

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA
REQUIRING JUST CAUSE FOR TENANT EVICTIONS IN THE CITY OF SANTA ROSA

WHEREAS, Government Code Section 36937 allows a city, including a charter city, to adopt, as an urgency ordinance to take effect immediately upon its adoption for the preservation of the public peace, health or safety upon a finding of facts constituting the urgency thereof; and

WHEREAS, Section 8 of the Santa Rosa City Charter allows the City to adopt an urgency ordinance to take effect immediately upon its adoption for the preservation of peace, health or safety upon a finding of facts constituting the urgency thereof; and

WHEREAS, such an urgency measure requires a five-sevenths vote (5 votes) of the City Council for adoption and, as provided further herein, this Ordinance shall be in effect immediately upon adoption; and

WHEREAS, on May 3, 2016, the City Council directed City staff to present to the Council just cause requirements for evictions and a rent stabilization ordinance limiting annual rent increases; and

WHEREAS, since December 2015, community members have reported that the City Council's direction to study rent stabilization and just cause eviction policy has created market uncertainty and concern among some landlords that if they do not increase rents now, they could face income and property value losses; and

WHEREAS, according to the U.S. Census Bureau, 2009-2013 American Community Survey, 9% of families in Santa Rosa live below the poverty level, and the number of persons living below the poverty rate in Santa Rosa has increased since 2000; and

WHEREAS, according to the U.S. Census Bureau, 2009-2013 American Community Survey, 47.1% of Santa Rosa renter households are "overpaying households," meaning a household which pays 30% or more of its household income on housing costs; and

WHEREAS, according to Co-STAR (2015 Q-2), the monthly rent and occupancy rates of market rate units of apartment buildings of fifty or more units in the City of Santa Rosa have increased in the past year 9% and in the past 2.5 years more than 20%; and

WHEREAS, the City of Santa Rosa has a 46.6% share of renters; and

WHEREAS, there are potentially 13,386 units subject to rent stabilization; and

WHEREAS, the vacancy rate in the City of Santa Rosa is approximately only one percent and therefore not enough supply to offer tenants a meaningful choice in the rental market; and

WHEREAS, increasing poverty in Santa Rosa, decreasing area median income, and increasing rents, have created a growing “affordability gap” between incomes and rents demonstrated by the increase in “overpaying renter households”; and

WHEREAS, given this increased housing cost burden and poverty faced by many Santa Rosa residents, excessive rent increases threaten the public health, safety, and welfare of Santa Rosa residents, including seniors, those on fixed incomes, those with very low, low, and moderate income levels, and those with other special needs to the extent that such persons may be forced to choose between paying rent and providing food, clothing, and medical care for themselves and their families; and

WHEREAS, excessive rent increases could result in homelessness and the displacement of low income families; and

WHEREAS, certain aspects of public health, safety and welfare are not adequately protected by the lack of a permanent rent control program in the City of Santa Rosa, and it is in the interest of the City, of owners and residents of rental units, and of the community as a whole that City staff undertake a comprehensive study to consider regulations to protect affordable housing within the City, including but not limited to, rent stabilization regulations; and

WHEREAS, on May 17, 2016, the Council did adopt interim Ordinance No. 4063, imposing a 45 day moratorium on rent increases within the City of Santa Rosa; and

WHEREAS, on July 7, 2016, the City did adopt Ordinance No. 4067, an urgency ordinance enacting a further 90 day moratorium on certain residential rent increases within the City of Santa Rosa that superseded Ordinance No. 4063; and

WHEREAS, the City Council finds and determines that the lack of a just cause eviction requirement has put some tenants at risk of eviction by landlords seeking to increase rents in the face of the recently adopted moratorium on rent increases, and in light of the numerous concerns noted herein, including but not limited to the current and immediate threat to the health, safety, and welfare of the City’s residents and the adverse impacts that would result from a substantial decrease of affordable housing within the City, the City Council determines it is in the interest of immediately preserving the public health, safety and general welfare to adopt this urgency ordinance in order to allow staff to, among other related tasks, proceed with a comprehensive study to consider regulations to protect affordable housing within the City, and bring forward proposed regulations related to, for example, just cause for eviction policies, residential rent mediation or arbitration, rent stabilization, or rent review board, as that study finds appropriate; and

WHEREAS, the City Council finds and determines that, without the immediate adoption of a just cause for eviction ordinance, the public health, safety and welfare will be immediately threatened because landlords would have an immediate incentive to evict tenants in order to pursue increased rents before the City of Santa Rosa could implement rent stabilization or other such related regulations; and such evictions and rent increases would defeat the intent and purpose of any potential future regulation and substantially impair its effective implementation; and

WHEREAS, it is the intent of the City Council to consider and possibly to adopt a more comprehensive rent stabilization program within a reasonable period; and

WHEREAS, adoption of this ordinance is not a project under the California Environmental Quality Act, title 14, Section 15061(b)(3) of the California Code of Regulations; and

WHEREAS, by the staff report, testimony, and documentary evidence presented at the September 1, 2015, January 26, 2016, and May 3, 2016 City Council meeting, the City Council has been provided with additional information upon which the findings and actions set forth in this resolution are based; and

WHEREAS, this ordinance will prohibit landlords from evicting tenants without a just cause for such eviction.

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

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this ordinance.

Section 2. **Purpose of Requiring Just Cause for Eviction**

The purpose of these regulations is to promote stability in the Santa Rosa rental housing market and limit adverse impacts on residential tenants displaced and forced to find replacement housing in the expensive and limited Santa Rosa housing market. The regulations protect the rights of residential tenants by limiting grounds for their eviction and requiring landlords to provide notice of such grounds. The rights conferred by these regulations are in addition to any provided in state or federal law.

Section 3. **Application**

This ordinance applies to the rental of any rental-unit in the City except as specifically exempted in section 5 of this ordinance below.

Section 4. **Definitions**

The following definitions apply to the administration and enforcement of this ordinance:

"Condominium" means the same as defined in sections 783 and 1351(f) of the California Civil Code.

"Landlord" means an owner, lessor, sublessor or any other person or entity entitled to offer any residential unit for rent or entitled to receive rent for the use and occupancy of any rental-unit.

"Resident manager" means a person who resides on the premises and is employed

to perform or to be responsible for the operation and/or maintenance of the rental-units on the premises.

"Rental-unit" means a room or a group of two or more rooms designed, intended, or used for human habitation. Rental-units include apartments, condominiums, stock cooperatives, single-dwelling units, and hotel units not exempted under section 5 below.

"Single-dwelling unit" means a single detached structure containing one dwelling unit for human habitation and accessory buildings appurtenant thereto located on a lot or parcel and all housing services provided in connection with the use or occupancy thereof.

"Stock cooperative" means the same as defined in section 4190 of the California Civil Code.

"Tenancy" means the right or entitlement of a tenant to use or occupy a rental-unit.

Section 5. Exemptions

The following shall be exempt from the requirements of this ordinance:

(a) **Institutional Facilities.** Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, nonprofit home for the aged, fraternity, or sorority house, housing accommodations owned, operated, or managed by a bona fide educational institution for occupancy by its students or rental-units that require intake, case management or counseling and an occupancy agreement as part of the occupation.

(b) **Agency Owned or Subsidized Units.** Any rental-unit owned, operated, or subsidized by any government agency, and which is therefore subject to substantially similar or greater state or federal eviction controls.

(c) **Rooms Rented to Boarders.** A rental-unit in which the landlord owns the rental-unit, shares kitchen or bath facilities with the tenants, and also occupies the rental-unit or a unit in the same building as his or her principal residence.

(d) **Second Dwelling Units,** as defined in City Code Section 20-70.020.

(e) **Accommodations in motels, hotels, inns, tourist houses, rooming houses and boarding houses,** provided that such accommodations are not occupied by the same tenant for thirty (30) or more days.

(f) **Mobile Homes.** Mobile homes subject to Mobilehome Residency Law (California Civil Code, Chapter 2.5).

- (g) Transient occupancies defined by California Civil Code section 1940(b).

Section 6. Termination of Tenancy

A residential tenancy shall not be terminated, nor shall its renewal be refused, except for one or more of the following reasons:

- (a) **Nonpayment of Rent.**
- (b) **Habitual Late Payment of Rent.** The tenant habitually pays the rent late or gives checks which are frequently returned because there are insufficient funds in the checking accounts.
- (c) **Violation of Obligation of Tenancy.** The tenant has violated a lawful and material obligation or covenant of the tenancy and has failed to cure such violation after having received notice thereof from the landlord, other than the obligation to surrender possession under proper notice, unless pursuant to subsection (f) below, and other than an obligation to pay rent in excess of any rental cap in effect within the City of Santa Rosa.
- (d) **Nuisance.** The tenant is committing a nuisance or permitting a nuisance in, or is causing damage to, the rental-unit or to the appurtenances thereof or to the common areas of the housing complex containing the rental-unit, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the housing complex or the surrounding neighborhood.
- (e) **Illegal Use.** The tenant is using or permitting the rental-unit to be used for an illegal purpose.
- (f) **Refusal to Renew Lease.** The tenant has refused to agree to a new lease upon expiration of the prior lease, after written request by the landlord, but only where the new lease contains provisions that are substantially identical to the prior lease and is not inconsistent with local, state or federal laws.
- (g) **Refusal to Provide Access.** The tenant has refused to give the landlord reasonable access to the rental-unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental-unit to any prospective purchaser or mortgagee.
- (h) **Correction of Violations; Government Order.** The landlord, after having obtained all necessary permits from the City of Santa Rosa, seeks to recover possession of the rental-unit for necessary repair or construction when removal of the tenant is reasonably necessary to accomplish the repair or construction work or the landlord seeks to recover possession as required under order of any government agency.

- (i) **Withdrawal of Residential Rental Structure from the Rental Market.** The landlord intends to take action to terminate a tenancy to (1) demolish the rental-unit and to remove the property from residential housing use; or (2) withdraw the rental-unit from rent or lease with the intent of completing the withdrawal process and going out of the residential rental business permanently, consistent with section 7060 of the Government Code.

- (j) **Owner or Relative Occupancy.** Any of the following individuals plans to occupy the rental-unit as that person's principal residence, provided that the landlord must in good faith intend for the person to occupy the rental-unit within 90 days and thereafter to occupy the rental-unit as the person's principal residence for at least one year: (1) the landlord; (2) the landlord's spouse or registered domestic partner; (3) the landlord's parent, grandparent, brother, sister, child or grandchild, whether that person is related to the landlord by blood, birth, adoption, marriage or registered domestic partnership; or (4) a resident manager.

Section 7. Notice to Tenant

Any landlord who attempts to terminate a tenancy pursuant to any of the grounds set forth in section 6 above shall provide the tenant a written notice to quit or terminate which recites the grounds under which the landlord is proceeding. The landlord shall provide the notice prior to or at the same time as the written notice of termination set forth in Civil Code section 1946, or a three-day notice described in Code of Civil Procedure sections 1161 and 1161a, is served on the tenant.

Section 8. Affirmative Defense

In any action by a landlord to recover possession of a rental-unit, the tenant may raise as an affirmative defense any violation or noncompliance with the provisions of this ordinance.

Section 9. This ordinance is enacted pursuant to the City of Santa Rosa's general police powers, Section 8 of the Charter of the City of Santa Rosa, Article XI of the California Constitution, and Government Code Section 36937.

Section 10. 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 11. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 12. **Effective Date.** This ordinance shall take effect immediately upon its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this _____ day of _____, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____ APPROVED: _____
Interim City Clerk Mayor

APPROVED AS TO FORM:

Interim City Attorney