



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

August 23, 2022

SUBJECT: Hold a public hearing, waive the second reading and adopt Draft Ordinance No. 489 Adding Section 2.32.040 of the Wheatland Municipal Code relating to Military Equipment

PREPARED BY: Damiean Sylvester, Chief of Police

Recommendation

Staff recommends that the City Council hold a public hearing, and upon close of the Public Hearing, waive the second reading and adopt Draft Ordinance No. 489 adding Section 2.32.040 of the Wheatland Municipal Code relating to Military Equipment.

Background and Discussion

On August 9, 2022, the Wheatland City Council gave direction to staff to hold a public hearing on the same date as Draft Ordinance No. 489 second reading. The City has made the draft Military Equipment Use Policy available on the City website for at least 30 days prior to the public hearing.

Assembly Bill 481 (AB 481), codified as Government Code sections 7070 through 7075, requires a law enforcement agency to obtain approval from the applicable governing body for the procurement, maintenance, or use of identified "military equipment" through the adoption of a Military Equipment Use Policy. AB 481 also required City Council to hold a public hearing.

The Wheatland Police Department does not procure, maintain, or use any qualifying military equipment of its own. However, other jurisdictions that may respond to mutual aid or SWAT calls within City limits do use qualifying military equipment. Therefore, the City must adopt a policy authorizing the use of other jurisdictions' military equipment within City limits so long as these other jurisdictions comply with their own applicable military equipment use policies.

Fiscal Impact

None.

Attachments

1. Draft Ordinance No. 489 Adding Section 2.32.040 of the Wheatland Municipal Code relating to Military Equipment.

ORDINANCE NO. 489

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF WHEATLAND, CALIFORNIA,
ADDING SECTION 2.32.040 OF THE WHEATLAND MUNICIPAL CODE
RELATING TO MILITARY EQUIPMENT**

The Wheatland City Council does ordain as follows:

SECTION 1: Purpose and Authority. The purpose of this ordinance is to adopt a Military Equipment Use Policy pertaining to the procurement, maintenance, and use of qualifying military equipment by the Wheatland Police Department. This ordinance is adopted pursuant to Government Code sections 7070 to 7075, and other applicable law.

SECTION 2. Findings.

The Wheatland City Council finds and determines as follows:

- A. On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481") relating to use of military equipment by California law enforcement agencies.
- B. AB 481 seeks to promote transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used.
- C. The Wheatland Police Department does not procure, maintain, or use any qualifying military equipment of its own.
- D. Other jurisdictions that may respond to mutual aid or SWAT calls within City limits do use qualifying military equipment. It is therefore appropriate for the City to adopt a policy authorizing the use of other jurisdictions' military equipment within City limits so long as these other jurisdictions comply with their own applicable military equipment use policies.
- E. The Wheatland Police Department prepared the proposed Military Equipment Use Policy ("Policy") and submitted it to the City Council for review and possible approval.
- F. The City has made the draft Policy available on the City's website for at least 30 days prior to holding a public hearing to consider possible approval of the Policy.

SECTION 3. Ordinance.

- A. Section 2.32.040 of the Wheatland Municipal Code is added as follows:

2.32.040 Military Equipment.

- (a) The Military Equipment Use Policy developed by the Wheatland Police Department and approved by the City Council, or any amended Policy, shall govern the use of military equipment by the Wheatland Police Department.
- (b) The Policy shall be made publicly available on the Wheatland Police Department's website if the Policy authorizes the use of any military equipment by the Wheatland Police Department.
- (c) The Wheatland Police Department shall submit an annual military equipment report to the City Council containing the information required by Government Code section 7072 and the City Council shall thereafter determine whether each type of military equipment identified in the report, if any, complied with the standards of approval set forth in Government Code section 7071, subdivision (d).

- (d) The City Council shall, on an annual basis at a regular meeting, review this ordinance and vote on whether to renew it pursuant to Government Code section 7071, subdivision (e)(2).
- (e) The definitions set forth in Government Code section 7070 shall apply to this ordinance.

SECTION 4. Policy.

The City Council approves the initial Military Equipment Use Policy attached as Exhibit A.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Effective Date. This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption.

SECTION 7 Posting. Within fifteen (15) days from the date of passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the city.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced and adopted at a regular meeting of the Wheatland City Council, held on the 9th of August, 2022, and passed and adopted at a regular meeting thereof, held on the 23rd of August, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

 Mayor of the City of Wheatland

ATTEST:

 City Clerk of the City of Wheatland