

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS , STATE OF CALIFORNIA, ADDING ARTICLE III TO CHAPTER 21 TO THE TOWN CODE GOVERNING THE USE OF MILITARY EQUIPMENT BY THE POLICE DEPARTMENT

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, (creating Government Code Section 7070, et seq.) relating to the use of military equipment by law enforcement agencies; and

WHEREAS, Assembly Bill No. 481 (“AB 481”), requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment” use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term “military equipment” is defined in California Government Code section 7070; and

WHEREAS, AB 481 allows the governing body of a Town to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations; and

WHEREAS, the proposed Military Equipment Use Policy is attached hereto as Exhibit “A” and incorporated herein by this reference (the “Military Equipment Use Policy”); and

WHEREAS, the proposed Military Equipment Use Policy was published on the Los Gatos Police Department’s internet website on March 3, 2022, more than 30 days before the Military Equipment Use Policy was considered at a public hearing before the Town Council on April 5, 2022; and

WHEREAS, the Military Equipment Use Policy meets the requirements of California Government Code section 7070, subdivision (d).

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I: That a new Article III is added to Chapter 21 (entitled “Police”) of the Town Code of the Town of Los Gatos to read as follows:

CHAPTER 21, ARTICLE III. - MILITARY EQUIPMENT USE POLICY.

Sec. 21.30.010 – Findings and Purpose.

(a) The Town Council has made the following determinations:

- (1) The military equipment inventoried and presented to the Town Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and
- (2) The Military Equipment Use Policy ("Policy") will safeguard the public's welfare, safety, civil rights, and civil liberties; and
- (3) The military equipment identified in the Military Equipment Use Policy is reasonably cost effective compared to available alternatives that can achieve the same objective of Officer and civilian safety; and
- (4) 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.

(b) The Police Department has submitted a proposed Policy to the Town 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.

(c) The Policy was considered by the Town Council as an agenda item in an open session of a regular meeting, noticed in accordance with the Ralph M. Brown Act, at which public comment was permitted.

(d) The Policy shall be made publicly available on the Police Department's website for as long as the military equipment is available for use.

(e) The Police Department shall submit an annual military equipment report to the Town Council, containing the information required in Government Code Section 7072, and the Town Council shall determine whether each type of military equipment identified in that report has complied with the standards for approval set forth in (a)(1)-(4) above.

(f) The Town Council shall review this ordinance, and vote on whether to renew it, on an annual basis at a regular meeting, in accordance with Government Code Section 7071(e)(2)

(g) The Town Council approves the use of the Policy and finds that it satisfies the requirements of Government Code Section 7070(d)."

SECTION II. CEQA FINDINGS. This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. This Ordinance is also exempt under CEQA Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION III. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The Town Council of the Town of Los Gatos declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION IV. EFFECTIVE DATE AND PUBLICATION. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 5th day of April 2022 and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 19th day of April 2022. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the _____ day of _____ 2022, by the following vote:

COUNCIL MEMBERS:

AYES

NAYS:

ABSENT:

ABSTAINING:

SIGNED:

**MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATED: _____

ATTEST:

**TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATE: _____