

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: SUE GALLAGHER, CITY ATTORNEY

SUBJECT: URGENCY ORDINANCE AMENDING SECTION 10-44.040 OF
THE CITY CODE TO EXTEND THE TEMPORARY PROHIBITION
ON RENTAL HOUSING PRICE GOUGING FOR THE DURATION
OF THE CITY'S PROCLAMATION OF LOCAL EMERGENCY DUE
TO FIRES

AGENDA ACTION: URGENCY ORDINANCE

RECOMMENDATION

Pursuant to Council request, it is recommended by the City Attorney that the Council consider adoption of an urgency ordinance to amend Section 10-44.040 of the Santa Rosa City Code, to extend the term of the City's prohibition on rental housing price gouging and the associated temporary limitations on tenant evictions, such that the prohibition and limitations remain in effect for so long as the City remains under a proclamation of local emergency due to fires.

EXECUTIVE SUMMARY

Beginning on the evening of October 8, 2017, and continuing for days thereafter, a series of wildfire events damaged or destroyed thousands of residential and commercial structures within the City of Santa Rosa. On October 9, 2017, the City Manager proclaimed the existence of a local emergency. That proclamation was ratified by the City Council on October 13, 2017 and remains in effect to this day.

Soon after the wildfires swept through the region, City officials were alerted to price gouging in rental housing within the City. To address this issue, the Council adopted Urgency Ordinance ORD-2017-020 adding Chapter 10-44 to the City Code. The Ordinance established a temporary prohibition on rental housing price gouging as well as associated temporary limitations on tenant evictions. By its initial terms, the Ordinance was to remain in effect until April 18, 2018.

On May 8, 2018, Council adopted Urgency Ordinance ORD-2018-11 extending the temporary prohibition on rental housing price gouging, as well as the associated limitations on tenant evictions, such that they remain in effect until December 4, 2018 or

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for as long as the City remains under a State-declared declaration of emergency, whichever is later.

The urgency ordinance now before the Council would amend Section 10-44.040 to further extend the temporary prohibition on rental housing price gouging and the temporary limitations on tenant evictions, such that they remain in effect for so long as the City remains under the City's proclamation of local emergency due to the October 2017 wildfires. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

BACKGROUND

On October 8, 2017, and continuing for days thereafter, a series of wildfire events, identified as the Tubbs and Nuns Fires (Fires) burned over 90,000 acres in Sonoma County and damaged or destroyed approximately 3,000 homes and 30 commercial structures within the City of Santa Rosa. On October 9, 2017, the City Manager proclaimed the existence of a local emergency. That proclamation was ratified by the City Council on October 13, 2017 and remains in effect to this day. The City Council reviews the need for the on-going proclamation every 30 days.

The Fires exacerbated a pre-existing housing crisis within the City. Even prior to the Fires, the City faced a severe lack of rental housing affordable to lower and moderate income residents and, overall, rental vacancies hovered around 1%. The sudden destruction of 3,000 homes increased the rental housing shortage by several orders of magnitude and severely reduced the number of owner-occupied housing units in the City.

On October 24, 2017, City Council adopted Urgency Ordinance ORD-2017-020 adding Chapter 10-44 to the City Code, thereby establishing a temporary prohibition on rental housing price gouging as well as associated temporary limitations on tenant evictions. The Ordinance mirrored the provisions of State Penal Code Section 396, which prohibit price gouging following a disaster. The Governor had just issued an Order stating that Section 396 would apply in Lake, Mendocino, Napa, Solano and Sonoma County through April 18, 2018, and the City's Ordinance followed suit, adopting that same timeframe.

On April 13, 2018, the Governor issued Executive Order B-51-18 extending the operation of Section 396 to December 4, 2018, thereby retaining the state's prohibition on price gouging in the affected counties for an additional seven and a half months.

On May 8, 2018, Council adopted Urgency Ordinance ORD-2018-11 extending the City's own temporary prohibition on rental housing price gouging, as well as the associated limitations on tenant evictions, such that those local provisions also remain in effect until December 4, 2018 or for as long as the City remains under a State declaration of emergency, whichever is later.

ANALYSIS

Interim Urgency Ordinances

Section 8 of the City Charter authorizes adoption of an interim urgency ordinance, to take effect immediately upon passage, when deemed necessary by the Council to preserve the public peace, health or safety. In addition, Government Code section 36937(b) allows the Council to adopt an ordinance to take effect immediately, if it is an ordinance for the immediate preservation of public peace, health or safety, and it contains a declaration of the facts constituting the urgency.

Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

Rental Housing Price Gouging

Although progress is being made in the rebuilding of homes destroyed by last year's wildfires, the residential rental market in Santa Rosa still remains deeply affected by the disaster. City officials continue to be alerted to the threat of price gouging by persons offering housing for rent in Santa Rosa, and continue to receive complaints of associated tenant evictions.

The proposed Ordinance would extend the operation of City Code Chapter 10-44 and tie its duration to the City's proclamation of local emergency due to the October 2017 wildfires. For so long as the City's proclamation remains in effect, the substantive provisions of Chapter 10-44 would continue to govern. The provisions of Chapter 10-44 would continue to prohibit any person from increasing rent on any dwelling unit, vacation rental, hotel or motel room more than ten percent above the price charged on October 9, 2017. The proposed ordinance would also continue to prohibit a landlord from evicting an existing tenant or terminating an existing lease or rental agreement and subsequently renting or leasing the same unit for more than the average retail price of the unit in the thirty day period immediately preceding October 9, 2017. A landlord would continue to be able to obtain relief from these provisions if he or she can establish that the excess is directly attributable to additional costs resulting from the labor or materials necessary to provide the rental or in certain other limited circumstances.

Absent the proposed extension, the City's prohibitions on price gouging and the limitations on tenant evictions will terminate at midnight on December 4, 2018 or upon termination of the State-declared state of emergency, whichever is later.

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BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

FISCAL IMPACT

All costs that the City will incur in connection with enforcement of the prohibition on rental housing price gouging, will be funded by the General Fund.

ENVIRONMENTAL IMPACT

Adoption of this urgency ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

- Urgency Ordinance

CONTACT

Sue Gallagher
City Attorney
sgallagher@srcity.org
(707) 543-3040