

**EFFECTIVE DATE
OF ORDINANCE**

Month DD, YYYY

ORDINANCE NO. 2831 N.C.S.

Introduced by: Mike Healy

Seconded by: Brian Barnacle

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA
AMENDING CHAPTER 10.56 OF THE PETALUMA MUNICIPAL CODE ENTITLED
“POSSESSION OR DISCHARGE” TO ADD REGULATIONS REGARDING
SAFE STORAGE OF FIREARMS IN RESIDENCES AND RETITLING THE CHAPTER
“POSSESSION, STORAGE AND DISCHARGE OF FIREARMS”**

WHEREAS, on December 19, 2022, the Petaluma City Council introduced the proposed ordinance with a vote of 7-0; and

WHEREAS, the City of Petaluma does not presently regulate firearm storage within residential locations; and

WHEREAS, the unsafe storage of firearms threatens public health and safety nationally, regionally, and locally; and

WHEREAS, improperly stored firearms may result in accidental firearm injuries and/or deaths, particularly in homes with children; and

WHEREAS, having a loaded or unlocked firearm in the home has been associated with an increased risk of firearm-related injury and death, as well as theft of the firearm; and

WHEREAS, a 2000 study published in the American Journal of Public Health found that “[o]f the homes with children and firearms, 55% were reported to have [one] or more firearms in an unlocked place,” and 43% reported keeping guns without a trigger lock in an unlocked place; and according to a 2018 study of households with guns published in the American Journal of Public Health, nearly a quarter of all gun owners keep their firearms unlocked; and

WHEREAS, in 2018, a study published in the Journal of Urban Health found that roughly 4.6 million children and youth under age 18 were living in homes with loaded and unlocked firearms and in addition, a study published in 2006 in the Archives of Pediatric and Adolescent Medicine found that 73% of children under age 10 living in homes with guns reported knowing the location of their parents’ firearms; and

WHEREAS, the same 2018 study published in the Journal of Urban Health demonstrated that parents often believe, incorrectly, that their children do not know the location of guns stored in the home or that their children have not handled their parents’ firearms; nearly a quarter of parents did not know that their children had handled a gun in their home, even though 36% of children admitted to handling their parent’s firearm; and

WHEREAS, many young children, including toddlers, are strong enough to fire handguns; and

WHEREAS, a Washington Post report in 2015 showed that toddlers were responsible for an average of one shooting a week that year, and in 2013, more preschoolers were shot to death (82) than police officers (27) according to data from the Centers for Disease Control and Prevention and the Federal Bureau of Investigation

published in October 2015 by the New York Times, and a 1991 study by the U.S. Government Accountability Office found that 8% of accidental shooting deaths resulted from guns fired by children under the age of six; and

WHEREAS, an analysis published by Everytown for Gun Safety in 2014 found that over a one-year period spanning 2012-2013, at least 100 children were killed in unintentional shootings amounting to nearly two each week, and the same analysis also found that 70% of shooting deaths involving children could have been prevented if the firearm had been stored locked and unloaded; and

WHEREAS, a 1999 study published in the Archives of Pediatric and Adolescent Medicine found that more than 75% of the guns used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend; and

WHEREAS, in 1999, researchers from the Harvard Injury Control Research Center found at least two studies illustrating that the risk of suicide increases in homes where guns are kept loaded and/or unlocked; and

WHEREAS, in California, between 2004 and 2014, 114 children and teenagers were unintentionally killed with firearms, and approximately 500 children and teenagers committed suicide with firearms, according to data from the Center for Disease Control and Prevention; and

WHEREAS, data from the Centers for Disease Control and Prevention shows that in the fifteen years following the implementation of Massachusetts' safe storage law, the rate of firearm suicide for children and teen ages ten through nineteen fell 49% faster than the national average; and

WHEREAS, unsecured guns are susceptible to theft and pose a significant public health and safety hazard; and

WHEREAS, a 2017 study in the journal Injury Epidemiology found that nationally-representative survey data suggests that approximately 380,000 guns are stolen from individual gun owners each year and that gun owners who do not safely store their firearms are significantly more likely to have their guns stolen; reporting from The Trace in 2017 also disclosed that between 2006 and 2016, the number of guns reported stolen from individuals increased by approximately 60%; and

WHEREAS, in a 2017 report by The Trace, an analysis of more than 23,000 stolen firearms recovered by the police between 2010 and 2016 revealed that many of these weapons were recovered in connection with crimes, including 1,500 violent acts; and

WHEREAS, according to Crime in California 2021, a report by the California Department of Justice, individuals in the state reported over \$75,000 worth of stolen guns between 2016 and 2021; and

WHEREAS, a 2018 report in the Washington Post found that since 1999, children have committed at least 145 school shootings, and of those, the weapon's source was identified in 105 cases, and eighty percent of those weapons had been taken by children from their homes or the homes of relatives or friends; and

WHEREAS, another 2018 story by the Wall Street Journal confirmed that most school shootings are committed by minors with guns from the home; and

WHEREAS, in July, 2004, the U.S. Secret Service and U.S. Department of Education published a study examining 37 school shootings from 1974-2000 and found that in more than 65% of the cases, the attacker got the gun from his or her own home or that of a relative, and the Sandy Hook shooter, who massacred 20 first-graders and 6 of their educators on December 14, 2012, used guns he took from his mother; and

WHEREAS, a 2014 analysis of school shootings in the 14 months following the Sandy Hook massacre conducted by Moms Demand Action for Gun Sense in America, identified at least 20 shootings that were perpetrated by minors, and of those shootings where the source of the firearm was known, 75% obtained their guns from home; and

WHEREAS, a study published in 2010 in the Journal of Interpersonal Violence found that easy access to guns at home makes it significantly more likely that a juvenile will commit a violent offense; and

WHEREAS, a 2007 report by the International Association of Chiefs of Police recommends that state and local governments mandate safe storage of firearms to protect children and youth from gun violence; and

WHEREAS, the American Academy of Pediatrics recommends that individuals who choose to keep guns in the home, should keep the firearms unloaded and locked in a separate location from ammunition; and

WHEREAS, requiring firearms to be stored with trigger locks or in a locked container does not substantially burden the right or ability to use firearms for self-defense in the home, because affordable lockboxes using Simplex-type locks, which pop open immediately when several keys or pushbuttons are touched in a preset sequence, are widely available; users report that they can retrieve a loaded weapon in just two to three seconds, and that the locks are also easy to open in the dark; and a publication of the Education & Training Division of the National Rifle Association describes this type lockbox as providing “a good combination of security and quick access;” and some lockboxes also feature biometric locks, which provide immediate access when they scan the owner’s fingerprint; and

WHEREAS, one state—Massachusetts—requires gun owners to keep unattended guns safely stored under all circumstances and in 2021, Colorado and Oregon enacted versions of safe storage regulations to prevent gun access by minors and, in Colorado, other prohibited individuals; and

WHEREAS, as of April, 2021, at least 20 California cities have enacted safe storage requirements for guns kept in the home, and at least eight jurisdictions in New York State—New York City, Rochester, Buffalo, Albany, Syracuse, Saratoga Springs, Beacon, and Westchester County—also require guns to be stored securely; and

WHEREAS, San Francisco’s safe storage law was upheld as constitutional by the Ninth Circuit Court of Appeals in *Jackson v. City and County of San Francisco*, 746 F.3d 953 (9th Cir. 2014), where the court found that San Francisco’s locked-storage law served a significant government interest by reducing the number of gun-related injuries and deaths from having an unlocked handgun in the home; and

WHEREAS, state courts that have reviewed Massachusetts’ and New York City’s safe storage laws in 2013 and 2012, respectively, have also upheld these laws as constitutional under the Second Amendment to the United States Constitution; and

WHEREAS, earlier notification of lost or stolen firearms allows police to more easily identify stolen weapons during the course of an investigation, and a 48-hour reporting period may reduce the chance of lost or stolen firearms being used in additional crimes; and

WHEREAS, Morgan Hill’s ordinance requiring that the theft or loss of a gun to be reported to the police within 48-hours was found not to be preempted by California law in *Kirk v. City of Morgan Hill* (2022) 83 Cal.App.5th 976, and the court in *Kirk* noted cities’ ability to impose more stringent firearm regulations than prescribed by state law, given the significant local safety interests at stake; and

WHEREAS, in enacting this ordinance the City Council is relying on its authority to legislate to protect the health, safety and welfare of the Petaluma community with respect to firearms in accordance with the Second Amendment to the U.S. Constitution and the rulings in *District of Columbia v. Heller* (2008) 128 S.Ct. 2783 and *Jackson v. City and County of San Francisco* (2014) 746 F.3d 953, the City's police power pursuant to Article XI, Sections 5 and 7 of the California Constitution, and the ruling in *Kirk v. City of Morgan Hill* (2022) 83 Cal.App.5th 976; and

WHEREAS, this ordinance, amending Chapter 10.56 (Weapons) of Title 10 (Peace, Safety, and Morals) of the Petaluma Municipal Code, is not subject to the California Environmental Quality Act (CEQA) under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and the requirement for separate safe storage of guns and ammunition and the reporting of stolen guns will not have a significant effect on the environment; and

WHEREAS, the proposed ordinance is additionally categorically exempt pursuant to CEQA Guidelines Section 15301 (Existing Facilities), as the requirement for storage of a firearm either in a locked container or for the firearm to be disabled with a safety device would at most be a minor facilities alteration involving negligible or no expansion of existing use; and

WHEREAS, the proposed ordinance is additionally exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines as actions taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment as authorized by state law where the regulatory process involves procedures for protection of the environment; and the basis for this determination is that the proposed ordinance strengthens existing standards for storage and reporting of stolen guns which can prevent gun accidents and protect human health, which is an aspect of the environment regulated under Public Resources Code Section 21083(b)(3); and

WHEREAS, on December 5, 2022, the Petaluma City Council considered the proposed ordinance at a duly noticed public meeting at which time all interested members of the public were provided the opportunity to provide public comment.

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

Section 1. Recitals Made Findings. The above recitals are declared to be true and correct and are incorporated into this ordinance as findings of the City Council.

Section 2. CEQA Findings. This ordinance amending Chapter 10.56 (Weapons) of Title 10 (Peace, Safety, and Morals) of the Petaluma Municipal Code is not subject to the California Environmental Quality Act (CEQA) under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and the requirement for separate safe storage of guns and ammunition and the reporting of stolen guns will not have a significant effect on the environment.

Additionally, this ordinance is categorically exempt pursuant to CEQA Guidelines Section 15301 (Existing Facilities), as the requirement for storage of a firearm either in a locked container or for the firearm to be disabled with a safety device would at most be a minor alteration to facilities involving negligible or no expansion of existing use.

Moreover, this ordinance is additionally exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines as actions taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment as authorized by state law where the regulatory process involves procedures for protection of the environment, and the basis for this determination is that this ordinance strengthens existing

standards for storage and reporting of stolen guns which should prevent gun accidents and protect human health, which is an aspect of the environment regulated under Public Resources Code Section 21083(b)(3).

Section 3. Chapter 10.56 of the Petaluma Municipal Code Amended. Chapter 10.56 of the Petaluma Municipal Code, entitled, “Possession or Discharge” is hereby retitled as “Chapter 10.56 Possession, Storage and Discharge of Firearms” and amended and replaced in its entirety to read as follows (***Bold italics*** is added text; ~~Strikethrough~~ is deleted text):

Chapter 10.56 Possession, ***Storage and*** ~~or~~ ***Discharge of Firearms***

10.56.010 Purpose.

This chapter is adopted in the exercise of the police power of the city for the protection of the welfare, safety, peace and comfort of the residents of the City of Petaluma to reduce harm that may be caused by firearms that are unnecessarily or unsafely discharged in the city, or that are not securely stored or that are lost or stolen and not reported, while preserving the rights guaranteed by the Second Amendment to the U.S. Constitution.

10.56.020 Definitions.

The following words and phrases, whenever used in this chapter, shall have meanings specified in this section unless the context clearly requires otherwise, and any reference to California or Federal statutes includes any regulations promulgated thereunder and includes interpretations of the of the Courts and any successor or amended version of the referenced statute or regulatory provision:

A. “Firearm” means any device, designed to be used as a weapon from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion as defined in California Penal Code Section 16520. “Firearm” does not include an “antique firearm” as defined by 18 U.S.C. 921(a)(16).

B. “Firearm precursor part” means any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted as defined in California Penal Code Section 16531.

C. “Locked Container” means a secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device as defined in California Penal Code Section 16850 and that is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices. The term “locked container” does not include the utility or glove compartment of a motor vehicle.

D. “Locking Device” means any trigger lock or other device that is designed to prevent a firearm from functioning and, when applied to the firearm, renders the firearm inoperable in accordance with the definition in California Penal Code Section 16860, and that is listed on the California Department of Justice's roster of approved firearms safety devices as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code Section 23635.

E. “Peace Officer” means any person who comes within the provisions of Section 830 and following of the Penal Code and who otherwise meets all standards imposed by law on a peace officer.

F. "Residence" means any structure intended or used for human habitation including, but not limited to, accessory units, apartments, condominiums, hotels, houses, motels, recreational and other vehicles, rooms, single room occupancies, and time-shares. "Residence" also includes the curtilage of the residence.

10.56.0310 Possession unlawful.

~~A. Except as otherwise provided in this chapter, no person shall have in his possession within this city and no person shall possess, fire or discharge or cause to be fired or discharged within the city, nor shall any parent, guardian or person having the care, custody or control of any minor permit such minor to have in his *their* possession within this city or to fire or discharge or cause to be fired or discharged within the city any firearm, **except as provided in paragraph B of this section.** cannon, fireworks, gun, pistol, revolver, anvil, firecracker or explosive of similar nature, rifle, air rifle, airgun, BB gun or pellet gun or any instrument of any kind, character or description which throws or projects bullets or missiles of any kind to any distance by means of elastic force, air or any explosive substance, all referred to in this section as "firearms."~~

B. 10.56.020 Exceptions. Paragraph A of Section 10.56.030 The provisions of Section [10.56.010](#) as to the use of any firearms mentioned therein shall not apply to the following **possession or use of firearms**:

- ~~A.~~ **1. To possession or use of** police peace officers or persons in military service in the discharge of their duties and using reasonable care;
- ~~B.~~ **2. To possession or use by** persons using firearms in necessary **and lawful** self defense;
- ~~C.~~ **3. To the possession of such** firearms for keeping at the place of residence or business of the person otherwise in lawful possession thereof or while traveling to or from a legal firing, shooting or target range or hunting ground;
- ~~D.~~ **4. To the possession or** discharging or firing of such firearms or causing them to be discharged or fired at a legal firing, shooting or target range or hunting ground;
- ~~E.~~ **5. To the possession or** discharging or firing of fireworks after permit therefor has been issued by the fire chief as provided by law;
- ~~F.~~ **6. To the possession or** use of a gun firing .22 caliber shot-cartridge only, upon a written permit applied for and granted by the chief of police to protect life or property against animals, birds or rodents.

10.56.040 Duty to report theft or loss of firearms.

Any person who owns or possesses a firearm shall report the theft or loss of the firearm to the Petaluma police department within forty-eight hours of the time the person suspected or knew that the firearm had been stolen or lost, if:

- 1. the person who owns or possessed the stolen or lost firearm resides in the city; or**
- 2. the theft or loss of the firearm occurred in the city.**

10.56.050 Safe storage of firearms and firearm precursors in residences required.

A. Prohibition. No person shall keep a firearm or firearm precursor part within a residence unless the firearm or firearm precursor part is stored in a locked container or disabled with a locking device. The firearm must be stored or disabled in a manner that a reasonable person would believe renders it inaccessible to unauthorized users. It is a violation of this prohibition if the key, or mechanism or code to unlock or disable the locked container or locking device is disclosed to, or kept in a location accessible to, unauthorized users.

B. Exceptions. paragraph A of this Section shall not apply to a firearm:

1. *That it is carried on the person of, or is otherwise in the immediate control and possession of, a person in accordance with applicable local, state, and/or federal laws; or*
2. *That is carried on the person of, or is otherwise in the immediate control and possession of, a peace officer; or*
3. *To a person who reports the loss or theft of a firearm that person owns or possessed to the Petaluma Police Department within forty-eight hours from the time the persons suspected or knew that the firearm had been lost or stolen.*

10.56.030050 Violation–Penalty *and Enforcement.*

~~Any violation of this chapter shall be a misdemeanor and upon conviction thereof, shall be punishable by a fine of not less than seventy five dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.~~

Violation of any requirement of this chapter may, in the sole discretion of the city and city enforcement officials acting on behalf of the city, be enforced administratively, or by civil or criminal enforcement action, and shall be subject to the penalties specified in chapters 1.10 through 1.16 of the Petaluma Municipal Code, and any other applicable laws or regulations. .

Section 4. Severability. If any part of this ordinance 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 ordinance shall become effective thirty (30) days after the date of its adoption by the City Council in accordance with Article XII, Section 76A of the Petaluma Charter.

Section 6. Posting/Publishing of Notice. The City Clerk is hereby directed to post and/or publish this ordinance or a synopsis of it for the period and in the manner required by the City Charter. The City Clerk is also hereby directed to file a Notice of Exemption concerning this ordinance with the Office of the Sonoma County Clerk in accordance with Section 15062 of the CEQA Guidelines.

INTRODUCED and ordered published and posted this 19th day of December, 2022.

ADOPTED this DD day of Month YYYY by the following vote:

- Ayes:
- Noes:
- Abstain:
- Absent:

Kevin McDonnell, Mayor

ATTEST:

APPROVED AS TO FORM:

Kendall Sawyer, City Clerk

Eric Danly, City Attorney