

ORDINANCE NO. 4067

AN URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA  
IMPOSING A NINETY (90 DAY) MORATORIUM ON CERTAIN RESIDENTIAL RENT  
INCREASES 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 continuing for a period of ninety (90) days therefrom unless further extended by the City Council; and

WHEREAS, since December 2015, community members have reported that the City Council's discussion and direction to study just cause eviction policy and rent stabilization 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 potential 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 rental 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 rental 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, 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 a continuing moratorium on residential rental increases, the public health, safety and welfare will be immediately threatened because landlords would have an immediate incentive to increase rents to even higher levels before the City of Santa Rosa could implement rent stabilization or other such related regulations; and such 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 just cause for eviction policies, residential rent mediation or arbitration, rent stabilization, or a rent review board, within a reasonable period; and

WHEREAS, this ordinance allows up to a 3% annual increase in rent during the moratorium period, and such figure, which is based upon the percent change in the Consumer Price Index for the Bay Area of California, is found and determined to provide a just and reasonable return, and has been calculated to encourage good management, reward efficiency, and discourage the flight of capital, to be commensurate with returns on comparable investments, but not so high as to defeat the purpose of preventing excessive rents; and

WHEREAS, adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guideline Section 15183 (action consistent with the general plan and zoning); Section 15378; and Section 15061(b) (3) (no significant environmental impact); and

WHEREAS, by the agenda report, testimony, and documentary evidence presented at the September 1, 2015 and January 26, 2016 City Council meetings, the City Council has been provided with additional information upon which the findings and actions set forth in this resolution are based; 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, On May 17, 2016, the Council adopted Ordinance No. 4063, which put in place a forty-five day moratorium on rent increases greater than 3% annually for certain residential units subject to said ordinance, which became effective on June 23, 2016 and is set to expire on August 6, 2016, unless extended by the City Council; and

WHEREAS, unless the existing moratorium is extended by this urgency ordinance, it will expire prior to the effective date of an ordinance to extend the moratorium resulting in a gap between the existing moratorium and any extension thereof that could lead to confusion and uncertainty among landlords and tenants subject to the provisions of the moratorium; and

WHEREAS, for reasons set forth above, this ordinance is declared by the City Council to be necessary for preserving the public welfare, health, or safety and to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the recitals above taken together constitute the City Council's statements of the reasons constituting such necessity and urgency.

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. From the effective date of this urgency ordinance and continuing for a period of ninety (90) days, unless extended, no landlord shall increase rent by more than 3% in a cumulative twelve month period.

Section 3. This Ordinance shall replace and supplant Ordinance No. 4063 adopted by the City Council on May 17, 2016.

Section 4. Exceptions and Exemptions. The following are exempt from the moratorium established under this urgency ordinance: 1) government- owned housing units; 2) housing units whose rents are controlled, regulated (other than by this ordinance), or subsidized by any governmental unit, agency or authority; 3) 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; 4) units constructed after February 1, 1995; 5) units that are separately alienable from the title of any other dwelling (single-family homes and condominiums); 5) commercial units; 6) housing accommodation in any hospital, convent, monastery, extended care facility, convalescent home, nonprofit home for the aged, or dormitory operated by an educational institution; and 7) any other units exempt pursuant to the Costa-Hawkins Act (California Civil Code Section 1954.52) or any other applicable state or federal law.

This moratorium does not regulate the initial rent at which a unit is offered.

Section 5. Enforcement. 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 6. Petition for Relief from Moratorium. This moratorium, without extension, is only effective for a period of ninety (90) days. Given that a Consumer-Price-Index-based 3% annual increase is allowed, the City Council finds that this moratorium does not deny any owner a fair and reasonable return. However, prior to extending this moratorium beyond the ninety (90) day period, the City Council shall consider and adopt a procedure allowing any landlord claiming that the moratorium's permitted rental rate is insufficient to provide a just and reasonable return to file a petition requesting relief from the extended moratorium by way of an additional rental increase, as well as procedures for hearings and appeals of such petitions.

Section 7. 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 8. 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 9. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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Section 10. Effective Date. This ordinance shall take effect immediately upon its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this 7th day of July, 2016.

AYES: (5) Mayor Sawyer, Council Member Carlstrom, Combs, Coursey, Wysocky

NOES: (2) Vice Mayor Schwedhelm, Council Member Olivares

ABSENT: (0)

ABSTAIN: (0)

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
Interim City Clerk Mayor

APPROVED AS TO FORM:

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