

**EFFECTIVE DATE
OF ORDINANCE**

October 11, 2023

ORDINANCE NO. 2859 N.C.S.

Introduced by: Mike Healy

Seconded by: John Shribbs

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA AMENDING ORDINANCE NO. 2818 N.C.S. WHICH ADOPTED AND APPROVED PETALUMA POLICE DEPARTMENT'S MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY 709, TO ADD PETALUMA POLICE DEPARTMENT POLICY 613, PERTAINING TO UNMANNED AERIAL SYSTEM (UAS) AND UNMANNED GROUND VEHICLES (UGV) OPERATIONS, IN COMPLIANCE WITH CALIFORNIA ASSEMBLY BILL NO. 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, pursuant to Government Code Section 7071(b), "In seeking the approval of the governing body... a law enforcement agency shall submit an Annual Military Equipment Use Report, attached hereto as Exhibit A1, to the governing body for the previous year and make those documents available on the law

enforcement agency’s website at least 30 days prior to any public hearing concerning the military equipment at issue.”; and

WHEREAS, both UAS and UGVs constitute “military equipment” pursuant to Government Code Section 7070(c)(1) of AB 481; and

WHEREAS, Policy 709, attached hereto as Exhibit B, included an “AB481 Specific Equipment Inventory” which contained a description of the UAS equipment, quantity sought, useful life, and cost to purchase and maintain for UASs; and

WHEREAS, pursuant to Government Code Section 7071(a)(1)(E), “A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy...prior to engaging in ...using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body...”; and

WHEREAS, as Ordinance No. 2818, did not address UGVs, or the purposes and authorized uses of UASs pursuant to AB 481, before the Petaluma Police Department can acquire and use UAS and UGV’s, City Council needs to adopt an ordinance and policy, in compliance with the procedures stated in AB 481; and

WHEREAS, pursuant to Government Code Section 7071(b), “In seeking the approval of the governing body... a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency’s website at least 30 days prior to any public hearing concerning the military equipment at issue.”; 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, a draft of Policy 709 and 613 was presented to City Council and placed on the City’s website on July 5, 2023, as part of the July 10, 2023, City Council meeting, which is at least 30 days before the August 7th, 2023 City Council meeting; and

WHEREAS, the City Council considered the proposed AB 481 Policy 709 at a duly noticed regular meeting on August 7, 2023 at which time all interested members of the public were provided the opportunity to provide public comment; and

WHEREAS, on August 7, 2023, City Council introduced the attached Ordinance No. 2859 N.C.S. by a vote of 7-0; and

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.

NOW THEREFORE BE IT ORDAINED by the 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), the Military Equipment Funding, Acquisition, and Use Policy (Exhibit B), and UAS and UGV Operations Policy (Exhibit C), attached to and made part of this ordinance as Exhibits A, B, C have been posted on the City's website for at least 30 days commencing on July 5, 2023.
4. The City Council has conducted a public hearing on the Annual Military Equipment Use Report, Policy 709 and Policy 613 during a regularly scheduled City Council meeting on August 7, 2023, and considered all written and verbal comments, as well as the report and presentation from staff.
5. The City Council has reviewed Policy 709 and 613 and finds that they meet the requirements of State law and are consistent with the public safety provisions of the Petaluma Police Department Policy Manual.

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, Unmanned Aerial Systems (UAS) and Unmanned Ground Vehicles (UGV), are necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. UAS and UGVs are necessary for:
 - a. Enhanced Situational Awareness: UAS and UGV platforms equipped with cameras and sensors provide an aerial or ground-level perspective, enabling law enforcement agencies to gather real-time intelligence and assess potentially dangerous situations remotely. This enhanced situational awareness allows them to make informed decisions and respond more effectively, reducing risks to both police officers and civilians.
 - b. De-escalation and Conflict Resolution: Unmanned systems equipped with communication devices can establish a line of communication between law enforcement and individuals involved in potentially volatile situations. This remote interaction can provide an opportunity for de-escalation and conflict resolution, reducing the need for direct confrontation and minimizing the risk of injuries or casualties.
 - c. Remote Delivery of Equipment and Supplies: UAS and UGV can transport equipment, medical supplies, or other necessary items to areas where access may be restricted or dangerous for human personnel. In emergency situations or remote locations, these vehicles can rapidly deliver resources, enhancing response times and ensuring the safety of officers and civilians.
 - d. Remote Surveillance: UAS and UGV can be deployed for surveillance purposes, such as monitoring large crowds during public events, patrolling high-crime areas, or conducting investigations in challenging environments. By keeping a watchful eye from the air or ground

without direct human involvement, these systems can help identify potential threats and criminal activities while minimizing the need for physical presence.

2. Both Policy 709 and 613 will safeguard the public's welfare, safety, civil rights, and civil liberties by restricting the use of UAS and UGV 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 Policy 709 and 613.
3. Purchasing and maintaining UAS and UGV equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety. As noted above, UAS and UGV equipment are highly specialized and intended for extraordinary public safety threats such that there may be no available alternative that can achieve the same safety objectives. Also, some of the equipment will be purchased from grants at no cost or was previously purchased, obviating, or reducing the need for new purchases.

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 Policy is 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 this Ordinance No. 2818, 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. 2818, this ordinance, Policy 709, and Policy 613 in effect or to modify Policy 709 and Policy 613, or initiate the amendment or repeal of this Ordinance, 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. 2818.
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. This ordinance, 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 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 6: EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

SECTION 7: 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 7th day of August 2023.

ADOPTED this 11th day of September, 2023 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Kevin McDonnell, Mayor

ATTEST:

APPROVED AS TO FORM:

Kami Noriega, CMC, Interim City Clerk

Eric Danly, City Attorney

Exhibit A

**Petaluma Police Department
Annual Military Equipment Use Report June 2022 – June 2023**

Exhibit B

**Petaluma Police Department Policy 709
Military Equipment Funding, Acquisition, and Use**

Exhibit C

**Petaluma Police Department Policy 613
Unmanned Aerial System (UAS) and Unmanned Ground Vehicles (UGV) Operations**