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DATE: September 18, 2023

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

FROM: Dylan Brady, Assistant City Attorney  
Karen Shimizu, Manager

SUBJECT: Adoption (Second Reading) of an Ordinance 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

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### **RECOMMENDATION**

It is recommended that the City Council adopt the attached ordinance regarding 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 for projects of the City of Petaluma on city owned or leased property to provide emergency housing and declaring the urgency thereof, to take effect immediately and expire and be repealed once the City of Petaluma's shelter crisis is terminated.

### **BACKGROUND**

On September 11, 2023, City Council adopted a resolution declaring a shelter crisis and introduced a local ordinance relaxing local standards regarding homeless shelters pursuant to Government Code Section 8698 et. seq. The ordinance was introduced with an amendment to proposed section 3 of the ordinance to add the following language, "Notwithstanding the previous paragraph, the location for any homeless shelter pursuant to this ordinance shall be at the discretion of City Council." This language makes it clear that it is City Council's determination where homeless shelters shall be located on City property. Both the resolution and introduction of the ordinance were approved unanimously.

### **Point in Time Count**

California and Bay Area jurisdictions in particular continue to grapple with a severe housing crisis as a result of a lack of affordable and accessible housing stock. In Sonoma County the shortfall in access to affordable housing has further resulted in a significant and growing number of individuals experiencing homelessness, as demonstrated in the Point in Time Count that is conducted each year.

Sonoma County's Continuum of Care began conducting an annual count in 2015 to obtain a Point-in-Time census of sheltered and unsheltered homeless individuals and families on an annual basis. The 2023 count indicated that there are 2,266 people in Sonoma County experiencing homelessness and specifically 245 people in Petaluma. The 2023 Point-in-Time Count found that 35% of the survey respondents stated that their current episode of homelessness was their first, that 5% of all survey respondents were under the age of 18, that 69% of the respondents indicated that the duration of their current episode of homelessness was more than a year, and 6% said that COVID-19 was related to the cause of their homelessness.

### **Petaluma Housing Crisis**

Petaluma, like other cities in Sonoma County and California currently suffers from low vacancy rate and high costs for homeownership and rental. The recently adopted Petaluma 2023-2030 Housing Element (Housing Element) states that the vacancy rate for owner-occupied units within Petaluma 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" Additionally, 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%. 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. Petaluma's average rent is 71% higher than the Fair Market Rent for Sonoma County for a one-bedroom apartment, \$1,711, according to the U.S. Department of Housing and Urban Development, which is an increase from \$1,549 in 2022. It is due to the high costs of rent in Petaluma that 44.6% of all renters in Petaluma pay at least 30% of their household's income to rent and are therefore "cost burdened".

### **Legislative Discretion**

The State of California adopted Assembly Bill (AB) 2553 (September 25, 2020) extending certain provisions of the Shelter Crisis Law that originally only applied to specified cities (Oakland, Berkeley, and San Jose) to any jurisdiction declaring a shelter crisis under California Government Code Section 8698 and following. Section 8698.4 gives cities and counties regulatory flexibility regarding zoning requirements, specific building and fire code provisions, and the California Environmental Quality Act (CEQA) in order to expedite the construction of shelters and adding safe parking sites as an eligible form of shelter. AB 2553 provides that its authority for more flexible local shelter regulations will expire January 1, 2026.

Due to similar stats as the aforementioned data, on September 13, 2021, City Council adopted Resolution No. 2021-149 N.C.S. which declared a shelter crisis and adopted Urgency Ordinance No. 2790 N.C.S. 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 city. Resolution No. 2021-149 N.C.S. and Urgency Ordinance No. 2790 have expired and are substantially similar to the proposed ordinance and shelter crisis declaration attached hereto as Attachments 1 and 2 respectively. The prior shelter crisis and urgency ordinance were helpful for staff in Constructing non-congregate emergency program with 25 fully ADA accessible non-congregate shelter units located at 900 Hopper Street, known as the People's Village project and recent legislative actions to address mobilehomes and rental units in

Petaluma. As the prior shelter crisis declaration and ordinance have expired, staff are recommending adopting the attached ordinance to continue the City's ability to be flexible in addressing the housing shortage issues in Petaluma.

## **DISCUSSION**

The City of Petaluma in the past two years has actively sought to facilitate production of a variety of housing resources to meet the needs of Petaluma residents. These efforts have included:

- Supporting streamlined ministerial review of affordable housing projects such as MidPen's 414 Petaluma Boulevard North project and Burbank Housing's Riverwalk Project at 1601 Petaluma Boulevard South.
- Adopting a policy under Assembly Bill 2162 for the Meridian at Corona Road Station to facilitate a ministerial streamlined review of the 131-unit affordable housing project, including 33 permanent supportive housing units and onsite supportive housing services, and allocated \$2 million in local housing funds to support the implementation of the project.
- Increasing service contracts with the Downtown Streets Team and COTS to provide homelessness services and added the services of HomeFirst to provide Landlord Recruitment and Case Management focused street outreach services.
- Acquisition and Rehab of existing hotel to provide 60 new units of Permanent Supportive Housing at the Studios at Montero leveraging State of California Homekey, State Local Housing Trust Fund, County of Sonoma and local investments.
- Constructing a non-congregate emergency program with 25 fully ADA accessible individual shelter units, meeting spaces and bathing facilities at People's Village.
- Adopting Resolution No. 2022-182 N.C.S. that reduced the development fees for qualifying affordable housing projects.
- The City is creating permit ready plans for accessory dwelling units (ADUs) to reduce barriers to production of units that are more affordable by design and is contracting with Napa Sonoma ADU, that will provide additional administrative support for the program.
- Applied to the State for the Prohousing Designation, which will provide additional points for developers on state funding applications.
- Additionally, staff is currently preparing a package of zoning and local housing legislation amendments such as density bonus increases, updated ADU regulations, modifications to the City's inclusionary housing ordinance, and text amendments to allowable housing types in various zoning districts.

Despite these efforts, there remains an acute shelter crisis in Petaluma which requires staff to explore options and create solutions for the short term, mid-term, and long-term to best support the most vulnerable in obtaining safe and dignified shelter options. While the shortage of adequate and affordable shelter existed prior to the emergence of COVID-19, the public health crisis has exacerbated the shelter crisis and disproportionately impacted Petaluma's most vulnerable residents.

The discretion offered by AB 2553 and related legislation at the state level allows the City to create innovative shelter solutions in ways that otherwise may be infeasible or prohibited.

Declaring a local shelter crisis emphasizes that City leaders recognize the urgency of the growing population of people facing homelessness and the impacts on the surrounding environment and community. The declaration was drafted in accordance with State Law and follows examples from across the region and the state for overcoming hurdles to delivering essential services. The declaration allows City leaders the flexibility in addressing the crisis, including permitting new shelter options on City-owned or leased land for innovative interim housing solutions, such as authorized and safe temporary housing at the Mary Isaak Center where health and safety and support services are available. Finally, the declaration provides the City with relief from specified zoning, building and fire code regulations, and exemption from CEQA that will in turn help the City implement innovative housing solutions such as the expansion of non-congregate shelter on an expedited timeline to more quickly realize additional capacity.

As enacted, Government Code Section 8698 and following, will sunset on January 1, 2026. The shelter crisis resolution and proposed ordinance are set to expire upon the termination of Government Code Section 8698.4. Accordingly, the relief from zoning, building, fire code and CEQA regulations that otherwise would apply will also expire at that time.

Section 8698.4 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. 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. Section 8698.4 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. All of these requirements have been incorporated into the documents presented for City Council consideration, including:

- Staff have previously prepared a Homeless Services Plan (Attachment 3) under a current contract with Andrew Hening Consulting and was adopted by City Council on June 20, 2022, Resolution No. 2022-110 N.C.S.; and
- Adoption (second reading) of an ordinance (Attachment 1) is also presented provides relief from specified zoning regulations and processes, building and fire code requirements with limited exceptions, and a CEQA exemption for a shelter project initiated by the City of Petaluma on City-owned or leased property. It was beneficial for the recent People's Village construction to provide our unsheltered community with interim housing options. The ordinance is set to expire and be repealed when the shelter crisis declaration is terminated or January 1, 2026.

## **PUBLIC OUTREACH**

This item was noticed in compliance with the California Brown Act. The first reading occurred on the 9/11 City Council meeting.

## **COUNCIL GOAL ALIGNMENT**

The City's Housing Element establishes specific policies and programs, including Policy 6.1 to support efforts to prevent homelessness, Policy 6.2 to support efforts to provide housing and support services for the homeless, Policy 6.3 to support efforts to provide transitional and supportive housing to those moving from homelessness to independent living, and Policy 9.1 to promote the integration of affordable and special needs housing projects in existing neighborhoods.

## **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

There is no climate action or sustainability impacts associated with this item.

## **ENVIRONMENTAL REVIEW**

This item has been reviewed in compliance with the California Environmental Quality Act. The adoption of the proposed ordinance is not subject to the California Environmental Quality Act ("CEQA") in that the proposed actions are 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 as organizational or administrative activities of government that will not result in direct or indirect physical changes to the environment. The proposed action is necessary to prevent or mitigate an emergency and therefore are statutorily exempt from CEQA pursuant to Section 21080(b)(4) of the Public Resources Code and Section 15269(c) of the Guidelines.

Furthermore, any future action that results from this Declaration that is subject to CEQA review will be analyzed under CEQA. The adoption of the proposed ordinance is not subject to CEQA in that the proposed actions are 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 CEQA Guidelines because they are organizational or administrative activities of government that will not result in direct or indirect physical changes to the environment and the proposed actions are necessary to prevent or mitigate an emergency and therefore are statutorily exempt from CEQA pursuant to Section 21080(b)(4) of the Public Resources Code and Section 15269(c) of the Guidelines. Any projects that result from the ordinance that are subject to CEQA review will be analyzed under CEQA.

## **FINANCIAL IMPACTS**

There are no increased costs to the City from the preparation of the shelter crisis declaration or ordinance before the City Council. Additionally, the housing crisis declaration may provide

subsequent opportunity for the City to seek additional funding in its continued efforts to address the crisis in the short term and longer-term horizon.

### **ALTERNATIVES**

Council may decline to adopt the proposed ordinance.

### **ATTACHMENTS**

1. Ordinance for Reasonable Local Standards and Procedures for the Design of Homeless Shelters
2. Homeless Services Plan
3. Staff Report for May 1, 2023, City Council presentation for “Petaluma’s Strategic Action Plan to End Homelessness- Year 1 Progress Report”
4. Shelter Crisis Declaration