

ORDINANCE NO. _____

AN URGENCY AND INTERIM ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER XX-XX TO THE SANTA ROSA CITY CODE TO IMPOSE A PROHIBITION ON RENTAL HOUSING PRICE GOUGING FOLLOWING THE TUBBS AND NUNS FIRES OF OCTOBER 2017 WITHIN THE CITY OF SANTA ROSA

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

Section 1. Findings. The City Council finds and determines, based on evidence and records presented, that:

- A. Beginning on the evening of 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 3000 homes and 100 commercial structures within the boundaries of the City of Santa Rosa; and
- B. On October 9, 2017, the City Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the City of Santa Rosa; and
- C. On October 9, 2017, the Governor of the State of California proclaimed a State of Emergency for Sonoma and other counties; and
- D. On October 10, 2017, President Donald J. Trump declared the existence of a major disaster in the State of California and ordered Federal aid to supplement State and local recovery efforts in the areas affected by wildfires, beginning on October 8, 2017; and
- E. On October 13, 2017 the City Council adopted Resolution No. RES-2017-201 ratifying the City Manager’s proclamation of the existence of a local emergency; and
- F. Penal Code Section 396 (“Section 396”) controls price increases for rental housing for an initial period of thirty (30) days after declaration of an emergency by the President, Governor or local agency, and generally prohibits charging a price that exceeds by more than ten percent (10%) the price of the rental unit before the declaration of emergency. Section 396 permits a local legislative body to extend the price controls for additional thirty (30) day periods as needed to protect the lives, property or welfare of its citizens. Nothing in Section 396 preempts the City’s ability to prohibit the same or similar conduct, or impose a more severe penalty for the conduct prohibited by Section 396. Section 396 applies to hotels, motels and “...any rental housing with an initial lease term of no longer than one year;” and
- G. On October 18, 2017, the Governor of the State of California issued Executive Order B-43-17, which, in relevant part, provides that the provisions of Section 396 prohibiting price gouging will remain in effect until April 18, 2018, and waives the thirty (30) day time period limitation set forth in Section 396; and

- H. The Council has previously found that the City of Santa Rosa is experiencing a housing crisis, and prior to the Fires there existed a severe lack of rental housing, particularly rental housing that is affordable to lower and moderate income residents; and
- I. The housing units damaged and destroyed by the Fires increased the rental housing shortage by several orders of magnitude and also severely reduced the number of owner-occupied housing units in the City; and
- J. Destruction of housing units in other nearby cities and counties further exacerbates the ability of persons who live and work in the City of Santa Rosa and have been displaced by the Fires to relocate to other housing; and
- K. City officials have been alerted to the possibility of price gouging by persons offering housing for rent in the City of Santa Rosa, and have been informed that price gouging may also include eviction of existing tenants of rental properties so landlords may take advantage of fire victims whose insurance companies may pay rental rates in excess of what was previously charged for existing tenants; and
- L. Government Code Section 36937(b) allows 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; and
- M. Section 8 of the Santa Rosa City Charter authorizes the City Council to adopt an urgency measure to take effect immediately upon its adoption if necessary to preserve the public peace, health or safety if such ordinance contains the reasons for its urgency; and
- N. Such an urgency measure requires a five-sevenths vote of the City Council for adoption; and
- O. The City Council has been provided with information upon which the findings and actions set forth in this Ordinance are based, allowing the Council to adopt this urgency ordinance to be effective upon adoption; and
- P. The City Council hereby finds that this Ordinance is necessary for immediate preservation of the public peace, health or safety based upon the findings contained herein.

Section 2. City Code Amendment. Chapter xx-xx is added to the Santa Rosa City Code to read as follows:

“Chapter xx-xx. Prohibition on Rental Housing Price Gouging

xx-xx.xxx Prohibition on Price Gouging

- A. It is unlawful for any person, business or other entity to rent or lease or offer to rent or lease any housing unit, of any kind, within the City of Santa Rosa for a price of more

than 10 percent above the price charged for that housing unit immediately prior the City's proclamation of the existence of local emergency on October 9, 2017, unless that person, business or entity can prove that the increase in price is directly attributable to additional costs for labor or materials used to provide the rental unit, in which case, the price shall not be more than 10 percent above the total cost of providing that rental unit.

- B. It is unlawful for any person, business or other entity to rent or lease a hotel or motel room, or other short term rental unit, including a vacation rental unit, in the City of Santa Rosa for more than the 10 percent above the hotel, motel or other short-term rental's regular rates, as advertised immediately prior to the City's proclamation of the existence of local emergency on October 9, 2017, unless that person, business or other entity can prove that the increase in price is directly attributable to additional costs imposed on it for goods or labor used in the business, to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates.

xx-xx.xxx Restrictions on Evictions

- A. It shall be unlawful for any person to evict an existing tenant or terminate an existing lease or month-to-month rental agreement and subsequently rent or lease the same dwelling unit, including a vacation rental unit, in the City of Santa Rosa for more than the average retail price, unless such person can prove that the excess is directly attributable to additional costs resulting from the labor or materials necessary to provide the rental. In such instances, only the actual cost increase may be added to the average retail price.
- B. For purposes of this ordinance, the "average retail price" shall be the rental price for the dwelling unit during the thirty (30) day period immediately preceding October 9, 2017.

xx-xx.xxx Repair and Reconstruction Services

Nothing in this ordinance shall limit, shorten or otherwise affect the provisions of Penal Code Section 396 applicable to repair or reconstruction services.

xx-xx-xxx Term of Ordinance

This Ordinance shall be effective immediately upon its adoption and shall continue in effect for as long as the City remains under a federal, state or local declaration of emergency, provided however, that notwithstanding a state of emergency, this Ordinance shall not extend beyond April 18, 2018 unless otherwise authorized by law."

Section 3. Authority. 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 4. Environmental Determination. The Council finds that the adoption and implementation of this ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(3) regarding repairs

and replacement work after a state-declared disaster and Section 21080(b)(4) regarding actions to mitigate or prevent an emergency, and CEQA Guidelines Section 15269(a) regarding maintaining, repairing, restoring, demolishing, or replacing property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code, and Section 15269(c) regarding specific actions necessary to prevent or mitigate an emergency.

Section 5. 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.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this ____ day of _____, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney