

ORDINANCE NO. ORD-2018-011

AN URGENCY AND INTERIM ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING CHAPTER 10-44 OF THE SANTA ROSA CITY CODE TO EXTEND THE PROHIBITION ON RENTAL HOUSING PRICE GOUGING UNTIL DECEMBER 4, 2018, OR SO LONG AS THE STATE DECLARATION OF THE EMERGENCY REMAINS IN EFFECT WHICHEVER IS LATER

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. The Governor may extend the price controls of Section 396 beyond the initial period of thirty (30) days as needed to protect the lives, property or welfare of the community. 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; 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 sudden destruction of 3000 homes 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. City officials have been alerted to the possibility of continuing 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
- K. On October 24, 2017, City Council adopted Urgency and Interim Ordinance ORD-2017-020 adding Chapter 10-44, Prohibition on Rental Housing Price Gouging, to the Santa Rosa City Code; and
- L. Chapter 10-44 established an temporary prohibition on rental housing price gouging and placed temporary restrictions on tenant evictions; and
- M. On April 13, 2018, the Governor of the State of California issued Executive Order B-51-18 extending the provisions of Penal Code section 396 (b) and (c), prohibiting price gouging in time of emergency, through December 4, 2018 in Lake, Mendocino, Napa, Solano, and Sonoma Counties; and
- N. 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
- O. 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
- P. Such an urgency measure requires a five-sevenths vote of the City Council for adoption; and
- Q. 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
- R. 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. Section 10-44.040 Term of Ordinance of the Santa Rosa City Code is amended to read as follows:

“10-44.040 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 December 4, 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. 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.

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 8th day of May, 2018.

AYES: (5) Mayor Coursey, Vice Mayor Rogers, Council Members Combs, Sawyer, Tibbetts

NOES: (0)

ABSENT: (2) Council Members Olivares, Schwedhelm

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney