

ORDINANCE NO. ORD-2019-012

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING TITLE 10 OF THE SANTA ROSA CITY CODE BY ADDING CHAPTER 10-46, HOUSING ANTI-DISCRIMINATION CODE, PROHIBITING HOUSING DISCRIMINATION BASED ON SOURCE OF INCOME, INCLUDING SECTION 8 HOUSING CHOICE VOUCHERS, HUD VASH VOUCHERS, AND OTHER RENT SUBSIDIES

WHEREAS, it is unlawful under federal and state statutes to restrict housing choice on the basis of race, color, disability, religion, sex, familial status, national origin, sexual orientation, marital status, ancestry, age, and source of income; and

WHEREAS, the City of Santa Rosa is committed to providing and preserving affordable housing for all segments of the community as a matter of social justice and to preserve diversity; and

WHEREAS, the City of Santa Rosa desires to eliminate any discrimination in the provision of housing, including discrimination based on a person's source of income; and

WHEREAS, the City of Santa Rosa is committed to providing and preserving fair and affordable housing for all income levels; and

WHEREAS, the City of Santa Rosa Housing Authority, which administers the Section 8 Housing Choice Voucher program, including of Housing and Urban Development-Veterans Affairs Supportive Housing (HUD-VASH) vouchers, reports a shortage of landlords participating in the program; and

WHEREAS, this shortage may reflect discrimination against the holders of Housing Choice vouchers and other rent subsidies; and

WHEREAS, discrimination against Housing Choice voucher holders and those using other rent subsidies significantly reduces the pool of housing that is available to them; and

WHEREAS, California Government Code § 12921 prohibits housing discrimination based on source of income as defined by § 12955(p)(1), which does not protect Housing Choice voucher holders as established by case law (*SABI v. Sterling* (2010) 183 Cal. App. 4<sup>th</sup> 916); and

WHEREAS, California and federal law requires the City of Santa Rosa to identify impediments to providing affordable housing and discrimination-free housing and to develop strategies for removing those impediments; and

WHEREAS, in order to fulfill its commitment to fair and affordable housing opportunities and to fulfill its legal obligations, it is necessary to prohibit housing discrimination based on source of income.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Chapter 10-46 – Housing Anti-Discrimination Code is hereby added to the Santa Rosa City Code to read as follows:

**“CHAPTER 10-46 – HOUSING ANTI-DISCRIMINATION CODE**

**10-46.010 Purpose.**

The purpose of this Chapter is to increase affordable housing opportunities by prohibiting discrimination on the basis of tenants’ participation in third party rental assistance programs. This Chapter does not intend to restrict or limit operational aspects of rental housing management, such as establishment of tenant rules, security requirements or other landlord/tenant conditions not related to sources of income or financial discrimination.

**10-46.020 Definitions.**

- A. “Aggrieved Person” means the individual directly subjected to the alleged discrimination.
- B. “Person” means any individual, firm, corporation, or other organization or group of persons, however organized.
- C. “Source of Income” as used in this Chapter means any lawful source of income or rental assistance from any federal, state, local, or non-profit-administered benefit or subsidy program that is intended to subsidize the full term of the lease, including, but not limited to, the Section 8 Housing Choice voucher program and HUD VASH vouchers.

**10-46.030 Prohibited Activities.**

It is unlawful for any person to do any of the following related to the rental of real property for residential use when wholly or partially based on sources of income, as defined herein:

- A. To interrupt, terminate, fail or refuse to initiate or conduct any transaction in real property including, but not limited to, the rental thereof; to require different terms for such transaction; or falsely to represent that an interest in real property is not available for transaction.
- B. To include in the terms or conditions of a transaction in real property, any discriminating clause, condition or restriction due to source of income.
- C. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee.
- D. To make, print, publish, advertise, or disseminate in any way, or cause to be

made, printed or published, advertised or disseminated in any way, any notice, statement or advertisement with respect to a transaction in real property, or with respect to financing related to any such transaction, which unlawfully indicates preference, limitation or discrimination based on source of income.

E. It is unlawful for any person to use a financial or income standard for the rental of housing that does either of the following:

1. Fails to account for any rental payments that will be made by other individuals or organizations, including by a rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program including, but not limited to, the Section 8 Housing Choice voucher program and the HUD VASH vouchers, on the same basis as rental payments to be made directly by the tenant or prospective tenant;

2. Fails to account for the aggregate sources of income of persons residing together or proposing to reside together or an aggregate income of tenants or prospective tenants and their cosigners or proposed cosigners on the same basis as the aggregate income of married persons residing together or proposing to reside together, so long as legal occupancy limits are not exceeded.

#### **10-46.040 Exceptions.**

A. Nothing in this Chapter shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.

B. Nothing in this Chapter shall be construed to prohibit a requirement for a guarantor or cosigner based on amount of income or credit worthiness.

C. Nothing in this Chapter shall be construed to require a person to rent a housing accommodation to a family or tenants whose total number of persons exceeds the reasonable living space in the rental unit, defined as two people per bedroom plus one person.

D. Nothing in this Chapter shall be construed to apply to refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with Chapter 10-46.030 (D) which prohibits discriminatory notices, statements and advertisements.

#### **10-46.050 Civil Remedies.**

A. Civil action.

A civil action may be pursued under either or both of the following:

1. Any aggrieved person may enforce the provisions of this Chapter by means of

a civil action. The burden of proof in such cases shall be preponderance of the evidence.

2. The City may elect to enforce the provisions of this Chapter.

B. Injunction.

Any aggrieved person may enforce the provisions of this section by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this section may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this subsection may be brought by any aggrieved person, by the City Attorney, or by any person or entity who will fairly and adequately represent the interest of the protected class.

C. Penalties and other monetary awards.

Any person who violates, aids or incites another person to violate the provisions of this Chapter is liable for each and every such offense for special and general damages suffered by any aggrieved party, and shall be liable for such attorneys' fees and costs as may be determined by the court in addition thereto.

D. Non-exclusive remedies and penalties.

The remedies provided in this Chapter are not exclusive, and nothing in this Chapter shall preclude any person from seeking any other remedies, penalties or procedures provided by law.”

Section 2. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 3. Severability.

If any provision of this Chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provisions of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

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Section 4. Effective Date. This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.

This ordinance was introduced by the Council of the City of Santa Rosa on September 24, 2019.

IN COUNCIL DULY PASSED AND ADOPTED this 1st day of October, 2019.

AYES: (4) Mayor Schwedhelm, Vice Mayor Rogers, Council Members Combs, Fleming

NOES: (1) Council Member Sawyer

ABSENT: (2) Council Members Olivares, Tibbetts

ABSTAIN: (0)

ATTEST: \_\_\_\_\_  
Acting City Clerk

APPROVED: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney