

ORDINANCE NO. ~~2017~~-418

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
PORTOLA VALLEY ADDING CHAPTER 9.02 [PUBLIC
SAFETY INFORMATION] TO TITLE 9 [PUBLIC PEACE
MORALS AND WELFARE] OF THE PORTOLA VALLEY
MUNICIPAL CODE**

WHEREAS, the Town of Portola Valley (“Town”) is installing Automated License Plate Readers (“ALPRs”) at fixed locations in the Town for the purposes of deterring crime and helping to create a safer environment for all those who live and work in or visit the Town; and

WHEREAS, the ALPRs installed by the Town will gather data associated with vehicle license plates that can be shared with local law enforcement for purposes, including, but not limited to, identifying stolen and wanted vehicles, identifying wanted persons, recovering missing persons, recovering stolen property, and gathering crime related information; and

WHEREAS, the Town is concerned about protecting the privacy of its residents and visitors with respect to the retention and use of data gathered by ALPRs; and

WHEREAS, the Town desires to add Chapter 9.02 [Public Safety Information] to Title 9 [Public Peace Morals and Welfare] of the Portola Valley Municipal Code to limit the use and retention of the information gathered by the ALPRs.

NOW, THEREFORE, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. ADDITION OF CODE. Chapter 9.02 [Public Safety Information] is hereby added to Title 9 [Public Peace Morals and Welfare] of the Portola Valley Municipal Code to read as follows:

Chapter 9.02

PUBLIC SAFETY INFORMATION

Sections:

- 9.02.010 Purpose
- 9.02.020 Definitions
- 9.02.030 Automated License Plate Reader Data Use
- 9.02.040 Permitted and Prohibited Uses of Data
- 9.02.050 Automated License Plate Reader Reporting and Maintenance

9.02.010 Purpose

The Town installed Automated License Plate Readers at stationary locations in Town to capture images of license plates for the purposes of helping to create a safer community, to deter crime and to aid in the resolution of crime. The purpose of this chapter is to provide for the proper storage and use of the data gathered by the Town's Automated License Plate Readers.

9.02.020 Definitions

For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them in this Section:

- A. "Automated License Plate Reader" or "ALPR" means the technology, also known as License Plate Recognition, which provides automated detection of license plates.
- B. "Criminal Data" means data that is necessary for an active criminal investigation or that is the subject of a valid court order.
- C. "Data" means the information gathered by an Automated License Plate Reader in the form of license plates and metadata (location and time license plate was viewed), as well as access records, searches, and any other operational data collected by the software system used to store, index, and access the information gathered by an ALPR.
- D. "Hot list" includes license plate(s) associated with vehicles of interest from an associated database, including, but not limited to National Crime Information Center (NCIC), Department of Motor Vehicles (DMV) and local BOLOs.
- E. "Law Enforcement" or "law enforcement agency" refers to the San Mateo County Sheriff or Northern California Regional Intelligence Center (NCRIC).

9.02.030 Automated License Plate Reader Data Use

- A. Data will be securely stored by the Town or its designee and will be available to law enforcement. The Town or its designee shall not unreasonably withhold access to data from law enforcement. Prior to allowing access to the data, the law enforcement agency shall execute an agreement with the Town, to the satisfaction of the Town Attorney, agreeing to comply with the data retention and use provisions set forth in this Chapter.

- B. The Town wishes to retain data long enough for law enforcement to make effective use of the data in criminal investigations, while establishing a limited enough retention period to protect individual's privacy rights. Therefore, the Town establishes the following retention period: the retention period shall not exceed twelve months for any purpose.
- C. Data shall be retained by the Town or its designee, law enforcement for no more than the applicable period identified in Section 9.02.030(B) and then shall be permanently destroyed.
- D. Data shall not be printed out to hard copy, captured as a screenshot, photographed, copied by hand, or in any other way exported from the electronic storage system for retention or use, unless it is criminal data that is subject to the retention limitation period identified in Section 9.02.030(B) and the requirement for permanent destruction in Section 9.02.030(C).
- E. Data may only be accessed by law enforcement personnel, who are authorized to access such data and who have undergone the requisite training, and the access is only for legitimate law enforcement purposes, such as when the data relates to a specific criminal investigation or department-related civil or administrative action.
- F. All data gathered is for official law enforcement use only and is not open to public view or inspection.

9.02.040 Permitted and Prohibited Uses of Data

- A. Permitted Uses. Proposed uses which support law enforcement access to the data include the following:
 - 1. Protecting individuals or property that are the subject of a credible threat.
 - 2. Assisting in an investigation into a misdemeanor or felony.
 - 3. Locating stolen vehicles or wanted persons, including a vehicle on a hot list.
 - 4. Assisting in the recovery of missing persons, including but not limited to missing children (Amber Alert) or the elderly (Silver Alert).
 - 5. Conducting grid searches of the area around a crime scene.
 - 6. Any other purpose deemed appropriate by a majority of the Town Council upon the request of law enforcement.
- B. Prohibited Uses. The following includes uses of ALPRs prohibited by the Town and proposed uses that do not support access to the data by law enforcement:
 - 1. Invading the privacy of individuals or looking into private areas or areas where a reasonable expectation of privacy exists.

2. Harassing, intimidating or discriminating against any individual or group.
3. Enforcing infractions, including traffic violations.
4. Any other purpose not specifically authorized by this Chapter.

C. Unauthorized access, possession or release of data is a misdemeanor pursuant to Portola Valley Municipal Code Section 1.12.060. Any employee who accesses, possesses or releases data without authorization or in violation of this Chapter may face discipline pursuant to the personnel policies up to and including termination.

9.02.050 Automated License Plate Reader Reporting and Maintenance

A. The Town Manager will give an annual report to the Town Council on the number of times data was accessed by law enforcement, including, but not limited to a report from the law enforcement agency as to how many of the license plates included in the data accessed were “hits” (on an active wanted list), the number of inquiries made by law enforcement personnel relative to the data, the justification(s) for those inquiries, and information on any data retained beyond retention periods described in 9.02.030(B) and the reasons for such retention.

B. The Town shall regularly inspect and adequately maintain the ALPR equipment in proper working order and shall ensure that the APLRs continue to function as provided for in this Chapter.

3. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. The Town Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act (“CEQA”) because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The ordinance has no potential for resulting in physical change to the environment either directly or indirectly.

4. SEVERABILITY. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

5. EFFECTIVE DATE AND POSTING. This Ordinance shall become effective 30 days after the date of its adoption and shall be posted within the Town in three public places.

INTRODUCED: March 22, 2017

PASSED: April 26, 2017


AYES: Councilmembers Aalfs, Derwin, Wengert, Vice Mayor Richards and Mayor Hughes

NOES: None

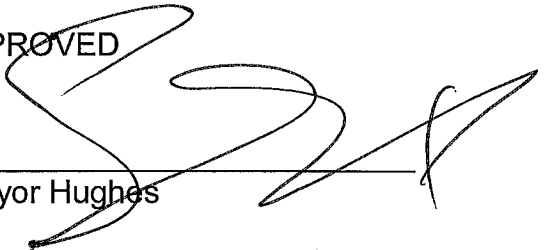
ABSTENTIONS: None

ABSENT: None

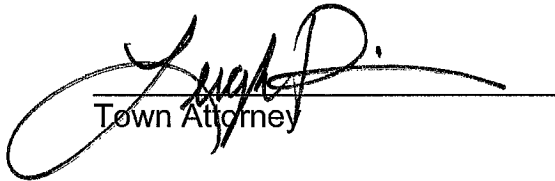
ATTEST


Town Clerk

APPROVED


Mayor Hughes

APPROVED AS TO FORM


Town Attorney