscher, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

ATTEST:

Liesbeth Visscher, Mayor Pro Tem

Anita Sharp, Deputy City Clerk

Military Equipment

707.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

707.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

Marina Police Department

Marina Police Department Policy Manual

Military Equipment

707.2 POLICY

It is the policy of the Marina Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

707.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Marina Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting.
 - 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

707.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

[Insert attachment here]

707.5 APPROVAL

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

Marina Police Department

Marina Police Department Policy Manual

Military Equipment

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) 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.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) 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.
- (g) Acquiring military equipment through any means not provided above.

707.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

707.6.1 USE IN EXIGENT CIRCUMSTANCES

Marina Police Department participates with the Peninsula Special Response Unit and works closely with local, county, state, and federal partners. In exigent circumstances and with the approval of the Chief of Police or designee, military equipment may be deployed from outside entities to promote the safety and security of community members. If the Police Department acquires, borrows, or uses military equipment in exigent circumstances, it will provide written notification of the acquisition or use to the City Council within 30 days following the commencement of such exigent circumstances, unless such information is confidential or privileged under local, state or federal law.

707.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

Marina Police Department
Marina Police Department Policy Manual

Military Equipment

707.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

Chapter: 9.26
“Military Equipment” Use Ordinance

Sections:

9.26.010	Name of Ordinance
9.26.020	Purpose.
9.26.030	Definitions.
9.26.040	Military Equipment Use Policy Requirement
9.26.050	Use In Exigent Circumstances
9.26.060	Reports on the Use of Military Equipment.
9.26.070	Severability

9.26.010 Name of Ordinance.

- A. This Ordinance shall be known as the Military Equipment Use Ordinance.

9.26.020 Purpose.

A. The purpose of this ordinance is to ensure the Police Department’s compliance with California AB 481, which requires California law enforcement agencies to obtain approval of the law enforcement agency’s governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting prior to taking actions relating to the funding, acquisition, or use of military equipment. This ordinance also requires approval for the continued use of military equipment acquired prior to January 1, 2022. This ordinance also allows the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. (California Government Codes § 7070, § 7071, § 7072.)

9.26.030 Definitions.

- A. “Military equipment” means the following:

- (1) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
- (3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- (4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

- (5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- (6) Weaponized aircraft, vessels, or vehicles of any kind.
- (7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
- (8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
- (9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
- (10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
- (11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.
- (13) Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD).
- (14) The following projectile launch platforms and their associated munitions: 40 mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.
- (15) Any other equipment as determined by a governing body or a state agency to require additional oversight.
- (16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

B. “City” means any department, agency, bureau, and/or subordinate division of the City of Marina,

C. “Police Department” means any division, section, bureau, employee, volunteer and/or contractor of the Marina Police Department.

D. “City Council” means the governing body that is the Marina City Council.

E. “Military Equipment Use Policy” means a publicly released, written document governing the use of military equipment by the Police Department that addresses, at a minimum, all of the following:

- (1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
- (2) The purposes and authorized uses for which the Police Department proposes to use each type of military equipment.
- (3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
- (4) The legal and procedural rules that govern each authorized use.
- (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the Police Department allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
- (6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
- (7) For the Police Department procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the Police Department will ensure that each complaint, concern, or question receives a response in a timely manner. (California Government Codes § 7070.)

9.26.040 Military Equipment Use Policy Requirement.

A. The Police Department shall obtain approval of the City Council, by an ordinance adopting a Military Equipment Use Policy at a regular meeting of the City Council held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) prior to engaging in any of the following:

- (1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
- (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 territorial jurisdiction of the City of Marina.
- (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 pursuant to this chapter.
- (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 by this section.

B. No later than May 1, 2022, if seeking to continue the use of any Military Equipment that was acquired prior to January 1, 2022, the Marina Police Department shall commence a City Council approval process in accordance with this section. If the City Council does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted within 180 days of submission of the proposed military equipment use policy to the City Council, the Marina Police Department shall cease its use of the military equipment until it receives the approval of the City Council in accordance with this section.

C. In seeking the approval of the governing body, the Police Department shall submit a proposed military equipment use policy to the City Council and make those documents available on the Police Department's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

D. The City Council shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

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

E. The City Council shall review this ordinance at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

9.26.050 Use in Exigent Circumstances

A. Notwithstanding the provisions of this Chapter, the Police Department may acquire, borrow and/or use Military Equipment in Exigent Circumstances without following the requirements of this ordinance.

B. If the Police Department acquires, borrows, and/or uses Military Equipment in Exigent Circumstances, in accordance with this section, it must take all of the following actions:

- (1) Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such Exigent Circumstances, unless such information is confidential or privileged under local, state, or federal law.
- (2) If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Military Equipment Use Policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.
- (3) Include the Military Equipment in the Police Department's next annual Military Equipment Report.

9.26.060 Reports on the Use of Military Equipment

A. The Police Department shall submit to City Council an annual military equipment report for each type of military equipment approved by City Council within one year of approval, and annually thereafter for as long as the military equipment is available for use.

B. The Police Department shall also make each annual military equipment report available on its internet website for as long as the military equipment is available for use.

C. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

- (1) A summary of how the military equipment was used and the purpose of its use.
- (2) A summary of any complaints or concerns received concerning the military equipment.
- (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

- (5) The quantity possessed for each type of military equipment.
- (6) If the Police Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

D. Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the Police Department's funding, acquisition, or use of military equipment. (California Government Codes § 7072 (a)

E. The City Council shall determine, based on the annual military equipment report submitted by the Marina Police Department whether each type of military equipment identified in that report has complied with the standards for approval. In order to facilitate public participation, any proposed or final Military Equipment Use Policy shall be made publicly available on the internet website of the Marina Police Department for as long as the Military equipment is available for use. (California Government Codes § 7071 (a) (1)). If the City Council determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval, the City Council shall either disapprove a renewal of the authorization for that type of military equipment or require modifications to the military equipment use policy in a manner that will resolve the lack of compliance.

9.26.070 Severability

A. If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter.

B. The City Council hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, or word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

