



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 09/17/2024

ITEM NO: 15

DATE: September 17, 2024
TO: Mayor and Town Council
FROM: Katy Nomura, Interim Town Manager
SUBJECT: Adopt a Resolution to Renew an Ordinance Approving a Military Equipment Funding, Acquisition, and Use Policy Pursuant to Assembly Bill 481

RECOMMENDATION:

Adopt a resolution (Attachment 5) to renew an ordinance approving a military equipment funding, acquisition, and use policy pursuant to Assembly Bill 481.

BACKGROUND:

On September 30, 2021, Governor Newsom signed into law several major peace officer reform bills, including Assembly Bill 481 (AB 481). AB 481 (Attachment 1) was authored by Assemblymember 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 requires similar approval for the continued use of "military equipment" acquired by the Los Gatos-Monte Sereno Police Department prior to September 17, 2024, and 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.

DISCUSSION:

AB 481 requires the governing body that oversees a law enforcement agency to approve and renew an ordinance adopting a military equipment use policy at a regular meeting of the governing body held in accordance with the Brown Act. The Assembly Bill has designated

PREPARED BY: Rebecca Albin
Operations Captain

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

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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.

The resolution proposed for adoption would renew the Town's existing ordinance approving the military equipment funding, acquisition, and use policy pursuant to Assembly Bill 481. A resolution renewing the ordinance must be adopted before Los Gatos-Monte Sereno Police Department may request, seek funds, acquire, collaborate to deploy, use, or solicit a proposal for any type of military equipment. AB 481 requires that the resolution renewing the ordinance be adopted annually. AB 481 outlines 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 (See Attachment 2). Each type of military equipment identified in the military equipment use report continues to meet the following standards for approval contained in Government Code Section 7071:

- 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.
- 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.
- D. Prior military equipment use has complied with the Town's military equipment use policy.

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. This "Military Equipment" report is attached as Attachment 3.

Each year the governing body must review the annual report and determine whether each type of military equipment identified in that report has complied with the standards for approval set

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forth above and vote on whether to renew it, in accordance with Government Code Section 7071 (e)(2).

Los Gatos-Monte Sereno Police Department will be holding a community outreach meeting to discuss AB 481 on September 25, 2024. Lexipol policy 704 and the detailed list of our military equipment is posted on the Police Department website.

CONCLUSION:

Staff recommends adopting a resolution (Attachment 5) renewing Ordinance 2329 (Attachment 4) adopting the military equipment use policy as set forth in the Los Gatos Police Department's Lexipol Policy 704.

ALTERNATIVES:

If the resolution (Attachment 5) is not approved, Los Gatos-Monte Sereno Police Department will cease the use of equipment designated by AB 481 as military equipment. 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 mutual aid, address an immediate threat, or have a more expansive de-escalation option. Public safety may be negatively impacted with diminished access to the resources currently in the Police Department's inventory.

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 inclusive of a hyperlink to AB 481 Defined list of Military Equipment in LGMSPD possession
3. LGMSPD Military Equipment Inventory 2024
4. Ordinance
5. Resolution to Renew Ordinance