



### Staff Report

**Date:** May 6, 2024  
**To:** Mayor Kircher and Council Members  
**From:** Raffaello Pata, Police Chief  
**Subject:** Military Equipment Use Policy Annual Report

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#### Recommendation

It is recommended that the Town Council:

1. Receive and review the Ross Police Department 2023 Annual Military Equipment Report.
2. Adopt Resolution No. 2413 Renewing Ordinance No. 715 regarding Town of Ross Military Equipment Use Policy.

#### Background and Discussion

California Assembly Bill 481 (AB 481), the California Government Code (Gov. Code § 7070 *et seq.*), and Police Department Policy 706, requires that the Police Department submit an annual military equipment report to the legislative body, and for the Police Department to hold a well-publicized community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report, including the funding, acquisition, or use of military equipment. This agenda item accomplishes both requirements.

In addition, Government Code section 7071(e)(1) requires that the legislative body review the ordinance that adopted Policy 706 and vote on whether to renew it annually.

On September 30, 2021, AB 481 was signed into law. Subsequently, California Government Code Sections 7070 *et seq.* was adopted to codify the requirements set forth in AB 481. (Collectively, "Applicable State Law"). Accordingly, the Department presented Policy 706 (Attachment 3) and a list of Military Equipment, (as defined by Government Code section 7070) to the Town Council on June 16, 2022, where the Town Council did review and voted to approve the Policy by Ordinance, and Ordinance 715 was adopted. (Attachment 2)

Applicable state laws and Policy 706 require that the Police Department present an annual report regarding the use of the military equipment in the previous year. During the review, the Town

Council is directed to review the report to either disapprove a renewal of the authorization for a type of military equipment or amend the military equipment use policy if it determines that the military equipment use did not comply with the above-described standards for approval. And thereafter, the Town Council is to review Ordinance No. 715 and vote on whether to renew it, by Resolution. (Attachment 4)

As discussed below, the Ross Police Department does not possess any military equipment and thus did not deploy any military equipment in the preceding year. The Town does coordinate with other departments that do possess such equipment which may be deployed within the Town.

On May 24, 2023, the Marin County Sheriff's Office was called to Ross to assist with the apprehension of a person armed with a shotgun in a public accessible building. That person was an active threat to themselves and the public. Ross Police could not resolve this case safely without the assistance of outside agencies. The Marin County Sheriff responded and deployed a Unmanned Aerial Vehicle (UAV) to observe the subject. The case resolved without injury or further threat to public safety, largely because of the use of this UAV. This was the only reportable military equipment in Ross jurisdiction in 2023. This use of military equipment has met the standards authorized by the Town Council in Ordinance 715 and Policy 706. The Department requests the Town Council renew Ordinance No. 715.

Pursuant to Applicable State Law and Policy 706, the Department has prepared an annual report on its military equipment (Attachment 1). The Annual Military Equipment Report includes the following information:

- (1) A summary of how the military equipment was used and the purpose of its use as documented above.
- (2) A summary of any complaints or concerns received concerning the military equipment. *No complaints or concerns have been submitted either in writing or verbally.*
- (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response. *No violations of policy were found. No action was taken.*
- (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. *There is no associated cost.*
- (5) The quantity possessed for each type of military equipment. *Not applicable.*

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment. *Not applicable.*

(Gov. Code, § 7072)

**Fiscal, resource and timeline impacts**

None

**Alternative actions**

None

**Attachments**

1. Ross Police Department 2023 AB 481 Military Equipment Annual Report
2. Town of Ross Town Council Ordinance No. 715.
3. Ross Police Department Policy 706
4. Resolution No. 2413 renewing Ordinance No. 715.

# ATTACHMENT 1



# Ross Police Department Memorandum



TO: Town Council  
FROM: Raffaello Pata, Police Chief  
RE: Military Equipment Use Annual Report 2023  
DATE: May 6, 2024

## **Town of Ross Police Department 2023 Annual Military Equipment Report**

Pursuant to AB 481, Government Code section 7072, and Town of Ross Police Department Policy (RPD Policy) 706.4, the Town of Ross Police Department (RPD or the “Department”) has prepared its Annual Military Equipment Report for the year 2023.

### **1. A summary of how the military equipment was used and the purpose of its use:**

As noted in the RPD Policy 706, the Department does not possess any military equipment. As such, the Department did not use any military equipment in the year 2023.

The Department, however, does collaborate and coordinate with other agencies that may possess military equipment. RPD Policy 706.5 dictates that those agencies adhere to their own policies on the use of military equipment.

On May 24, 2023, the Marin County Sheriff’s Office was called to Ross to assist with the apprehension of a person armed with a shotgun in a public accessible building. That person was an active threat to themselves and the public. Ross Police could not resolve this case safely without the assistance of outside agencies. The Marin County Sheriff responded and deployed an Unmanned Aerial Vehicle (UAV) to observe the subject. The case resolved without injury or further threat to public safety, largely because of the use of this UAV. This was the only reportable military equipment in Ross jurisdiction in 2023. This use of military equipment has met the standards authorized by the Town Council in Ordinance 715 and Policy 706. The Department requests the Town Council renew Ordinance No. 715.



**2. A summary of any complaints or concerns received concerning the military equipment:**

The Department has not received any complaints or concerns regarding any military equipment.

**3. The result of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response:**

The department has no equipment, and the use of military equipment by an outside agency to assist the Town Police was found to be within policy, as such there is nothing to report, and no actions taken.

**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.**

The Department does not possess any military equipment; thus, the total annual cost is \$0.

**5. The quantity possessed for each type of military equipment.**

The Department does not possess any military equipment.

**6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.**

The Department does not intend to acquire any additional military equipment in the next year.

# ATTACHMENT 2

# TOWN OF ROSS

## ORDINANCE NO. 715

### AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF ROSS ADOPTING A MILITARY EQUIPMENT USE POLICY

**WHEREAS**, effective January 1, 2022, Assembly Bill 481 (AB 481) (Government Code sections 7071 *et. seq.*) sets forth a process by which law enforcement agencies are to obtain approval from their governing bodies of a military equipment use policy through the adoption of an ordinance; and

**WHEREAS**, AB 481 added California Government Code Sections 7070, 7071, and 7072 to codify the requirements set forth in AB 481 including that the Town Council of Town of Ross approve a Military Equipment and Use policy by Ordinance; and

**WHEREAS**, pursuant to Government Code Section 7071(a)(1), requires that an ordinance must be timely adopted before a law enforcement agency may, among other things, collaborate with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the Town of Ross; and

**WHEREAS**, the Town of Ross Police Department does not currently have military equipment (as that term is defined in Government Code section 7070(c)) in its inventory, but does rely on mutual aid from other jurisdictions who may have military equipment in its possession and who may in providing that mutual aid seek to deploy such military equipment in the Town of Ross; and

**WHEREAS**, the Ross Police Department works closely with other local, county, state and federal law enforcement agencies within Marin County 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 outside entities to promote the safety and security of community members; and

**WHEREAS**, the continued collaboration with other law enforcement agencies in the deployment or other use of military equipment within the City is necessary to safeguard the public's welfare, safety, civil rights and civil liberties and there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and

**WHEREAS**, Ross Police Policy 706 sets forth a military equipment use policy that is consistent with the Police Department's current practices, has been posted on the Department's website for at least thirty (30) days, complies with all the requirements of AB 481, will ensure



ongoing regulation and compliance with the law going forward and will provide a means of community engagement and transparency regarding use of military equipment by the Department; and

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

**WHEREAS**, the Town Council desires to approve a military use policy in compliance with AB 481.

**NOW, THEREFORE**, the Town Council of the Town of Ross, California, does hereby ordain as follows:

Section 1. The Town Council of the Town of Ross finds and determines as follows:

A. The facts set forth 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 in this ordinance.

B. Relying in part on mutual aid from neighboring jurisdictions requires the Town authorize the use of military equipment as set forth in this ordinance and Ross Police Policy 706 and finds it is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The collaboration with other agencies who may acquire or use military equipment for mutual aid, or other necessary collaboration, as set forth in Ross Police Policy 706 is part of the Police Department's overall approach to Critical Incident Management, Use of Force, De-Escalation and public safety. The collaboration with other agencies who may use military equipment will enable the department to partner with those agencies to properly respond to both planned and unplanned events efficiently and effectively, as needed.

C. This ordinance and Ross Police Policy 706 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 deployment and use of the specified military equipment in the Town of Ross.

D. The Ross Police Department is not proposing to purchase any military equipment, as defined in AB 481 at this time.

E. Prior military equipment use, as defined by AB 481, by the Ross Police Department complied with the military equipment use policy that was in effect at the time of the use.

F. This ordinance and Ross Police Policy 706 comply with the requirements of AB 481.

Section 2. The Town of Ross Town Council finds that this ordinance and Ross Police Policy 706 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 is not a "project," as defined in Section 15378 of the CEQA Guidelines.

Section 3. Approval of Military Equipment Policy. The Town Council adopts the 2022-2023 Military Equipment Use Policy, as set forth in Exhibit A. The Town Council further directs staff to establish an annual review procedure to review and provide for approval of any renewal of the military equipment use policy, in accordance with Government Code section 7072, to occur before May 1st of each subsequent year.

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 Town 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.

Section 5. Effective Date. This ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the Town Clerk of the Town of Ross shall cause this ordinance to be published pursuant to the provisions of Government Code Section 36933.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on the 16th day of June 2022, and was adopted at a regular meeting of the Ross Town Council on the 14<sup>th</sup> day of July 2022, by the following vote:

**AYES:** Council Members Kuhl, Brekhus, Kircher, McMillan, Robbins

**NOES:**

**ABSENT:**

**ABSTAIN:**



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P. Beach Kuhl, Mayor

**ATTEST:**



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Linda Lopez, Town Clerk

## EXHIBIT A

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**2022 Town of Ross Police Department Military Equipment Use Policy (DRAFT)**

## **Military Equipment**

### **709.1. PURPOSE AND SCOPE**

California Government Code section 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing body for approval prior to engaging in certain specified acts, including the procurement, use and deployment of Military Equipment within its jurisdiction.

California Government Code §7070(c) provides a list of equipment types that are considered to be “military equipment” for purposes of this policy requirement, and this Military Equipment Use Policy includes information for any such equipment types that are possessed by the Town of Ross Police Department, or reasonably likely to be deployed in the Town of Ross by its law enforcement partners.

### **709.2. POLICY**

It is the policy of the Town of Ross Police Department that members of this department comply with the provisions of California Government Code § 7071 with respect to military equipment, and that any law enforcement agency that deploys military equipment within the Town of Ross jurisdiction, do so consistent with the requirements of Government Code section 7071 and subject to any Military Equipment use policy they have adopted.

### **709.3. DEFINITIONS**

**Military Equipment Use Policy.** California Government Code section 7070(d) defines a Military Equipment Use Policy as a publicly released written document that includes, 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 law enforcement agency or the state agency 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 law enforcement agency or the state agency is 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.

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### *Military Equipment*

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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 a law enforcement agency, the 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 law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

**Military Equipment.** California Government Code § 7070(c) defines Military Equipment as any of 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).

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14. The following projectile launch platforms and their associated munitions: 40mm 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.

#### **709.4. ANNUAL MILITARY EQUIPMENT REPORT**

Pursuant to California Government Code § 7070(d)(6), and in accordance with California Government Code § 7072, the Town of Ross Police Department will submit to the Town of Ross Town Council an Annual Military Equipment Report and will make that report publicly available on its internet website. The Annual Military Equipment Report required by this section will remain publicly available on the Town's internet website for as long as the military equipment is available for use. In addition, 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. The Annual Military Equipment Report will 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 law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

The Ross Town Council will use the Annual Military Equipment Report as a mechanism to ensure the Ross Police Department's compliance with this Military Equipment Use Policy, and to help it determine whether to approve, revise, or revoke components of the Military Equipment Use Policy for the subsequent year.

#### **709.5. COLLABORATION OR COORDINATION WITH OTHER AGENCIES**

Law enforcement agencies responding to a call for mutual aid or who participate in collaboration with the Ross Police Department within the Town of Ross shall adhere to their own policies on the use of military equipment.

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### **709.6. POLICY COMPLIANCE**

Government Code section 7070 requires that this policy specify the mechanisms to be used by the Department to ensure compliance with this policy. Complaints regarding violations of this policy are subject to investigation and discipline in accordance with Ross Police Policy 1004, and other policies of the Department related to officer discipline. Complaints, questions, or other inquiries can be made as described below in the Public Involvement section. Further, The Chief will designate a Military Equipment Coordinator, whose responsibilities are described herein, which will include assisting with ensuring compliance with this policy.

### **709.7. PUBLIC INVOLVEMENT**

Pursuant to California Government Code §7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment in this policy by any of the following means:

1. Via email to: Town of Ross Police Department, Attention Chief of Police
2. Via phone call to: 415-453-1453
3. Via mail sent to: [rpata@townofross.org](mailto:rpata@townofross.org)

The Ross Police Department is committed to responding to complaints, concerns and/or questions received through any of the above methods in a timely manner.

### **709.8. MILITARY EQUIPMENT COORDINATOR**

The Chief of Police shall 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 the Ross 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.

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- (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.

### **709.9. MILITARY EQUIPMENT INVENTORY**

The Town of Ross does not possess, has not purchased, or obtained any military equipment as defined in the Government Code other than standard issue weapons which are excluded from the Military Equipment definition.

If in the future, the Ross Police Department intends to or does procure such military equipment, it will complete a military equipment inventory consistent with Government Code section 7070(d). The inventory will provide 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. The inventory will include the purposes and authorized uses, the fiscal impact, the legal and procedural rules that govern the use, and the training required, for each type of military equipment.



# ATTACHMENT 3

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# Military Equipment

## 706.1 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).

### 706.1.1 DEFINITIONS

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

**Governing body** – The elected or appointed body that oversees the [Department/Office].

**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.

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### **706.2 POLICY**

It is the policy of the Town of Ross Police Department that members of this [department/office] comply with the provisions of Government Code § 7071 with respect to military equipment.

### **706.3 MILITARY EQUIPMENT COORDINATOR**

The Chief of Police should designate a member of this [department/office] 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/office] equipment that qualifies as military equipment in the current possession of the [Department/Office], or the equipment the [Department/Office] 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 Town of Ross 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/office]'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/office] 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/Office] will respond in a timely manner.

### **706.4 MILITARY EQUIPMENT INVENTORY**

The following constitutes a list of qualifying equipment for the [Department/Office]:

[Insert attachment here]

### **706.5 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/office] 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):

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- (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/office].
- (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.

### **706.6 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.

### **706.7 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/office] 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/office] inventory.

### **706.8 COMMUNITY ENGAGEMENT**

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

# ATTACHMENT 4

RESOLUTION NO. 2413

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ROSS RENEWING  
ORDINANCE NO. 715 REGARDING TOWN OF ROSS MILITARY EQUIPMENT USE  
ORDINANCE PURSUANT TO ASSEMBLY BILL 481 AND GOVERNMENT CODE SECTION  
7070 ET SEQ. AND APPROVING THE MILITARY EQUIPMENT USE POLICY

**WHEREAS**, effective January 1, 2022, Assembly Bill 481 (AB 481) and Government Code sections 7071 *et. seq.* sets forth a process by which law enforcement agencies are to obtain approval from their governing bodies of a military equipment use policy through the adoption of an ordinance; and

**WHEREAS**, AB 481 added California Government Code Sections 7070 et seq. to codify the requirements set forth in AB 481 including that the Town Council of the Town of Ross annually review its Military Equipment and Use policy; and

**WHEREAS**, the Ross Police Department does not currently have any military equipment (as that term is defined in Government Code section 7070(c)) in its inventory; and

**WHEREAS**, the Ross Police Department works closely with other local, county, state and federal law enforcement agencies within Marin County 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 outside entities to promote the safety and security of community members; and

**WHEREAS**, the continued collaboration with other law enforcement agencies in the deployment or other use of military equipment within the Town is necessary to safeguard the public's welfare, safety, civil rights and civil liberties and there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and

**WHEREAS**, on October 19, 2022, the Town Council of the Town of Ross held a first and second reading, respectively, of Ordinance No. 715 regarding the Town of Ross Military Equipment Use, pursuant to Assembly Bill 481 and Government Code Section 7070 Et Seq. and approving Ross Police Department Policy 706 (Military Equipment); and

**WHEREAS**, Ross Police Department Policy 706 sets forth a military equipment use policy that is consistent with the Police Department's current practices, has been posted on the Department's website since its adoption and complies with all the requirements of AB 481, and will ensure ongoing regulation and compliance with the law going forward and will provide a means of community engagement and transparency regarding use of military equipment by the Department; and

**WHEREAS**, Government Code section 7072 requires, and Ross Police Department Policy 706, require the Ross Police Department to submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body, as well as make such report available on its website. And further that within 30 days of publicly releasing the annual report, the law enforcement agency shall hold a well-publicized and conveniently located community engagement meeting; and

**WHEREAS**, The Ross Police Department did submit an annual report to the Town Council and make it publicly available on its website. Further, the Ross Police Department did publicize that the Department would present the annual report at the May 6, 2024 Town Council Meeting where members of the community would be allowed to discuss and ask questions regarding the annual report; and

**WHEREAS**, on May 6, 2024, the Ross Police Department did present the annual report, where public comment, and comments from the Town Council were made, and the annual report was discussed; and

**WHEREAS**, on May 6, 2024 the Town Council reviewed Ordinance No. 715 Regarding Police Department Acquisition and Use of Military Equipment Pursuant to Assembly Bill 481 and Government Code Section 7070 Et Seq. Approving the Military Equipment Use Policy; and

**WHEREAS**, the Town Council has accepted the annual report and desires to renew Ordinance No. 715 in compliance with AB 481.

**NOW, THEREFORE**, the Town Council of the Town of Ross, California, **DOES HEREBY RESOLVE** as follows:

**Section 1.** The Town Council of the Town of Ross finds and determines as follows:

- A. The facts set forth 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 in this ordinance.

- B. That based on the annual military equipment report submitted pursuant to Section 7072 and Ross Police Department Policy 706, that each type of military equipment identified in that report has complied with the standards for approval set forth in Government Code section 7071(d).
- C. The Town Council has reviewed Ordinance No. 715 regarding Town of Ross Military Equipment Use Ordinance pursuant to Assembly Bill 481 and Government Code Section 7070 et Seq. approving the Military Equipment Use Policy, and wishes to renew that ordinance for an additional year, as the Council continues to find the following:
  - a. Authorizing the use of military equipment as set forth in Ordinance No. 715 and Ross Police Department Policy 706 is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The acquisition and use of the military equipment as set forth in Ross Police Department Policy 706 is part of the 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.
  - b. Ordinance No. 715 and Ross Police Department Policy 706 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 Town of Ross.
  - c. The Ross Police Department is not proposing to purchase any military equipment, as defined in AB 481, at this time.
  - d. Prior military equipment use, as defined by AB 481, by the Ross Police Department complied with applicable policies in effect at the time of the use.
  - e. Ordinance No. 715 and Ross Police Department Policy 706 comply with the requirements of AB 481.



Section 2. The Town Council finds that renewal of Ordinance No. 715 and Ross Police Department Policy 706 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 is not a “project,” as defined in Section 15378 of the CEQA Guidelines.

Section 3. The Town Council further directs staff to continue its annual review procedure to review and provide for approval of any renewal of the military equipment use policy, in accordance with Government Code section 7072, to occur before May 1st of each subsequent year.

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 Town 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, ADOPTED, AND APPROVED by the Town Council of the Town of Ross at a regular meeting thereof this 6<sup>th</sup> day of May 2024 by the following vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Bill Kircher, Mayor

**ATTEST:**

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Cyndie Martel, Town Clerk