

Resolution No. 2024-XXX N.C.S. of the City of Petaluma, California

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA RECEIVE, REVIEW, APPROVE AND ADOPT FY24 ANNUAL MILITARY EQUIPMENT USE REPORT AND RENEW ORDINANCE NO. 2859 N.C.S., WHICH APPROVED PETALUMA POLICE DEPARTMENT'S MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY 709, (USE POLICY) AND POLICY 613 PERTAINING TO UNMANNED AERIAL SYSTEM (UAS) AND UNMANNED GROUND VEHICLES (UGV) IN COMPLIANCE WITH CALIFORNIA ASSEMBLY BILL 481 (AB 481)

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 (AB 481) (codified in Government Code sections 7070 through 7075), relating to the use of military equipment as defined in the statute by California law enforcement agencies; and

WHEREAS, AB 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used by local police departments; and

WHEREAS, the Petaluma Police Department is in possession of certain items of equipment that qualify as “military equipment” under AB 481; and

WHEREAS, AB 481 requires that a law enforcement agency possessing and using equipment subject to AB 481 must prepare a publicly released, written, Military Equipment Funding, Acquisition, and Use Policy including the inventory, description, purpose, use, acquisition, maintenance, fiscal impacts, procedures, training, oversight, and complaint process, applicable to the use of equipment subject to AB 481; and

WHEREAS, the Military Equipment Policies required by AB 481 and supporting information must be adopted by California law enforcement agency governing bodies by ordinance, and be reviewed annually; and

WHEREAS, in compliance with AB 481, on April 18, 2022, the Petaluma Police Department submitted the draft Petaluma Military Equipment Funding, Acquisition, and Use Policy (Policy) to the City Council as City Council agenda Item 4B, and posted the proposed Policy on the City’s website for 30 days before the June 6, 2022, public hearing introducing Ordinance No. 2818; and

WHEREAS, on June 20, 2022, City Council adopted Ordinance No. 2818, which approved Petaluma Police Department Policy 709, pertaining to Military Equipment Funding, Acquisition, and Use Policy; and

WHEREAS, along with Policy 709, Petaluma Police Department Policy 613, pertaining to Unmanned Aerial System (UAS) And Unmanned Ground Vehicles (UGV) Operations, attached hereto as Exhibit C and incorporated as part of this ordinance, “establishes the guidelines for the use of an unmanned aerial system (UAS) and unmanned ground vehicle (UGV) devices...” and “This policy further includes guidelines for storage, retrieval and dissemination of images and data captured by the UAS/UGV devices.”; and

WHEREAS, on August 7, 2023, the City Council adopted and approved Ordinance No. 2859 N.C.S., which adopted and approved Policy 613 and incorporated Ordinance No. 218 N.C.S.

WHEREAS, this Ordinance amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378, because adoption of an ordinance

authorizing the Petaluma Police department's use of existing and budgeted equipment subject to AB 481 does not meet CEQA's definition of a "project," because such administrative action does not have the potential for resulting either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Petaluma as follows:

SECTION 1. FINDINGS. The City Council hereby finds:

1. That the foregoing recitals are true and correct and hereby incorporates them into this ordinance as findings and determinations of the City Council.
2. This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378. Adoption of an ordinance authorizing the police department's use of existing and budgeted equipment subject to AB 481 does not meet CEQA's definition of a "project," because such administrative action does not have the potential for resulting either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.
3. The Petaluma Annual Military Equipment Use Report (Exhibit A) has been posted on the City's website for at least 30 days, commencing on June 27, 2024; the Military Equipment Funding, Acquisition, and Use Policy (Exhibit B) and the Unmanned Aerial System (UAS) and Unmanned Ground Vehicles (UGV) Operations Policy (Exhibit C) have been posted on the City's website for at least 30 days commencing before January 1, 2024.
4. On July 2, 2024, the Police Department held a well-publicized and conveniently located community engagement meeting regarding Petaluma Police Department Policy 709 and its use of equipment subject to AB 481 pursuant to California Government Code section 7072. That meeting was noticed and conducted in accordance with the requirements that apply to legislative bodies under the California Brown Act, as required by Ordinance No. 2818. The community had an opportunity to view equipment subject to AB 481 and to ask the police department questions about its Annual Military Equipment Use Report.
4. The City Council has conducted a public hearing on the Annual Military Equipment Use Report, during a regularly scheduled City Council meeting on August 5, 2024, and considered all written and verbal comments, as well as the report and presentation from staff.

SECTION 2. PROPOSED MILITARY EQUIPMENT POLICY DETERMINATIONS. The City Council determines that:

1. The military equipment as defined in AB 481 that is identified in Policy 709, Military Equipment Funding, Acquisition, and Use, Policy 613 are necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

2. Policies 709 and 613 will safeguard the public's welfare, safety, civil rights, and civil liberties by restricting the use of military equipment to circumstances in which use of such equipment is lawful and in compliance with the 4th Amendment and warranted to protect public safety, and by providing for reporting on the use of AB 481 equipment to ensure compliance with Policies 709 and 613.

SECTION 3. APPROVAL OF ANNUAL MILITARY EQUIPMENT USE REPORT, POLICY 709 AND 613. The City Council of the City of Petaluma approves and adopts the Annual Military Equipment Use Report (Exhibit A), Policy 709 (Exhibit B) and Policy 613 (Exhibit C), which are attached and made a part of this ordinance, and directs that:

1. The Annual Military Equipment Use Report, Policy 709 and Policy 613 shall be maintained on the Police Department's website page, as long as the Policies are in use.

2. Annually, the Police Department shall hold a well-publicized and conveniently located community engagement meeting regarding Petaluma Police Department Annual Military Equipment Use Report, Policy 709, and Policy 613 and its use of equipment subject to AB 481 pursuant to Government Code section 7072(b).

3. Annually, the City Council shall review Ordinance No. 2859, Policy 709, and Policy 613, and the Annual Military Equipment Use Report prepared by the Police Department pursuant to Government Code section 7072, and determine by resolution whether to continue Ordinance No. 2859, Policy 709, and Policy 613 in effect or to modify Policy 709 and Policy 613, or initiate the amendment or repeal of Ordinance No. 2859, Policy 613, or Policy 709.

4. Annually, the City Council shall determine, based on the Annual Military Equipment Use Report submitted pursuant to Government Code section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in AB 481 and Ordinance No. 2859 N.C.S., which incorporated Ordinance No. 2818 N.C.S.

5. Staff shall seek approval from the City Council prior to the acquisition or use of any specialized or military equipment, as defined in Government Code section 7070, that is not held in the Police Department's current inventory unless exigent circumstances exist where delaying the acquisition or use of the equipment would jeopardize the safety of the Petaluma community or members of the Police Department. If such circumstances exist, notification of the acquisition or use of the equipment, including a summary of the exigent circumstances preventing the Police Department from giving prior notice, will be provided to the City Council at the first regularly scheduled public meeting following the equipment's acquisition or use.

6. Ordinance No. 2859, Policy 709, and Policy 613 shall continue in effect until amended or repealed by ordinance of the City Council.

SECTION 4: SEVERABILITY. If any part of this resolution is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining parts of this ordinance. The City Council of the City of Petaluma hereby declares that it

would have passed and adopted this ordinance and each of its provisions irrespective of any part being held invalid.

SECTION 5: EFFECTIVE DATE. This resolution shall become effective immediately

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:	I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 5 th day of August 2024, by the following vote:	Approved as to form:
		<hr/> City Attorney
AYES:		
NOES:		
ABSENT:		
ABSTAIN:		
ATTEST:	<hr/> City Clerk	<hr/> Mayor

EXHIBIT A
Petaluma Police Department
Annual Military Equipment Use Report June 2023 – June 2024

EXHIBIT B
Use Policy 709

EXHIBIT C
Drone Policy 613