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DATE: July 10, 2023

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

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

SUBJECT: Introduction of Ordinance Amending Chapter 6.50 of the Petaluma Municipal Code Entitled Mobile Home Park Space Rent Stabilization Program and Repealing and Replacing the Urgency Ordinance Adopted June 19, 2023 Amending Section 6.50.040(A) of the Petaluma Municipal Code

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### **RECOMMENDATION**

It is recommended that the City Council introduce the attached ordinance amending Chapter 6.50 of the Petaluma Municipal Code entitled Mobile Home Park Space Rent Stabilization Program and Repealing and Replacing the Urgency Ordinance Adopted June 19, 2023 Amending Section 6.50.040(A) of the Petaluma Municipal Code.

### **BACKGROUND**

The City's Mobilehome Rent Stabilization regulations were enacted in 1994 and had not been subsequently been amended prior to the City Council's adoption of an urgency ordinance on June 19, 2023, discussed further below. On May 2, 2022, the City Council adopted a top ten list of goals and priorities which included "Amending and strengthening the Mobile Home Ordinance."

City staff conducted stakeholder meetings with mobilehome park tenant representatives on April 27, with mobilehome park owners and owner representatives on May 4, and a community wide meeting including all interested stakeholders on May 24. The May 24 meeting was a hybrid meeting and offered translation services. Staff also created a mailing list [Mobilehomes@cityofpetaluma.org](mailto:Mobilehomes@cityofpetaluma.org) to receive feedback and answer questions about the City's mobile home rent stabilization regulations and potential amendments to the regulations.

As adopted, the City's mobilehome rent control regulations applied to tenants with leases with terms of 12 months or less. When the ordinance was enacted, the City's mobilehome rent regulations accommodated section 798.17 of the State's Mobilehome Residence Law, which exempted mobilehome rental agreements with terms longer than 12 months. However, AB-2782,

adopted August 31, 2020, amended the State Mobilehome Residence Law to eliminate the exception for longer-term leases for leases entered beginning on February 13, 2020. As a result of AB-2782, mobilehome rental agreements entered after February 13, 2020 that have terms longer than 12 months are not exempt from local rent control and are now protected. Also, AB-2782 provides that Section 798.17 of the State Mobilehome Resident Law is repealed effective January 1, 2025, and that any exemptions from local mobilehome rent control regulations will expire at that time. As a result, longer-term leases entered prior to February 13, 2020 will no longer be exempt from local mobilehome rent control as of January 1, 2025. As a result of AB 2782 Petaluma mobile home space leases with terms greater than 12 months will be protected under the City's mobilehome rent stabilization ordinance according to the timeframes specified in AB 2782.

As initially adopted, the City's mobile home rent regulations generally limited annual rent increases imposed on mobilehome tenants protected under the City's mobilehome rent control regulations, to 6% of the base rent or 100% of the local consumer price index (CPI), whichever is less. This was the annual rent cap for mobilehome spaces subject to Petaluma's mobilehome rent control regulations. A tenant's base rent is their initial rent at the start of the tenancy plus any subsequent increase allowed under the City's regulations. Under the City's regulations, mobilehome space rent increases generally cannot occur within the 12 months following the prior increase. The City's mobilehome rent control regulations also require park owners to provide tenants notice of rent increases at least 90 days before they take effect.

If a mobilehome space in Petaluma becomes a "lawfully vacant space," due to removal of the mobilehome or termination of tenancy, the City's regulations permit the park owner to charge a new base rent. Several neighboring jurisdictions place a cap on the base rent if a mobilehome space becomes a lawfully vacant space. Limiting the new base rent that can be charged for a lawfully vacant mobile home space is known as "vacancy control." Lawfully vacant spaces result when a tenant either relocates their mobilehome from their space or when a tenancy is terminated pursuant to the Mobilehome Residency Law. Examples of lawful grounds for terminations under the Mobilehome Residency Law include: failure to pay rent, committing violations of local ordinances or the park rules, or condemnation or conversion of the park. Although Petaluma's mobile home rent regulations do not explicitly set a vacancy control cap, Petaluma's regulations only permit setting new base rents for lawful vacant spaces as defined in the City's regulations. All other mobile home space vacancies in Petaluma are subject to the City's annual rent cap.

In December, the City of Santa Rosa reduced its annual rent cap from 6% or 100% of the CPI, whichever is less, to 4% or 70% of the CPI, whichever is less. Similarly, the town of Windsor reduced its mobilehome rent control annual cap to 4% or 75% of CPI, whichever is less. Below is a comparison of the annual rent cap and vacancy control cap for other neighboring jurisdictions.

## Comparison of Annual Rent Increase Cap and Vacancy Control Cap

Public Entity	Annual Rent Increase Cap	Vacancy Control Cap
Petaluma	6% or 100% CPI whichever is less	No cap on “lawful vacancies,” annual cap applies to other vacancies
Santa Rosa	4% or 70% CPI whichever is less	10%
Ukiah	5% or 100% CPI whichever is less	10%
Windsor	4% or 75% CPI whichever is less	No cap; except 15% cap for in-park transfer.
Sebastopol	100% CPI	None
Rohnert Park	4% or 75% CPI whichever is less	0 (No increase permitted)
Sonoma County	100% CPI	None
Cloverdale	Board approves	10%
Cotati	6% or 100% CPI whichever is less	None
Vallejo	100% CPI	Cannot be more than 50% of average price of a 2 bedroom home in Solano County
San Rafael	75% CPI	

The consumer price index that applies under the City’s regulations is the San Francisco Oakland index published for the month of July issued each August by the Federal Bureau of Labor Statistics. Below is a table that shows the annual CPI change for the past 22 years.

### Annual CPI Changes

Year	% Change in CPI for 12-month Period Issued in August
2022	5.7%
2021	3.7%
2020	1.6%
2019	2.7%
2018	4.3%
2017	3.0%
2016	3.1%
2015	2.6%
2014	3.0%
2013	2.0%
2012	2.8%
2011	2.9%

2010	1.0%
2009	0.2%
2008	4.2%
2007	2.6%
2006	3.8%
2005	2.2%
2004	1.2%
2003	1.4%
2002	1.3%
2001	5.1%

Mobilehome park owners are entitled to receive a “fair rate of return” on their investment. This means that mobilehome rent control ordinances like the City’s must provide for a reasonable rate of return for mobilehome park owners, and cannot set rent caps so low that they deprive the park owner of the ability to earn a reasonable profit on their investment. In order to ensure that mobilehome park owners receive a fair rate of return, mobilehome rent control ordinances provide mechanisms to adjust rent. Under the City’s regulations, if a park owner proposes rent increases above the annual rent cap, an arbitrator determines if a rent increase above the annual rent cap is reasonable and permitted.

Rent increase arbitration under the City’s current regulations can occur in two ways. First, arbitration automatically occurs if a park owner gives notice of a proposed rent increase that is 300% or more above the annual rent cap. Second, if a park owner increases rent above the annual rent cap, but below 300% of CPI, then 51% of the tenants affected by the rent increase may petition the City for rent arbitration. The City’s mobile home rent control arbitrators are neutral third parties that meet the City’s eligibility requirements and that are selected by the Sonoma County Community Development Commission, which administers the City’s mobile home rent control dispute procedures. Arbitrators of City mobile home rent disputes are presented evidence from both park owners and tenants and use a non-exhaustive list of factors specified in the City’s regulations to determine if a park owner’s proposed rent increase is reasonable. Park owners bear the burden of proving that the proposed increase above the annual rent cap is reasonable.

The cost of retaining an arbitrator and administering the rent stabilization program is supported by an administrative fee based on the amount of protected mobilehome spaces in the City. Park owners are responsible for paying the fee and are permitted to pass 50% of the fee on to the tenants. The administrative fee is currently about \$65.00 per space. The fee has not been increased in the past two years due to concerns about financial hardship caused by COVID-19.

On January 12 and 13, 2022, pursuant to the City’s mobilehome rent control regulations, an arbitration was held between Youngstown Mobile Home Park and its affected tenants. The park owner sought rent increases over 300% of the CPI for the affected tenants, which included the park owners’ debt costs in acquiring the park. The park owner provided no information regarding the owner’s rate of return, and the arbitrator ruled in favor of the tenants, denying the rent increase in its entirety. Staff have reviewed the arbitrator’s decision, attached to this staff report as Attachment 5. The staff recommendations concerning potential amendments to the City’s mobilehome park rent control regulations include amendments that would address considerations

raised in the arbitration decision and that can result in a more equitable determination regarding “fair rate of return” for mobilehome park owners and their tenants.

On June 5, 2023, City Council conducted a workshop on potential amendments to the City’s Mobilehome rent stabilization ordinance. The potential mobilehome rent control amendments that were offered for City Council consideration on June 5, 2023, were a result of stakeholder meetings and community outreach, in addition to staff’s review of the recent Youngstown arbitration and of rent stabilization ordinances in neighboring jurisdictions. At the June 5, 2023, workshop, City Council provided direction on potential amendments, which are included in the attached ordinance, **Attachment 1**, which has been prepared to amend the City’s mobile home rent regulations in Chapter 6.50 of the Petaluma Municipal Code in accordance with the City Council’s June 5, 2023 direction. The Council’s direction regarding amendments to Chapter 6.50 is discussed in greater detail in the Discussion Section of this staff report.

## **DISCUSSION**

### **Annual Rent Cap**

As originally adopted, the City’s mobilehome rent control regulations capped annual increases to a protected mobilehome space’s rent at 6% of the base rent or 100% of the local consumer price index, whichever is less. During the City’s stakeholder outreach process, mobilehome tenants and affordable housing advocates recommended lowering the annual rent cap similar to the recent amendments in Santa Rosa and Windsor. Tenants believe this is necessary to keep rents affordable in view of the recent substantial CPI increases. Park owners want to keep the current rent cap as is and note low CPI rates in most of the past 21 years. One park owner recommended a policy under which, if the CPI increased above a specified percentage, qualified tenants could defer the increased rent corresponding with the CPI increase above the specified percentage until the tenant sells their mobilehome. Upon sale of the mobilehome, the seller would pay the park owner the deferred increased rent, presumably from the sale proceeds. (See attachment 4) The park owner proposed that the policy be implemented by a memorandum of understanding between mobilehome tenants and park owners. Staff are not aware of another City that has a similar approach, and would have concerns— including enforceability concerns and bargaining power imbalance concerns - about relying on private agreements for capping future mobilehome rent increases. The first table above shows the annual mobilehome space rent caps, including the recent amendments in Santa Rosa, Windsor and Rohnert Park. Currently, the lowest cap in our region is Santa Rosa’s at the lower of 70% of CPI or 4%. The highest caps in our region are those of Sebastopol, Sonoma County and Vallejo that allow annual rent increases of 100% of CPI and are not subject to a cap. **The City Council provided direction to staff to prepare an amendment lowering the annual cap to 4% or 70% of CPI, whichever is lower. At the June 19, 2023 City Council meeting, staff presented and the City Council adopted an urgency ordinance amending the annual rent cap in Section 6.50.040(A) of the Petaluma Municipal Code to 4% or 70% of CPI, whichever is lower. At that time, staff indicated they would return to the Council on July 10, 2023 with a regular ordinance for introduction by the City Council that would replace the urgency ordinance adopted June 19, 2023, maintain the annual rent cap at the lower of 4% or 70% of CPI, and also implement the entirety of the amendments to Chapter 6.50 as directed by the City Council**

**on June 5. The attached ordinance reflects that direction; that is, the attached ordinance replaces the urgency ordinance adopted June 19, 2023, maintains the annual rent cap at the lower of 4% or 70% of CPI, and also implements the entirety of the amendments to Chapter 6.50 as directed by the City Council on June 5.**

### Vacancy Control

Under the City’s current regulations, if there is a “lawful vacant space,” either due to removal of the mobilehome or termination of tenancy under the Mobilehome Residency law, the park owner may charge a new base rent without restriction. In our outreach meetings, park tenants and affordable housing advocates recommended capping new base rents to keep spaces affordable for future tenants. Park owners recommended against vacancy control and in favor of allowing the park owners to increase the rent for lawful vacant spaces up to the market rental value, to help ensure park owners are able to pay for maintenance of the park and any needed capital improvements. Park owners provided information (see Attachment 4 and Attachment 3, starting at page 32 in the PDF), that they believe shows that vacancy control can inflate the sale price of the mobilehomes, which can make buying mobilehomes difficult, and discourage upgrading older mobilehomes. Some of the park owners indicate that they currently increase the rents for lawful vacant spaces to equal the current highest rent in the park or the average of the 3 highest rents in the park. These are the approaches that the park owners appear to favor if the Council were to set a vacancy control cap. The first table above shows other neighboring jurisdictions’ approaches to vacancy control caps. The most restrictive vacancy control cap is that of Rohnert Park at 0%, followed by Santa Rosa and Ukiah with 10% vacancy control caps. The least restrictive jurisdictions are Sebastopol, Sonoma and Cotati, where there are no vacancy control caps. Windsor only has vacancy control for in place transfers, meaning tenants relocating their mobilehome to another site in the park, and caps this in place transfer at 15%. **Council provided direction to leave the current vacancy control provisions generally unchanged. The attached ordinance is consistent with that direction.**

### Other Amendments to the City’s Mobile Home Rent Stabilization Regulations

At the June 5, 2023 workshop on potential amendments to the City’s mobile rent stabilization regulations, the City Council gave direction regarding amendments to, in addition to rent increase caps and vacancy control: arbitration proceedings; fair rate of return provisions; noticing requirements; and miscellaneous provisions, including remedy provisions governing violations of the City’s regulations. The attached regular (non-urgency) ordinance implements the full extent of the City Council’s direction regarding updates to the City’s mobile home rent stabilization regulations with amendments to the City’s regulations for introduction at tonight’s City Council meeting. The urgency ordinance the City Council adopted on June 19, 2023 will be automatically repealed when the attached regular ordinance implementing the City Council’s full direction for updates to the City’s mobile home regulations take effect, likely on about August 18, 2023.

## **PUBLIC OUTREACH**

City staff conducted stakeholder meetings with representatives of mobilehome tenants on April 27, with mobilehome park owners on May 4, and at a community wide meeting on May 24. The May 24 meeting was a hybrid meeting as well as translated. A workshop was also held before the City Council on June 5, 2023. Staff also created a mailing list

Mobilehomes@cityofpetaluma.org to receive feedback and answer questions. Interested parties can continue to email this address and any public comments received will be posted online for upcoming meetings on this item. The workshop item was included in the tentative agenda approved by the City Council at the May 15, 2023 City Council Meeting. Amending the City's Mobilehome Rent Stabilization Ordinance appeared and was discussed during the City Council goals and priorities workshops in 2022 and 2023.

## **COUNCIL GOAL ALIGNMENT**

On May 2, 2022, City Council adopted a top ten list of goals and priorities which included amending and strengthening the City's mobilehome rent control regulations. The amendments discussed in this staff report would directly address this priority.

## **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

The options identified in this staff report for amending the City's mobilehome rent stabilization regulations may result in greater stability in the mobilehome rental market, resulting in fewer displacements which may in turn help reduce homelessness in the City and its impacts on community members and the environment.

## **ENVIRONMENTAL REVIEW**

The amendments discussed in this staff report to the City's mobilehome rent control regulations are not a "project" within the meaning of Section 15378 of the California Environmental Quality Act Guidelines, because the adoption of such amendments would constitute an administrative activity that has no potential for resulting in physical change in the environment. The City's existing mobilehome rent stabilization regulations resulted from a solely administrative process resulting in no physical changes to the environment, and any potential amendments of the City's mobilehome rent regulations would involve no modifications to the physical design, development, or construction of residences or nonresidential structures. Additionally, the amendments discussed in this staff report 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 Council's action on September 13, 2021, to declare a shelter crisis in the City.

## **FINANCIAL IMPACTS**

There are no direct costs of the potential regulatory amendments discussed in this staff report other than staff time and outreach costs incurred in preparing these materials for the consideration of the public and the City Council.

## **ALTERNATIVES**

Council may introduce the attached regular ordinance amending Chapter 6.50 of the Petaluma Municipal Code. Council may propose vary the amendments from what was discussed during the June 5 Workshop or amend the direction that the Council provided during the June 5 Workshop.

## **ATTACHMENTS**

1. Ordinance
  - a. Amendments to Chapter 6.50 (Exhibit A)
2. PowerPoint from June 5 Workshop
3. Public Comments
4. Park Proposal
5. Youngstown Arbitration Decision