



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 05/16/2023

ITEM NO: 8

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DATE: May 4, 2023  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt a Resolution to Renew an Ordinance Approving a Military Equipment Funding, Acquisition, and Use Policy Pursuant to Assembly Bill 481 and Affirm that Each Type of Military Equipment Identified in the Annual Report Complies with the Standards Set Forth in the Town's Ordinance on this Matter.

**RECOMMENDATION:**

Adopt a resolution to renew an ordinance approving a military equipment funding, acquisition, and use policy pursuant to Assembly Bill 481 and affirm that each type of military equipment identified in the annual report complies with the standards set forth in the Town's Ordinance on this matter.

**BACKGROUND:**

On September 30, 2021, Governor Newsom signed into law several major peace officer reform bills, including Assembly Bill 481 (AB 481). AB 481 was authored by Assembly member David Chiu (D-San Francisco) to address the funding, acquisition, and use of items deemed to be "military equipment."

This bill requires law enforcement agencies, including the Los Gatos-Monte Sereno Police Department, "to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined."

Furthermore, AB 481 required similar approval for the continued use of "military equipment" acquired by the Los Gatos-Monte Sereno Police Department prior to January 1, 2022, and

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ACTING OPERATIONS CAPTAIN

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Reviewed by: Town Manager, Town Attorney, and Finance Director

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BACKGROUND (continued):

allowed the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determined that the military equipment meets specified standards (see Attachment 1).

On April 19, 2022, at a regular meeting of the Town Council of Los Gatos, Ordinance 2329 was adopted approving the use of items possessed by the Los Gatos-Monte Sereno Police Department which are governed under AB 481. This ordinance is required to be renewed annually by the Town Council.

DISCUSSION:

AB 481 requires the governing body that oversees a law enforcement agency to renew its ordinance at a regular meeting of the governing body held in accordance with the Brown Act. For Los Gatos, this means that the Town Council needs to consider renewing Ordinance 2329 (Attachment 4) by adopting a resolution (Attachment 5). The Assembly Bill has designated certain types of law enforcement equipment as "military equipment." Out of the fifteen categories of "military equipment" listed under AB 481, Los Gatos-Monte Sereno Police Department has items in four of the categories. These items include: a robot, an unmanned aerial vehicle (UAV), rifles and ammunition, noise flash diversionary devices; tear gas and munitions, and 40mm less lethal weapon and munitions.

Renewal of this Ordinance would approve the military equipment funding, acquisition, and use policy pursuant to Assembly Bill 481 to continue. The ordinance must be renewed for the Los Gatos-Monte Sereno Police Department to request, seek funds, acquire, collaborate to deploy, use, or solicit a proposal for any type of military equipment. AB 481 outlined the requirements of the Police Department so that ongoing access to the items mentioned can continue and for future acquisition process and the transparency requirements. Los Gatos-Monte Sereno Police contracts with Lexipol, a public safety policy and training organization, for policy development and implementation. Lexipol Policy 704-Military Equipment outlines purpose, scope, definitions, and categories deemed as military equipment (Attachment 2).

The governing body's ordinance renewal must include certain standards of approval, including:

- A. The "military equipment" identified in Los Gatos-Monte Sereno Police Department Lexipol Policy 704 is necessary because there are no reasonable alternatives that can achieve the same objectives of Officer and civilian safety.

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DISCUSSION (continued):

- B. Los Gatos-Monte Sereno Police Department Lexipol Policy 704 will safeguard the public's welfare, safety, civil rights, and civil liberties.
- C. The "military equipment" identified in Los Gatos-Monte Sereno Police Department Lexipol Policy 704 is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safe.

In addition to posting the "military equipment" use policy on the law enforcement agency's website, each agency must submit an annual "Military Equipment" Report to the governing body detailing the equipment used in the preceding year. This report must include a summary of how the equipment was used, a summary of complaints received, the result of any internal audit and actions taken in response, the total annual cost and the quantity possessed of each type of "military equipment," and any additional equipment the agency intends to acquire in the next year.

Each year the governing body must review the annual report (see Attachment 3) and determine whether each type of military equipment identified in that report has complied with the standards for approval set forth above and vote on whether to renew it, in accordance with Government Code Section 7071 (e)(2).

Los Gatos-Monte Sereno Police Department held a community outreach meeting to discuss AB 481 on April 26, 2023 (see Attachment 6 for presentation). Lexipol Policy 704, and Attachment 3 with the detailed list of military equipment is posted on the Police Department website.

CONCLUSION:

The adoption of the resolution would renew Ordinance 2329 and continue the military equipment use policy as set forth in the Los Gatos- Monte Sereno Police Department's Lexipol Policy 704. The consideration of the resolution would also affirm that the Town Council finds that the equipment meets the standards set forth in Ordinance 2329.

ALTERNATIVES:

If this ordinance is not renewed, Los Gatos-Monte Sereno Police Department will cease the use of equipment designated by AB 481 as military equipment on May 31, 2023. Los Gatos-Monte Sereno Police Department will be required to redesign policies, procedures, and operations for critical incident response; this includes our ability to provide and receive

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mutual aid, address an immediate threat, or have a more expansive de-escalation option.

ALTERNATIVES (continued):

Public safety may be negatively impacted with diminished access to the resources currently in the Police Department's inventory. For this reason, staff is not recommending the non-renewal.

FISCAL IMPACT:

There is no fiscal impact in renewing this ordinance and the military equipment use policy

Attachments:

1. Assembly Bill 481
2. LGMSPD Lexipol Policy 704 and AB 481 Defined list of Military Equipment in LGMSPD possession
3. 2023 Annual Report on Military Equipment Inventory
4. Ordinance 2329
5. Resolution to Renew Ordinance 2329
6. AB 481 Update Presentation 2023