

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JOHN CREGAN, POLICE CHIEF
POLICE DEPARTMENT
SUBJECT: ORDINANCE INTRODUCTION – ADOPTION OF MILITARY
EQUIPMENT ORDINANCE AND APPROVAL OF MILITARY
EQUIPMENT POLICY PURSUANT TO AB 481

AGENDA ACTION: ORDINANCE

RECOMMENDATION

It is recommended by the Police Department that the Council introduce an ordinance to (1) amend Title 2 of the Santa Rosa City Code by adding Chapter 2-38, Military Equipment Use Ordinance, and (2) approve Santa Rosa Police Department Policy 707 – Military Equipment.

EXECUTIVE SUMMARY

In September of 2021, Assembly Bill 481 was signed into state law. This bill provided oversight in relation to the funding, acquisition and use of military equipment for law enforcement agencies. It requires law enforcement agencies to create a policy related to military equipment and receive the approval of the local governing body by ordinance through the adoption of a military equipment use policy.

BACKGROUND

The passage of AB 481 added several new statutes to the Government Code (Gov Code §§ 7070-7075). These statutes require any state or local law enforcement agency that uses or wants to acquire “military equipment,” as defined in the statute, to have created a written policy detailing the acquisition and use of the equipment which is adopted by ordinance.

Enumerated through the above Government Codes, AB 481 creates the following 15 categories of items deemed military equipment:

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).
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.

ANALYSIS

With the passage of AB 481, the Santa Rosa Police Department (SRPD) drafted Policy-707- Military Equipment Use Policy. The policy is attached and includes both the policy document and a separate inventory of all categorized military equipment possessed by SRPD. SRPD possesses items under 8 of the above AB 481 military equipment categories which are detailed in the policy. SRPD Military Equipment Use Policy also identifies a mobile command vehicle and indoor drone which the police department is requesting to purchase. The 8 categories of "military equipment" identified are below:

1. Category 1- Unmanned Aerial and Ground Systems
2. Category 2- Armored Rescue Vehicle (Available through MOU)
3. Category 5- Mobile Command Vehicle
4. Category 7- Breaching Shotgun
5. Category 10- SWAT Sniper and Entry Rifles/Ammunition, Shotgun Launching Cup, HK MP 5
6. Category 12- Flashbangs, Indoor and Outdoor Chemical Agents (CS and OC),
7. Category 13- Long Range Acoustic Device (LRAD)
8. Category 14- 40mm Projectile Launchers, 40mm Less Lethal Sponge Rounds

SRPD does not currently receive or utilize surplus military equipment and does not possess equipment obtained from the military. Additionally, SRPD does not participate in the Law Enforcement Support Officer 10-33 program.

In addition to identifying the above items which fall under military equipment, the policy addresses the following:

- Equipment Description
- Quantity
- Capabilities
- Expected Lifespan
- Purpose and Authorized Use
- Fiscal Impact
- Legal and Procedural Rules that govern each use
- Required Training
- Compliance Mechanisms

The draft SRPD Policy 707 – Military Equipment is attached as an exhibit to the ordinance for Council approval. Pursuant to AB 481, the Council may approve the policy only if it finds all of the following:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the applicable military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

After adoption of the policy and ordinance, SRPD will prepare and present an annual report detailing the Department's AB 481 equipment. This report will be made available

to the public and posted to the Department website. SRPD will host at a minimum one public meeting within 30 days of authoring the report. The report will be brought to the City Council for annual review along with the policy and ordinance. The report and annual review by City Council will occur every subsequent year once the ordinance is adopted. This comprehensive report will include at a minimum the following:

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
5. The quantity possessed for each type of military equipment
6. Any additional military equipment including the quantity we intend to purchase the following year

PUBLIC OUTREACH

On April 20, 2022, an AB 481 presentation was presented to the Public Safety Subcommittee.

On June 7, 2022 links to the policy, inventory, and ordinance were posted to the city and police department website. Additionally, a dedicated email address was created for the public to send input, feedback, and questions for current and future policy updates. Those links are below:

<https://srcity.org/CivicAlerts.aspx?AID=1855>

<https://srcity.org/214/Police/>

<https://srcity.org/3217/Policies>

AB481@srcity.org

FISCAL IMPACT

Funds for military equipment expenses are allocated for the 22-23 Fiscal Year. For the future purchase of a mobile command vehicle, funds will be procured through the State of California DHCS CCMU grant. For the future purchase of an indoor drone, funds will be made available through the overall police department budget.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guidelines Section 15378.

ATTACHMENTS

- Attachment 1 - Military Equipment Procedure
- Attachment 2 - Santa Rosa Police Department Policies: 300, 308, 312 ,321, 467, 706
- Ordinance
- Exhibit A - Santa Rosa Police Department Policy 707 - Military Equipment

CONTACT

Dan Marincik, Captain, dmarincik@srcity.org