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DATE: May 15, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Eric Danly, City Attorney  
Dylan Brady, Assistant City Attorney

SUBJECT: Adoption (Second Reading) of Ordinance No. 2848 N.C.S. Amending Chapter 6.60 Entitled “Residential Tenancy Protections” of the Petaluma Municipal Code and Finding This Item is Exempt from CEQA pursuant to CEQA Guidelines Section 15387(b)(5)

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### **RECOMMENDATION**

It is recommended that the City Council adopt the attached ordinance amending Chapter 6.60 entitled “Residential Tenancy Protections” of the Petaluma Municipal Code implementing the City Council’s direction at its March 6, 2023, workshop on potential amendments and introduction of the ordinance on April 17, 2023.

### **BACKGROUND**

On April 17, 2023, at a regular meeting, the Petaluma City Council, by a vote of 4-2, introduced Ordinance No. 2848 N.C.S. (Ordinance 2848), If adopted, Ordinance 2848 would amend Ordinance No. 2823 N.C.S. (Ordinance 2823) which added Chapter 6.60 Entitled, “Residential Tenancy Protections” to the Petaluma Municipal Code. Ordinance 2848 amends Ordinance 2823 by:

- exempting units of owners of three or fewer residential rental units in Petaluma, as long as the lease gives notice that the units are not protected under the Tenant Protection Act or the City’s Residential Tenancy Protections;
- includes the same no-fault and at-fault just causes for terminating residential tenancies as the Tenant Protection Act;
- commences the protections under the Ordinance on the date a covered residential tenancy commences;
- adds an exemption for “temporary tenancies” of less than one-year that specify an expiration date when the owner will recover possession of the unit as their primary residence;
- removes exemptions for government owned or subsidized units;

- adds exemptions for “transient” and “tourist occupancies” as defined by Civil Code Section 1940(b), and for units in nonprofit hospitals, religious facilities, and care facilities;
- removes Ellis Act requirements for withdrawal of residential units from the rental market;
- adds a six-month right of return for tenants displaced for any “no-fault” just cause;
- requires payment of relocation assistance to tenants displaced for a “no-fault” just cause of up to 250% of the last month’s rent or \$9,000, whichever is less;
- removes restrictions on notices of termination for “no-fault” just causes for tenant households with a Petaluma educator or K-12 student; and
- deletes the July 1, 2023 expiration of Ordinance 2823

On May 2, 2022, City Council adopted a top ten list of goals and priorities which included just cause protections for residential tenancies in the City. “Just Cause” policies are a form of tenant protections designed to prevent arbitrary, retaliatory, or discriminatory termination of rental agreements by regulating “just causes” for termination of rental agreements, while preserving the rights of landlords to enforce the terms of lawful rental agreements and to terminate them due to tenant non-compliance. Common examples of “just cause” for termination of rental agreements include tenants failing to pay rent, illegal use of a rental unit, tenant breach of a material lease term, and tenant nuisance activity. “Just Cause” policies can prevent tenant displacement and promote housing stability, especially in neighborhoods where rents are rising. The City’s ability to enact tenant protections is authorized by state law under the Tenant Protections Act, and Civil Code sections 1945.2 and 1947.12-1947.13.)

The Tenant Protection Act of 2019 (TPA) was enacted on October 8, 2019, took effect on January 1, 2020, and is currently set to sunset on January 1, 2030. The TPA includes both “just cause” and “rent cap” provisions that regulate termination of rental agreements and rents that may be charged tenants of tenancies subject to the TPA. The TPA permits local residential tenancy regulations to apply in lieu of the TPA as long as the local regulations are more protective than the TPA. (Civil Code Section 1946.2(g).) (For a detailed discussion of the TPA please see Attachment 2 to this staff report.)

On September 12, 2022, the City Council adopted Ordinance No. 2823 adding Chapter 6.60 entitled “Residential Tenancy Protections” to the Petaluma Municipal Code. Ordinance 2823 establishes “just cause” protections for Petaluma renters in addition to those contained in the TPA, but does not establish local rent control. Ordinance 2823 N.C.S. relies on the TPA’s rent control provisions to limit rents that can be charged Petaluma tenants to which the TPA’s rent control applies.

Ordinance 2823 was adopted with a sunset date of March 1, 2023, meaning that on that date, the Ordinance would cease to be in effect. During the adoption of Ordinance 2823 the City Council directed that staff gather input from stakeholders and the public, as well as data regarding the effects of the Ordinance. Generally, ordinances require two readings and take effect 30 days after the second reading. As a result of Ordinance 2823’s March 1, 2023, sunset, amendments to Chapter 6.60 would have had to be introduced at the January 9, 2023, City Council meeting – the first meeting of the newly-seated City Council - to be effective before the Ordinance’s expiration. To allow time for staff to conduct public outreach and gather public input on the Ordinance and

potential amendments, and to avoid an interruption in local tenant protections, on January 23, 2023, the City Council extended the sunset date of Ordinance 2823 to July 1, 2023.

Following the Council action to extend Ordinance 2823, staff held the following meetings to receive stakeholder input in preparation for a March 6, 2023 City Council workshop:

- January 25 - Stakeholder meeting with Petaluma People Services Center
- January 26 - Separate stakeholder meetings with various tenant advocate organizations and property management and real estate organizations and property owners
- February 1 & 4 - Community Workshops; one virtual and one in-person with presentations on Chapter 6.60 protections and potential Council options for amendments
- February 4 - Survey released to the community to answer questions and request feedback on the existing Chapter 6.60 protections and options for amendments.

Each of the February 1st and 4th workshops were attended by over 100 participants. The survey was circulated from February 4 – 24, 2023 and received over 900 responses. (See Attachment 4 to this staff report for a full summary of the community outreach efforts, community participation, survey results, and the feedback received).

On March 6, 2023, City Council conducted a workshop regarding the City’s residential tenancy regulations in Chapter 6.60 of the Petaluma Municipal Code, and received public input, as well as information on how the City’s regulations compare with the regulations of other local jurisdictions (See Attachment 5). After deliberation, the City Council gave direction to staff regarding several proposed amendments to the City’s residential tenancy regulations, and directed staff to return with ordinance amendments in April 2023. The City Council also identified some potential regulations about which the Council required more information. (Link to the March 6, 2023, staff report <https://cityofpetaluma.primegov.com/meeting/document/566.pdf?name=Staff%20Report>)

## **DISCUSSION**

The City Council provided staff direction at the March 6, 2023, workshop to prepare proposed amendments to the City’s residential rental regulations and at the April 17, 2023, Introduction. These amendments include the following:

1. Small Property Owner Exemption - Exempting property owners who own three or fewer residential units in Petaluma. Note that this new local exemption also includes a requirement to notify tenants that the unit is exempt from TPA and local just cause protections, and from TPA rent control, like the TPA does.
2. Temporary Tenancies - Exempting temporary tenancies in the property owner’s primary residence, such as sabbatical or active-duty deployment rentals.

3. Day 1 Protections - Ensuring tenant protections are effective from the beginning of tenancies (starting on day 1 of the lease). Note that due to this amendment the ordinance requires the addition of a new exemption for transient tenancies, such as hotels, motels, and short-term vacation rentals, which were never intended to be subject to just cause protections (see Item 8).

4. Just Cause Alignment with TPA - Aligning with the just causes for termination of residential tenancies with the just causes in the TPA.

5. Ellis Act Removal / 6 Month Right of Return - Eliminating Ellis Act provisions, and providing a 6-month right of return for tenants displaced by a no-fault just cause termination.

6. Relocation Assistance for No Fault Terminations - Mandating relocation assistance for no-fault just cause terminations, set at the lesser of 2.5 times the monthly rent or \$9,000, annually adjustments based on the Consumer Price Index.

7. Property Sale a Just Cause – Making sale of a rental unit a no-fault just cause for termination of a rental agreement, subject to relocation assistance and a 6 month right of return.

<b>Item #</b>	<b>Provision</b>	<b>TPA</b>	<b>Petaluma Interim</b>	<b>Petaluma Proposed</b>
1	Small Property Owner Exemption	TPA exempts Single Family Homes not owned by a corporation	Did not exempt Single Family Homes or small property ownership units	Exempts small property owner units regardless of unit type, but limited to 3 units owned by non-corporate owners
2	Temporary Tenancies	No exception, (but tenant only receives protections after 1 year, and Single-Family homes exempt)	No exception	Exception
3	Effectiveness Timeline	After 1 year	After 6 mos (except 1 year for owner occupied units that share bathroom or kitchen)	Day 1
4	Just Cause Alignment with TPA	Yes	No, (see just cause chart, Table 2)	Yes, with one exemption for victims of domestic violence

5	Ellis Act Removal / 6 Month Right of Return	No	Yes	No
6	Relocation for No Fault Terminations (based on 1 month rent)	100%	100% or 150% for qualified tenant	Lesser of 250% Or \$9,000, annual CPI adjustment)
7	Sale of Property a Just Cause	Yes	No	Yes
8	Transient Tenancies Excluded	Yes	No	Yes

**Table 2 - State TPA just causes compared to Petaluma ordinance**

Item #	Description	TPA	Petaluma Interim	Petaluma Proposed
1	Failure to pay rent	Yes	Yes	Yes
2	Breach of lease	Yes	Yes (only some terms)	Yes
3	Causing a nuisance	Yes	Yes (not if related to domestic violence sexual assault or elder abuse)	Yes
4	Criminal activity	Yes	Yes (not if related to domestic violence sexual assault or elder abuse, requires connection)	Yes
5	Using unit for illegal purpose	Yes	Yes	Yes
6	Committing waste	Yes	No	Yes
7	Subletting against lease	Yes	No	Yes
8	Refusal to allow owner to enter	Yes	Yes	Yes
9	Tenant fails to vacate after intent to leave	Yes	No	Yes
10	Employee fails to vacate after termination	Yes	No	Yes

The proposed ordinance, which is attached as Exhibit 1, incorporates the direction given by Council, and includes corresponding edits in ordinance, including in the recitals, and other, non-substantive edits that simplify the ordinance wording, and where possible, conform the terms in the ordinance with those contained in the TPA.

## **PUBLIC OUTREACH**

Staff have conducted public outreach as follows: January 25 - Stakeholder meeting with Petaluma People Services Center; January 26 - Separate stakeholder meetings with various tenant advocate organizations and property management and real estate organizations and property owners. The City hosted workshops on February 1, 2023 (virtual meeting); and on February 4, 2023 (in-person meeting); and a community survey was open for most of the month of February to solicit feedback. The March 6, 2023, City Council workshop received over 90 public comments. Stakeholders and other interested parties can continue to provide information and recommendations at the following email address: [landlordtenantprotections@cityofpetaluma.org](mailto:landlordtenantprotections@cityofpetaluma.org). Additionally, this item appeared on the March 20, 2023, tentative agenda.

## **COUNCIL GOAL ALIGNMENT**

On May 2, 2022, City Council adopted a top ten goals and priorities which included cause tenant protections. Adopting a rental protection ordinance has also been a policy supported in the City's Housing Element. The proposed ordinance directly addresses this priority.

## **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

The proposed Ordinance will provide greater protections to tenants which may result in fewer terminations of tenancies and greater stability in the rental housing market. This in turn may help reduce homelessness in the city and its impacts on community members and the environment.

## **ENVIRONMENTAL REVIEW**

Introducing an ordinance amending Chapter 6.60 of the Petaluma Municipal Code regarding Residential Tenancy Protections is exempt from the California Environmental Quality Act (CEQA) Guidelines under CEQA Guidelines Section 15378(b)(5), because the action constitutes administrative activity that has no potential for resulting in physical change in the environment, in that the city's tenant protection measures apply to existing and future residential units in Petaluma. This solely administrative activity will result in no physical changes to the environment, and the regulatory amendments would contain no provisions modifying the physical design, development, or construction of residential structures. Additionally, amendments to the City's residential tenancy protections are exempt pursuant to Section 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an emergency, in view of the City's declared Shelter Crisis.

## **FINANCIAL IMPACTS**

There are no direct costs of considering potential amendments to the City's residential tenancy protection regulations in addition to the necessary staff time to prepare staff reports and regulatory options and to administer the regulations.

## **ALTERNATIVES**

The City Council may direct staff to return with revised amendments to Chapter 6.60 of the Petaluma Municipal Code, entitled “Residential Tenancy Protections,” extend or eliminate the July 1, 2023, sunset, or take no action and permit the current ordinance to expire on July 1, 2023.

## **ATTACHMENTS**

1. Proposed Amendments to Petaluma Municipal Code Chapter 6.60
2. Background on State Laws (TPA and Ellis Act)
3. Public Comments and Documents Received
4. Survey Results
5. Draft Housing Element Needs Assessment (Appendix A of Housing Element)
6. Workshop PowerPoint and Comparison with other Local Jurisdictions
7. Clean Ordinance
8. Comparison of proposed Ordinance with Interim Ordinance