

**EFFECTIVE DATE
OF ORDINANCE**

October 18, 2023

ORDINANCE NO. 2861 N.C.S.

Introduced by: _____

Seconded by: _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA ADOPTING
REASONABLE LOCAL STANDARDS AND PROCEDURES FOR THE DESIGN AND SITE
DEVELOPMENT OF HOMELESS SHELTERS AND THE STRUCTURES AND FACILITIES
THEREIN AT THE CITY MANAGER'S DISCRETION FOR PROJECTS OF THE CITY OF
PETALUMA TO PROVIDE EMERGENCY HOUSING PURSUANT TO SECTIONS 8698-8698.4 OF
THE CALIFORNIA GOVERNMENT CODE**

WHEREAS, the 2022 Sonoma County Point-in-Time Count showed that countywide homeless census numbers increased slightly from 2,745 to 2,893¹; and

WHEREAS, the 2022 Sonoma County Point-in-Time Count of individuals experiencing homelessness within the city of Petaluma found that 293 individuals on a given night, and that about 75% of these individuals were unsheltered;² and

WHEREAS, according to data from the Petaluma Health Center, approximately 750 unique households experienced homelessness in Petaluma at some point in 2021, which is 150% greater than the PIT results; and

WHEREAS, the population of people experiencing homelessness in Petaluma includes veterans, women, children, persons with disabilities and other vulnerable communities; and

WHEREAS, the recently adopted Petaluma 2023-2031 Housing Element (Housing Element) states that the vacancy rate for owner-occupied units was 0.1 percent, while rental units had a vacancy rate of 1.6 percent, and that "these vacancy rates indicate that the current housing stock is in high demand in Petaluma and that residents may have challenges finding housing within the community"³; and

WHEREAS, there is a shortage of available and deed restricted affordable housing units in Petaluma due to the very low rental vacancy rate; and

WHEREAS, the Housing Element states that since 2011 housing prices in Sonoma County has more than doubled, including Petaluma's home values increasing by more than 130%;⁴ and

WHEREAS, Table A15 in the City's Housing Element shows that the average monthly rental price for a 1-bedroom apartment in Petaluma is \$2,381; and

¹<https://sonomacounty.ca.gov/Main%20County%20Site/Health%20and%20Human%20Services/Health%20Services/Documents/Homelessness%20Services/Homeless%20Data/County%20of%20Sonoma%202022%20Point-in-Time%20Count%20Results.pdf>

² Id.

³ City of Petaluma 2023-2031 Housing Element; Page A-13

⁴ Id; Page A-15

WHEREAS, according to the U.S. Department of Housing and Urban Development the 2023 Fair Market Rent for Sonoma County is \$1,711 for a one-bedroom apartment, an increase from \$1,549 in 2022⁵; and

WHEREAS, Table A8 in the City’s Housing Element shows that 44.6% of all renters in Petaluma pay at least 30% of their household’s income to rent and are therefore “cost burdened”⁶; and

WHEREAS, the shelter crisis is exacerbated due to the high costs of housing in Sonoma County and in particular Petaluma; and

WHEREAS, people experiencing homelessness continue to reside on the streets, along creeks and pathways, and in unauthorized encampments in Petaluma; and

WHEREAS, such conditions pose threats to the safety, health, and well-being of persons without shelter and other community members and to the environment due to lack of security and adequate cooking or sanitation facilities; and

WHEREAS, activities carried out at unauthorized encampments may cause additional sanitation, health and safety impacts to the surrounding community and natural environment, including the riparian corridor of the Petaluma River, and can and have resulted in fires that are especially dangerous in the current extreme drought conditions; and

WHEREAS, the aforementioned public health measures and rise in cases in the unhoused community has necessitated modification and reduction in beds available at Petaluma’s Mary Isaak Center resulting in less available shelter and services for unsheltered individuals; and

WHEREAS, in an effort to better serve people experiencing homelessness within the city of Petaluma amid the ongoing housing crisis, staff has begun to explore innovative housing options to increase the number of available shelter beds with appropriate spacing to ensure that individuals are able to follow public health guidelines for their protection and the protection of the entire community; and

WHEREAS, the complexity and magnitude of the homelessness crisis and the limited supply of affordable permanent housing in the city of Petaluma demonstrate that there is a significant and immediate need for interim housing in the city, including emergency shelter, to protect the life, health, and safety of people experiencing homelessness; and

WHEREAS, strict compliance with the provisions of state and local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, safety, and environmental impact assessment may prevent, hinder, or delay emergency housing measures that could be expedited through a Declaration of Shelter Crisis; and

WHEREAS, on September 25, 2020, Governor Newsom signed into law Assembly Bill 2553, which extended certain provisions of the Shelter Crisis Law that originally only applied to specified cities (Oakland, Berkeley, and San Jose) to authorize any jurisdiction to declare a shelter crisis under California Government Code Section 8698.2; and

⁵https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2023_code/2023summary.odn?fips=0609799999&year=2023&selection_type=county&fmrtype=Final

⁶ Housing Element; Page A-10

WHEREAS, AB 2553 adds section 8698.4 to the Government Code, giving cities and counties regulatory flexibility regarding building codes and land use regulations and establishes a California Environmental Quality Act (CEQA) exemption to expedite the construction of shelters, adds safe parking sites as an eligible form of shelter, and extends the sunset of these provisions to January 1, 2026; and

WHEREAS, AB 2553 permits cities that proclaim local shelter crises to adopt an ordinance establishing reasonable local standards and procedures for the design, site development and operation of homeless shelters and the structures therein, to the extent it is determined at the time of adoption that strict compliance with state and local standards or laws in existence at the time of adoption would in any way prevent, hinder or delay the mitigation of the effects of the shelter crises, so long as the local standards at a minimum must meet the standards in the 2019 California Residential Code Appendix X, and California Building Code Appendix O, and any future standards adopted by the Department of Housing and Community Development related emergency housing or emergency housing facilities, absent findings stating why the minimum standards cannot be met and how the standards in the ordinance protect health and safety; and

WHEREAS, AB 2553 also requires that cities that declare a shelter crisis after January 1, 2021 develop a plan to address the shelter crisis, including, but not limited to, the development of homeless shelters and permanent supportive housing, as well as onsite supportive services by July 1, 2022; and

WHEREAS, AB 2553 additionally requires cities that declare a shelter crisis submit an annual report under Government Code section 8698.4 to the Senate Committee on Housing and the Assembly Committee on Housing and Community Development; and

WHEREAS, on September 13, 2021, City Council adopted Resolution No. 2021-149 N.C.S. which declared a shelter crisis and adopted an urgency ordinance which created flexibility in local standards and procedures for the design and site development of shelters for people experiencing homelessness and the structures and facilities within the city⁷; and

WHEREAS, on September 13, 2021, City Council also adopted an urgency ordinance, Ordinance No. 2790 N.C.S. Creating Flexibility in Local Standards and Procedures for the Design and Site Development of Shelters for People Experiencing Homelessness and the Structures and Facilities Therein at the City Manager's Discretion; and

WHEREAS, on June 20, 2022, the City Council adopted Petaluma's first Strategic Plan to End Homelessness (Plan), which provides guidance and priorities for City policies, programs and investments over a three-year period ending June 30, 2025⁸; and

WHEREAS, the Plan calls for building a homeless system of care that will be able to end long-term, chronic homelessness in Petaluma by the end of 2025 and in the process, create a crisis response system that ensures homelessness becomes a rare, brief, and one-time experience in our community; and

⁷ <https://cityofpetaluma.primegov.com/Portal/Meeting?meetingTemplateId=13161>

⁸ <https://cityofpetaluma.primegov.com/Portal/Meeting?meetingTemplateId=14414>

WHEREAS, Resolution No. 2021-149 N.C.S. and Urgency Ordinance No. 2790 N.C.S. expired on December 31, 2022; and

WHEREAS, shelter crisis declarations not subject to the California Environmental Quality Act ("CEQA") in that the action is excluded from the definition of a project by Section 21065 of the California Public Resources Code and Sections 15061(b)(3) and 15378(b)(5) of the State CEQA Guidelines because it is organizational or administrative activity of government that will not result in direct or indirect physical changes to the environment, and the action is necessary to prevent or mitigate an emergency and therefore is statutorily exempt from CEQA pursuant to Section 21080(b)(4) of the Public Resources Code and Section 15269(c) of the CEQA Guidelines; and

WHEREAS, CEQA does not apply to actions taken by a state agency or a City to lease, convey, or encumber City-owned land or to facilitate the lease, conveyance or encumbrance of City-owned land for or to provide financial assistance to, a homeless shelter constructed or allowed by Government Code Section 8698.4.

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

Section 1. Findings.

1. The above recitals are hereby declared to be true and correct and are incorporated into this ordinance as findings of the City Council.
2. The facts contained in the above recitals and the Shelter Crisis that has been declared in the City of Petaluma pursuant to Resolution No. 2023-139 N.C.S. adopted on September 11, 2023 conclusively demonstrate the urgent need to adopt this ordinance for the immediate preservation of the public peace, health and safety.
3. Strict compliance with local building approval procedures and/or state or local housing, health, habitability, planning and zoning, or safety standards, procedures, and laws in existence at the time of adoption of this ordinance will prevent, hinder, or delay the City's efforts to mitigate the effects of its declared Shelter Crisis through:
 - a. expense and time necessary to obtain the required permits and design suitable structures;
 - b. restricted development patterns under existing zoning code requirements;
 - c. delay and staff resources necessary to satisfy the City's Site Plan and Architectural Review process; and
 - d. limits on the locations where the City can place homeless shelters.

Section 2. Exemptions from CEQA. Adoption of this urgency ordinance is not subject to the California Environmental Quality Act ("CEQA") in that the action is excluded from the definition of a project by Section 21065 of the California Public Resources Code and Sections 15061(b)(3) and 15378(b)(5) of the State CEQA Guidelines because it is organizational or administrative activity of government that will not result in direct or indirect physical changes to the environment, and the action is necessary to prevent or mitigate an emergency and therefore is statutorily exempt from CEQA pursuant to Section 21080(b)(4) of the Public Resources Code and Section 15269(c) of the CEQA Guidelines. CEQA does not apply to actions taken by a state agency or a city to lease, convey, or encumber city-owned land or to facilitate the lease, conveyance or encumbrance of city-owned

land for or to provide financial assistance to, a homeless shelter constructed or allowed by Government Code Section 8698.4.

Section 3. Reasonable Local Standards and Procedures for the Design and Site Development of Homeless Shelters and the Structures and Facilities Therein. The City Manager or her designee are authorized in their sole discretion to suspend compliance with local building approval procedures or state or local housing, health, habitability, planning and zoning, or safety standards and procedures, for projects of the City of Petaluma to provide emergency housing on City owned or leased property; except all such projects must comply with the 2019 California Residential Code Appendix X, and California Building Code Appendix O, and any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities.

Notwithstanding the previous paragraph, the location for any homeless shelter pursuant to this ordinance shall be at the discretion of City Council.

Section 4. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 5. Sunset. This ordinance shall expire, be repealed and ceased to be of further effect without further action of the City Council upon the expiration of the Shelter Crisis declared pursuant to Resolution No. 139 N.C.S. adopted September 11, 2023. As of the date this ordinance was adopted, Resolution No. 139 N.C.S. provided that the Shelter Crisis declared pursuant to that resolution would expire on and cease to be in effect without further action of the City Council upon the expiration of Government Code Section 8698.4 or unless the Shelter Crisis declaration is extended or terminated by action of the City Council prior to that time.

Section 6. Submittal to California Department of Housing and Community Development. The City Clerk is hereby directed to file a copy of this Ordinance, with the California Department of Housing and Community Development in accordance with California Government Code Section 8698.4(a)(2)(A)(i).

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Section 8. Posting/Publishing of Notice. The City Clerk is hereby directed to post/publish this ordinance or a synopsis of this ordinance for the period and in the manner required by the City Charter.

INTRODUCED and ordered published and posted this 11th day of September 2023.

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

Ayes:

Noes:

Abstain:

Absent:

Kevin McDonnell, Mayor

ATTEST:

APPROVED AS TO FORM:

Kami Noriega, Interim City Clerk

Eric Danly, City Attorney