



DATE: March 6, 2023

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

FROM: Eric Danly, City Attorney
Dylan Brady, Assistant City Attorney
Ingrid Alverde, Director of Economic Development and Open Government
Karen Shimizu, Housing Manager

SUBJECT: Workshop to Receive Stakeholder Input and Public Comment, and for Council Deliberation and Direction on Potential Amendments to 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)

RECOMMENDATION

Staff recommend that the City Council receive stakeholder input and public comments, deliberate, and provide direction to staff on options for amending Chapter 6.60 entitled “Residential Tenancy Protections” of the Petaluma Municipal Code.

BACKGROUND

On May 2, 2022, City Council adopted a top ten list of goals and priorities which included “Ellis Act/Just Cause” protections. “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 both limited and authorized by state law under the Ellis Act and Tenant Protections Act.¹

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

¹ Government Code sections 7060-7060.7 and Civil Code sections 1945.2 and 1947.12-1947.13.

cause” and “rent cap” provisions that regulate termination of rental agreements and rents that may be charged tenants. The TPA permits local residential tenancy regulations as long as they are more protective than the TPA.² (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 N.C.S. adding Chapter 6.60 entitled “Residential Tenancy Protections” to the Petaluma Municipal Code. Ordinance 2823 N.C.S. provides “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.

Ordinance 2823 N.C.S. 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 N.C.S. 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 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 N.C.S. to July 1, 2023

Following the Council action to extend Ordinance 2823 N.C.S., staff conducted the following meetings to receive stakeholder input in preparation for this March 6, 2023 City Council workshop: 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 N.C.S. to July 1, 2023

Following the Council action to extend Ordinance 2823 N.C.S., staff conducted the following meetings to receive stakeholder input in preparation for this 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
- February 1 & 4 - Community Workshops; one virtual and one in-person presentations on Chapter 6.60 protections and Council options for amendments with survey as follow up
- February 4 - Survey out to 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

² Civil Code Section 1946.2(g).

to this staff report for a full summary of the community outreach efforts, community participation, survey results, and the feedback received).

The purpose of this staff report is to help organize a discussion of the state rental housing laws (Ellis Act and TPA), in comparison with the local regulations in Ordinance 2823 N.C.S., identifying the current and potential future provisions that can be included in or excluded from Petaluma's residential tenancy regulations. During this workshop, staff will present a menu of options regarding the operative provisions in the City's residential tenancy regulations, and public input received regarding those provisions as well as information on how the City's regulations compares with the residential tenancy protection regulations of other local jurisdictions (See Attachment 5). Depending on and subject to the City Council's direction, staff are preparing for introduction of an ordinance amending Ordinance 2823 N.C.S. for City Council consideration on March 20, 2023 and a second reading on April 3, 2023. Of course, instead of directing preparation of amendments to Ordinance 2823 N.C.S., the City Council could direct staff to not prepare amendments to Ordinance 2823 N.C.S. and permit the Ordinance to expire on the July 1, 2023 sunset date.

Stakeholders and other interested parties can continue to provide information and recommendations to the City Council that can be incorporated into potential amendments to the City's regulations prior to and at the first reading of an ordinance amending Ordinance 2823 N.C.S. at the following email address: landlordtenantprotections@cityofpetaluma.org. Public comments concerning the City's residential tenancy regulations may be submitted before and at any City Council meeting when they are an item on the agenda.

DISCUSSION

In the following we have organized a discussion of the operative features of the state law (Ellis Act and TPA) and the City's residential tenancy regulations under the following headings:

- Which units are subject to state and local rules?
- When are tenancies subject to state and local rules?
- Under what conditions a landlord can terminate a tenancy under state and local rules?

The following describes how State law regulates residential tenancies currently and how Petaluma's regulations add features providing additional tenant protections.

We have also included some of the stakeholder feedback we heard relative to existing and potential future provisions, and tables listing other local jurisdictions' regulations. This discussion concludes with a list of the operative features in Ordinance 2823 N.C.S. and other provision options for which staff are requesting feedback.

Which units are subject to the TPA and the City's Ordinance?

The TPA applies to all residential units EXCEPT:

- Units that have received certificate of occupancy in the last 15 years (on a continuous rolling basis)

- Units restricted as affordable housing
- Dorms owned/operated by schools, nonprofit hospitals, churches, & extended care facilities
- Owner occupied property with shared a bath/kitchen
- Owner occupied duplex that the owner has occupied since the beginning of the rental tenancy
- Single-family homes if owner occupied with no more than 2 rooms leased
- Single-family homes if owner is not a corporate entity & tenants received written notice that the TPA does not apply
- Hotels and transient occupancies (rentals that last less than 30 days)

Many jurisdictions' rental regulations limited these exceptions, expanding the number and types of units that are protected. A notable exception in the TPA protections is the exception for single-family homes if the owner is not a corporate entity and tenants received written notice that the TPA does not apply. This exception is sometimes referred to "the mom and pop" exemption. Ordinance 2823 N.C.S. eliminates the mom and pop exception, as well as those below that are crossed out below:

- ~~Units that have received certificate of occupancy in the last 15 years~~
- Units restricted as affordable housing
- ~~Dorms owned/operated by schools, nonprofit hospitals, churches, & extended care facilities~~
- Owner occupied property (primary residence) & shares a bath/kitchen
- ~~Owner occupied duplex (primary residence) & has occupied since the beginning of the tenancy~~
- ~~Single family homes if owner occupied and leases no more than 2 rooms~~
- ~~Single family homes if owner is not a legal entity & tenants received written notice that they are exempt~~
- ~~Hotels and transient occupancies (rentals that last less than 30 days)~~

Ordinance 2823 N.C.S. also excludes two additional unit categories that from tenant protections:

- Units owned or subsidized by govt. agency
- Units occupied by a tenant property manager

One of the most discussed issues at the stakeholder and community meetings was the mom and pop exception. Local landlords and residential property managers who own or manage single family rentals fear that making those units subject to tenant protections will make their rental property too difficult to manage and / or sell, and add costs limiting the income they can realize from their investment. We heard from a number of "mom and pop" owners who purchased homes as investments to provide retirement income. Some expressed the concern that they may have made different retirement income choices if they knew their unit would become subject to tenant protections. Tenant advocates, on the other hand, expressed a concern about exempting a significant percentage of Petaluma's rental housing units from tenant protections. We also

received feedback that affordable housing and housing that is government owned or subsidized, should not be excluded from the City’s tenant protections.

Exempt Property Comparison of Petaluma Regulations with TPA and Other Local Jurisdictions

Petaluma	<ol style="list-style-type: none"> 1. Owned or operated by government agency 2. Rent subsidized by government agencies 3. 49% of the dwelling units on the property are deed restricted 4. Owner shares a bathroom or kitchen with tenant 5. Tenant property manager units
TPA	<ol style="list-style-type: none"> 1. Units that have received certificate of occupancy in the last 15 years (on a continuous rolling basis) 2. Units restricted as affordable housing 3. Dorms owned/operated by schools, nonprofit hospitals, churches, & extended care facilities 4. Owner occupied property with shared a bath/kitchen 5. Owner occupied duplex that the owner has occupied since the beginning of the rental tenancy 6. Single-family homes if owner occupied with no more than 2 rooms leased 7. Single-family homes if owner is not a corporate entity & tenants received written notice that the TPA does not apply 8. Hotels and transient occupancies (rentals that last less than 30 days)
Marin County	<p>Ordinance only applies to properties with 3 or more units. (Properties with 2 or fewer units are exempt.) Also exempt:</p> <ol style="list-style-type: none"> 1. Units owned by government agency or subsidized by a government agency where tenant’s portion of rent does not exceed 30% of household income. 2. Units where at least 49% of the units on the development are deed restricted as affordable. 3. ADU’s and JADU’s. 4. Tenant property manager units.
Emeryville	<p>The following are exempt:</p> <ol style="list-style-type: none"> 1. Hotels and short term-rental units 2. Owner occupied single family properties where the owner rents 2 or fewer units on the property

	<ol style="list-style-type: none"> 3. Units owned by nonprofits 4. Deed-restricted affordable 5. Care facilities 6. Units owned by the government
Richmond	<p>The following are exempt:</p> <ol style="list-style-type: none"> 1. Accessory units where the owner resides on the property 2. Short term tenancies in single family home 3. Units where the owner shares a bathroom or kitchen with the tenant
East Palo Alto	<p>The following are exempt:</p> <ol style="list-style-type: none"> 1. Rooms within a dwelling unit shared with landlord 2. Units exempted by state and federal law 3. Care facilities 4. Resident-owned nonprofit housing 5. Transient occupancy
Fairfax	<p>The following are exempt:</p> <ol style="list-style-type: none"> 1. Hotels/motels (transient occupancy) 2. Dormitories owned by churches, non-profits, hospitals 3. Government owned or managed units 4. Deed restricted affordable units
San Rafael	<p>Only applies to properties with 3 or more units (properties with 2 or fewer units are exempt. Also exempt:</p> <ol style="list-style-type: none"> 1. Government owned or operated units 2. Units with rent directly subsidized by the government. 3. Units located on a property where more than 49% of the dwellings are deed restricted as affordable 4. Tenant property manager units 5. Units occupied by owner or owner's family

Alameda County	<p>The following are exempt:</p> <ol style="list-style-type: none"> 1. Transient occupancy units and hotel units 2. Units where the owner shares a kitchen or bath with tenant in same residence 3. Care facilities 4. Temporary housing for assistance (therapy or substance abuse) 5. Units provided by a nonprofit, hospital or church
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Single-Family Homes & “Mom and Pop” Exception Comparison with State Law and Other Local Jurisdictions

Petaluma	No mom and pop exception. Units where owner resides as their primary residence and shares a bathroom or kitchen are exempt. Additionally, if owner resides in a different unit but on same property, the tenant obtains protections under the ordinance after 12 months of lawful occupancy.
TPA	Single-family homes are exempt if: owner occupied and leases no more than 2 rooms or if owner is not a corporate entity & tenants received written notice that the TPA does not apply
Marin County	Ordinance only applies to properties with 3 or more units
Fairfax	No mom and pop exception
Marin County	No mom and pop exception
San Rafael	Ordinance only applies to properties with 3 or more units
Emeryville	Owner occupied single family properties where owner rents 2 or fewer units on the property
Richmond	Exempts “temporary tenancies” where owner resides in a single-family home as their primary unit and the lease states that the tenancy is temporary terminates at the end of the tenancy.
East Palo Alto	Single family are not exempt unless they are units within a dwelling unit shared with a landlord

When are tenancies subject to the TPA and Petaluma’s Regulations?

The TPA protections apply to any tenant that has lawfully lived in a residence for 12 months or longer. Petaluma’s regulations shorten that time from 12 months to 6 months, except where the landlord lives on the property or when the tenant is living in a dwelling unit that is accessory or junior accessory unit to an existing residential property. In that case, the Petaluma protections do not apply until after the tenant has lawfully occupied the property for 12 months or more.

Another important consideration regarding tenant protection regulations is whether and when they permit rental agreements to expire by their own terms, ending the tenancy without a termination by the landlord. In many rental agreements after the first year of the rental term, the agreement converts into an automatically-renewing, 30-day, periodic tenancy. For such rental agreements, the TPA protections continue to apply, limiting a landlord’s ability to terminate the tenancy, raise rents, and / or remove the unit from the market without providing relocation assistance. If a rental agreement expires without converting to a period tenancy, and the tenants remain, they are considered tenants “at sufferance.” The TPA does not protect tenants at sufferance. However, Petaluma’s regulations and those of several other local jurisdictions also apply to tenants at sufferance.

Comparison with Other Jurisdictions

Petaluma	Protections apply after 6 months of lawful occupancy; 12 months for ADU’s and owner-occupied units
TPA	Protections apply after 12 months of lawful occupancy
Marin County	Protections apply immediately (day 1 of rental agreement)
Emeryville	Protections apply immediately (day 1 of rental agreement)
Santa Ana	Protections apply after 30 days of lawful occupancy
Richmond	Protections apply immediately (day 1 of rental agreement)
Alameda County	Protections apply immediately (day 1 of rental agreement)
Fairfax	Protections apply immediately (day 1 of rental agreement)
East Palo Alto	Protections apply immediately (day 1 of rental agreement)

Under what circumstances can a landlord terminate a tenancy under the TPA and Petaluma’s regulations?

The TPA restricts the lawful grounds for terminating a tenancy. The permitted grounds for termination are divided into two categories, “at fault” and “no fault” terminations. Grounds for termination when the tenant is “At Fault” under the TPA are the following:

- Failure to pay rent
- Breach of lease

- Causing a nuisance
- Criminal activity
- Using unit for an illegal purpose
- Committing waste
- Subletting in violation of the lease
- Refusal to allow owner to enter
- Tenant failure to vacate after notifying the landlord of intent to leave
- Employee property manager failing to vacate after termination of their employment

Petaluma’s regulations remove several of the “At Fault” grounds for terminating a tenancy under the TPA. The Petaluma regulations also limit other grounds. Following is a list of the grounds for at-fault terminations that the Petaluma regulations limit (show in italics) and others that are removed (crossed out) as compared with the TPA.

- *Failure to pay rent*
- Breach of lease
- *Causing a nuisance*
- *Criminal activity*
- Using unit for illegal purpose
- ~~Committing waste~~
- ~~Subletting against lease~~
- Refusal to allow owner to enter
- ~~Tenant fails to vacate after noticing landlord of intent to leave~~
- ~~Employee fails to vacate after termination~~

At the stakeholder and public meetings, a number of landlords and property managers emphasized the need to be able to terminate a tenancy for commission of waste by the tenant and / or subletting in violation of the terms of the lease. Committing waste is legal term of law that refers to conduct that damages or diminishes the value of the property. Landlords also emphasized the importance of being able to vet their tenants to be sure that they know who is living in their property. They were concerned that landlords would not be able to determine who could live on their property under the Petaluma regulations.

The limits in the Petaluma “At Fault” grounds for terminating rental agreements as compared with the TPA are as follows:

- *Failure to pay rent* – The Petaluma regulations prohibit landlords from refusing to accept rent payments from a third parties.
- *Causing a nuisance* – The Petaluma provide that domestic violence, sexual assault, or elder abuse where the tenant is the victim are not grounds to terminate a tenancy.
- *Criminal activity* – The Petaluma regulations require a conviction as grounds for terminating a rental agreement.

At the stakeholder and public meetings, landlords and property managers expressed concerns about not being able to protect their properties and neighboring areas from tenants causing

disturbances on or around their property. Landlords also worried that requiring a conviction to terminate a rental agreement for illegal activity could take several years while criminal activity may be occurring on the property. Tenants and tenant advocate groups noted that people that are victims of domestic violence, sexual assault, or elder abuse should not lose their housing because of actions not caused by them and of which they are victims.

The second category of permitted terminations of rental agreements under the TPA is “No Fault” terminations in which a landlord chooses to terminate a tenancy for their own purposes and not due to tenant noncompliance with the rental agreement. Landlords may wish to terminate a tenancy to substantially rehabilitate the unit, or so that they or a family member can move into the unit. The TPA limits the grounds for landlords terminating tenancies through no fault of the tenant to the following:

- Remove a unit from the rental market (Ellis Act)
- Owner or family member plans to occupy unit
- Substantial rehabilitation of the unit
- Compliance with a Government or Court order to vacate

In all these cases, the TPA requires landlords to pay the tenant 100% of 1 month’s rent toward relocation costs. The TPA does not permit as no-fault just causes for terminating a rental agreement sale of the property or raising the rent.

Petaluma’s regulations impose additional limitations on permitted terminations of rental agreements through no fault of the tenant. Those limitations are:

- Landlords may only terminate a tenancy during the month of June for households with Petaluma teachers or K-12 students living in the unit, except for substantial rehab.
- Landlords may only terminate a tenancy for substantial rehabilitation after receiving all required permits for the work.
- Landlords that terminate a tenancy so that they or a family member can occupy the unit must move in within 90 days and stay for at least 1 year.
- Terminating a tenancy to comply with a government or court order to vacate is not included in the Petaluma grounds for no-fault terminations.

Petaluma’s regulations increase relocation payments for “No Fault” terminations from 100% to 150% of 1 month’s rent if members of the tenant household are under 18, over 62, qualify as low income residents, are disabled, or have lived in the unit since 2010.

In the stakeholder and public meetings, landlords shared concerns about limitations on when they can terminate a tenancy to remove a unit from the market. “Mom-and-pop” landlords worried their ability to sell their property or maximize the sale price as a result of the TPA and the Petaluma regulations. Another area of concern was the added limitations on terminations affecting Petaluma teachers and K-12 students. Some were concerned these provisions could have the unintended consequence of forcing teachers and households with students to move during the busiest time of the year for relocations when many families are trying to secure property rentals. Tenants and tenant advocate groups noted that the state required relocation

payment of 1 month's rent is insufficient and doesn't cover the actual cost to move. Entering a new rental agreement will typically require paying first and last month's rent in addition to moving costs, so that actual relocation costs are likely to approach three month's rent.

Relocation Payment Comparison of Petaluma State Law, and Other Jurisdictions

Petaluma	<ul style="list-style-type: none"> • 100% of monthly rent with an additional 50% if members of the tenant household are disabled, 62 or older, 18 or younger, qualify as low income tenants, or have resided for since 2010 • Can be a credit against rent and must be paid within 14 days of notice of termination
TPA	<ul style="list-style-type: none"> • 100% of monthly rent • Can be a credit against rent and must be paid within 15 days of notice of termination
Marin County	None
Richmond	<ul style="list-style-type: none"> • Depends on whether the termination is due to Owner Move In (OMI) or withdrawal from the market, how many bedrooms are in the unit, and if tenant qualifies as elderly, disabled or dependent. Can range from \$4,177.01 for a non-qualifying, OMI studio termination to \$10,072.94 for a qualifying tenant with 2+ bedrooms. The payment for withdrawal for a non-qualifying studio tenant is \$8,415.04 and \$20,147.05 for a qualifying tenant with 2+ bedrooms. • Cannot be a credit against rent, and ½ of relocation payment is due within 3 days of notice to terminate and the other ½ is due within 3 days of tenant vacating.
San Rafael	None
Fairfax	<ul style="list-style-type: none"> • 2x monthly rent plus additional \$3,000 if a member of the tenant household is above 62, 17 or younger, disabled, or terminally ill. The relocation payment at time of service of notice of termination. The additional \$3,000 increases each year by the CPI. • Cannot be a credit against rent and all must be paid at time of service of notice of termination. If tenant fails to vacate the relocation payment must be returned.
East Palo Alto	<ul style="list-style-type: none"> • Each displaced tenant receives \$7,500 after residing less than 2 years; \$10,000 after resided for more than 2 years; an additional \$2,500 is required for each member of the tenant household who is disabled, above 62, under 18, or qualifies as a low income tenant. These amounts increase by CPI each year since 2012. Tenants also receive their actual moving costs up to \$2,500 • Payments are deposited with city in an escrow account and released to tenant upon request and verification of costs.

Alameda County	<ul style="list-style-type: none"> • 3x monthly rent or 3x current fair market rent as published by HUD for the area, whichever is higher, capped at \$28,000. An additional 1 month's rent is included if the tenant household includes a child, someone who is disabled, elderly, or who qualifies as a low income tenant. • No credit against payment of rent. Half the payment is due at time of notice to quit and the second half is due when unit is vacated. If tenant fails to vacate by termination date, the relocation must be returned.
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List of Petaluma Regulations that are More Protective than those in the TPA

The TPA authorizes local tenant protection regulations, but only if they are more protective than the TPA, and when a local jurisdiction enacts local tenant protections, the TPA no longer applies in that jurisdiction. To be more protective than the TPA, local regulations must include just causes for termination of tenancies consistent with those in the TPA, while also further limiting grounds for terminating tenancies, providing higher relocation assistance amounts, or providing other, lawful tenant protections³ The following italicized text describes how the Petaluma Regulations are more protective than the TPA:

- The TPA exempts more properties from its “Just Cause” protections than the Petaluma regulations do. *The Petaluma regulations only exempt units owned or operated or subsidized by a government agency, affordable housing units, dwelling units occupied by tenant property managers employed by the landlord, and units occupied by the owner as the owner’s primary residence and that share a bathroom or kitchen with the tenant. (PMC Section 6.60.030(C)).*
- The TPA only applies once tenants have lawfully resided in a unit for 12 months. *The Petaluma protections apply after tenants have lawfully resided in a unit for 6 months, unless the owner resides on the same lot as the tenant as the owner’s primary residence, in which case the Petaluma protections apply once the tenant has lawfully resided in the unit for 12 months. (PMC Section 6.60.030(A) - (B)).*
- The TPA does not specify language requirements for notices. *Under Petaluma regulations all notices must be provided in English and Spanish, and if the lease is in another language, all notices must also be in the language of the lease. (PMC Section 6.60.040(C) & 6.60.060(B)).*
- Default in payment of rent is a “just-cause” to terminate a tenancy under the TPA. *It is a defense against failure to pay under the Petaluma regulations if the landlord refuses to accept money from a third party on behalf of the tenant or the landlord refuses to provide tenants necessary documentation to receive rental assistance. (PMC Section 6.60.050(C)(1)(a)).*

³ Civil Code section 19462(g).

- The TPA does not restrict the times tenancies of tenant households with teachers and school-age children can be terminated. *Under the Petaluma regulations, it is a defense against no-fault evictions, (except for substantial rehabilitation), if the notice of termination falls within the school year and the tenant or a member of the tenant's household is a K-12 student in Petaluma or is employed as an educator in a school in Petaluma. (PMC Section 6.60.050(E)).*
- Under the TPA, breach of a material term of the lease is “just-cause” for eviction. *Under the Petaluma regulations, the alleged material breach must be of a lawful, written lease term. (PMC Section 6.60.050(C)(2)(a)).*
- Under the TPA, creating a nuisance and tenant criminal activity are just causes for terminating a tenancy. *Under the Petaluma regulations, it is a defense against termination of a tenancy if the nuisance or criminal activity is alleged as a “just cause” for termination is the result of domestic violence, sexual assault, or stalking against a tenant or a member in the tenant's household. Landlords are required to keep information regarding domestic violence, sexual assault and stalking confidential. (PMC Section 6.60.050(C)(7)). A tenant can also cure the nuisance or illegal activity by removing the offending tenant. (PMC Section 6.60.050(C)(3)).*
- The TPA does not provide an express remedy for termination of a tenancy in retaliation for exercise of a tenant's rights under the TPA. *The Petaluma regulations establish a defense against termination of a tenancy if the tenant can demonstrate that the action was in retaliation for the tenant exercising the tenant's rights under the City's regulations. (PMC Section 6.60.110).*
- Under the TPA, landlords can give notice of termination of a tenancy for demolition or substantial remodeling of the unit at any time. *Under the City's regulations, before a landlord can terminate a tenancy to perform substantial rehabilitation of the rental unit, the landlord must first obtain all of the necessary permits. After the repairs are complete, the displaced tenant has the right to reoccupy the property. (PMC Section 6.60.050(D)(3)).*
- The TPA requires landlords to provide notice to tenants of specified units that the units are exempt from the protections of the TPA. *The Petaluma regulations requires landlords to provide tenants notice of their rights under the when entering or renewing the lease, for every rent increase, before and after sale of rental units, and at other specified times. (PMC Section 6.60.040).*
- The TPA does not require landlords to give tenants notice of their rights under the TPA before terminating a tenancy. *Under the Petaluma regulations, before a landlord can terminate a tenancy, the landlord must have provided the tenant with notice of their rights under the Petaluma regulations. (PMC Section 6.60.050).*

- The TPA does not establish civil causes of action to assist with enforcement of tenants’ rights. *The Petaluma regulations create civil causes of action for tenants to sue landlords for violations of the ordinance and seek attorneys’ fees recovery, (PMC Section 6.60.100(B)), and to determine the applicability of the proposed ordinance to the tenancy (PMC Section 6.60.100(D)), and under the Petaluma regulations, tenants who prevail in wrongful evictions shall recover their costs and attorney’s fees. (PMC Section 6.60.100(A))*
- The TPA does not expressly authorize the government to enforce tenants’ rights under the TPA. *The Petaluma regulations create a cause of action for the City to seek injunctive relief for violations of the proposed ordinance, and authorize the City to seek any the other applicable remedies listed in PMC Chapters 1.10-1.16, which include civil and criminal penalties. (PMC Section 6.60.100(C))*

Petaluma Ellis Act Regulations

The Petaluma regulations the implement local regulations that cities are authorized to enact pursuant to the Ellis Act. These regulations are intended to mitigate the impacts on tenants whose tenancies are terminated due to the owner withdrawing their property from the rental market by requiring notice of tenants’ rights to relocation and right of first refusal if the unit is re-let, the right to return to the property if the dwelling unit is offered for rent again, and the ability to seek damages from the property owner if the unit is rented again within two years.

Menu of Potential Amendments

Council has a broad range of options regarding the City’s tenant protection regulations in Chapter 6.60 of the Municipal Code. The Council can:

1. Let the Ordinance expire on July 1, 2023.
2. Amend or remove the July 1, 2023, sunset date.
3. Amend the substantive provisions of the Ordinance

If the Council elects to amend the substantive provisions of the Ordinance, staff requests that Council provide direction regarding the provisions the Council would like to add, remove, or revise. The following menu of potential ordinance amendment options includes suggestions that were offered during the stakeholder and public meetings as well as via email.

1. Exempt single-family residences from the Ordinance. The exemption could be limited to non-corporate owners owning up to a specified number of units.
2. Eliminate the exemptions in the Ordinance for tenants subsidized by government agencies.
3. Exempt the following “temporary tenancies”:
 - Property rented during the owner’s sabbatical leave.
 - Property rented during the owner’s deployment in the military.

4. Make the “just cause” protections effective on the first day of tenancies.
5. Include the “just causes” in the TPA for “committing waste” and “subleasing in violation of the lease.”
6. Remove the “just cause” for “threat of violent crime” as that is not a “just cause” in the TPA.
7. Add the following additional “just causes” that were suggested:
 - “Tenant at sufferance.
 - Sale of the property by the owner.
 - See table below for comparison with other jurisdictions.
8. “Breach of lease” “just causes” should include an exemption for subleasing when:
 - the number of tenants and subtenants occupying the unit does not exceed the lease terms or occupants permitted under the Health and Safety Code and the landlord unreasonably withholds right to sublease following a written request from the tenant.
 - A family member is added to the unit so long as the occupancy does not exceed the permitted occupancy under the Health and Safety Code.
 - See table below for comparison with other jurisdictions.
9. Eliminate “unsanitary condition” as a “just cause” for “nuisance.”
 - See table below for comparison with other jurisdictions.

9. Remove the “owner-or owner’s family to occupy unit” as a “no-fault just cause”.

Jurisdiction	Subleasing exemption for Breach of Lease	Unsanitary Conditions as part of “Nuisance”	Selling the Property is a “Just Cause”	“Owner Move In” is a Just Cause	Temporary tenancies	Tenant refuses to enter a new Substantially Similar Agreement after term expires
Petaluma		X		X		
TPA				X		
Marin County		X		X		
Emeryville				X	X	X
Richmond	X			X	X	
Fairfax	X			X	X	
San Rafael		X		X		X
East Palo Alto	X			X		X
Alameda County	X			X		X

- 10. Strengthen the “owner or owner’s family to occupy unit” no-fault just cause” by”
 - Requiring a notice of termination to include “name, address, and relationship to owner for the intended occupant.
 - Once the owner recovers possession, no other family member may move in within the same building and only the previously recovered unit can be used for owner-move in.
 - Removed tenant has the right of first refusal to reoccupy the unit once it becomes vacant again.
 - Extend protections provided to elderly, disabled, and catastrophically ill tenants if landlord has other comparable units available to all tenants.

- 11. Add a provision for the “substantial rehabilitation” “no-fault just cause” that if the landlord has a different vacant unit in the City the tenant has the option of entering a new or temporary rental agreement at the available unit at the same lawful rent as the tenancy that is being terminated.

- 12. Remove the Ellis Act protections or reduce the length of protections. Or if the Ellis Act is removed, increase the relocation costs for an owner removing the property from the rental market.

- 13. Increase the relocation costs for “no-fault just causes.”

- 14. Decrease the relocation costs for “no-fault just causes.”

- 15. Eliminate the option of providing a one-month credit in lieu of relocation payments and/or that 50% of the required relocation payment be provided at time of notice to terminate tenancy.

- 16. Remove the “Educators and student school year protections” for owner move in or Ellis Act removal.

- 17. Eliminate the ability of plaintiffs to recover attorney’s fees if successful in an action alleging violation of the City’s regulations.

- 18. Eliminate the City’s authority to enforce violations of the Ordinance.

Jurisdiction	Attorney Fees	Jurisdiction can Enforce
Petaluma	X	X
TPA		
Emeryville	X	X
Marin County	X	X
San Rafael	X	
Fairfax	X, but not for unlawful detainers	
Richmond	X	X
East Palo Alto	X	X

Alameda County		
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19. Require landlords issuing notices of termination send a copy to the City for its records.

20. Provide a grace period before the City’s regulations take effect.

PUBLIC OUTREACH

Staff have held public outreach meetings at the following dates and times: 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 educate and solicit feedback. Stakeholders and other interested parties can provide information and recommendations at the following email address landlordtenantprotections@cityofpetaluma.org. Additionally, this item appeared on the February 27th, 2023 tentative agenda which was a publicly-noticed meeting.

COUNCIL GOAL ALIGNMENT

On May 2, 2022, City Council adopted a top ten list of goals and priorities which included “Ellis Act/Just Cause” protections. 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

Conducting a workshop is not a “project” within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines, because it will not result in any direct or indirect impacts to the environment. Similarly, any amendments to the City’s residential tenancy protections are not considered a “project” under CEQA Guidelines Section 15378(b)(5) because they would constitute administrative activity 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, which is solely administrative activity resulting in no physical changes to the environment, and such 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. Currently, the City’s regulations authorize creation of a fee to defray some of the City’s administrative costs.

ALTERNATIVES

The City Council may direct staff to return with proposed 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 Ordinance to expire on July 1, 2023.

ATTACHMENTS

1. 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