

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: SUE GALLAGHER, CITY ATTORNEY

SUBJECT: URGENCY ORDINANCE AMENDING SECTION 10-44.040 OF  
THE CITY CODE TO EXTEND THE TEMPORARY PROHIBITION  
ON RENTAL HOUSING PRICE GOUGING THROUGH  
DECEMBER 4, 2018

AGENDA ACTION: ORDINANCE

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RECOMMENDATION

Pursuant to Council request, it is recommended by the City Attorney that the Council consider adoption of an urgency ordinance to amend Section 10-44.040 of the Santa Rosa City Code, to extend the term of the City's prohibition on rental housing price gouging through December 4, 2018.

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EXECUTIVE SUMMARY

Beginning on the evening of October 8, 2017, and continuing for days thereafter, a series of wildfire events damaged or destroyed thousands of residential and commercial structures within the City of Santa Rosa. Soon thereafter, City officials were alerted to price gouging in rental housing within the City. To address this issue, the Council adopted Urgency Ordinance ORD-2017-020 adding Chapter 10-44 to the City Code. The Ordinance established a temporary prohibition on rental housing price gouging as well as temporary restrictions on tenant evictions. By its own terms, the Ordinance remained in effect until April 18, 2018.

This urgency ordinance would amend Section 10-44.040 to extend the term of the prohibition on rental housing price gouging and the restrictions on tenant evictions through December 4, 2018. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

BACKGROUND

On 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

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County and damaged or destroyed approximately 3,000 homes and 100 commercial structures within the City of Santa Rosa.

The Fires exacerbated a pre-existing housing crisis within the City. Even prior to the Fires, the City faced a severe lack of rental housing affordable to lower and moderate income residents and, overall, rental vacancies hovered around 1%. The sudden destruction of 3,000 homes increased the rental housing shortage by several orders of magnitude and severely reduced the number of owner-occupied housing units in the City.

On October 24, 2017, City Council adopted Urgency Ordinance ORD-2017-020 adding Chapter 10-44 to the City Code, thereby establishing a temporary prohibition on rental housing price gouging as well as temporary restrictions on tenant evictions. The Ordinance mirrored the provisions of State Penal Code Section 396, which prohibits price gouging following a disaster. The Governor had just issued an Order stating that Section 396 would apply in Lake, Mendocino, Napa, Solano and Sonoma County through April 18, 2018, and the City's Ordinance followed suit, adopting that same term.

On April 13, 2018, the Governor issued Executive Order B-51-18 extending the operation of Section 396 to December 4, 2018, thereby retaining the state's prohibition on price gouging in the affected counties for an additional seven and a half months.

On April 17, 2018, the Council voted to agendize the matter for consideration of a similar extension of the City's prohibition on rental housing price gouging under City Code Chapter 10-44.

## ANALYSIS

### **Interim Urgency Ordinances**

Section 8 of the City Charter authorizes adoption of an interim urgency ordinance, to take effect immediately upon passage, when deemed necessary by the Council to preserve the public peace, health or safety. In addition, Government Code section 36937(b) allows the Council to adopt 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.

### **Rental Housing Price Gouging**

City officials have been alerted to the continuing possibility of price gouging by persons offering housing for rent in the City of Santa Rosa. Price gouging may also include eviction of existing tenants so as to allow the landlords to take advantage of fire victims and others who may be willing or able, through insurance, to pay rental rates in excess of what was previously charged to existing tenants.

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Penal Code Section 396 controls price increases for rental housing when a jurisdiction is under a declaration of emergency. As written, it applies for an initial period of thirty days after declaration of an emergency by the Governor and generally prohibits a landlord from increasing rent by more than ten percent over the price of the unit before the declaration of emergency. On October 18, 2017, the Governor issued Executive Order B-43-17 which, in part, provided that the State's prohibition against price gouging would remain in effect until April 18, 2018, in the five counties affected by the October Fires – Lake, Mendocino, Napa, Solano and Sonoma Counties.

On April 13, 2018, the Governor issued Executive Order B-51-18 extending that timeframe and prohibiting price gouging in rental housing through December 4, 2018 in the affected counties.

The proposed Ordinance will similarly extend the City's prohibition on rental housing price gouging to December 4, 2018 (or until the declared state of emergency is terminated, whichever occurs first). The substantive provisions of City Code Chapter 10-44 will remain unchanged. The provisions of Chapter 10-44 will continue to prohibit any person from renting or leasing a hotel or motel room or any dwelling unit, including a vacation rental unit, in the City for more than ten percent above the price charged immediately prior to the issuance, last October, of the City's proclamation of the existence of a local emergency. The proposed ordinance will also continue to prohibit a landlord from evicting an existing tenant or terminating an existing lease or month-to-month rental agreement and subsequently renting or leasing the same unit in the City for more than the average retail price of the unit in the thirty day period immediately preceding October 9, 2017. A landlord may obtain relief from these provisions if he or she can prove that the excess is directly attributable to additional costs resulting from the labor or materials necessary to provide the rental or in certain other limited circumstances.

The prohibitions on price gouging and the limitations on tenant evictions will terminate at midnight on December 4, 2018 or upon termination of the declared state of emergency, whichever comes first.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

FISCAL IMPACT

All costs that the City will incur in connection with enforcement of the prohibition on rental housing price gouging, will be funded by the General Fund.

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ENVIRONMENTAL IMPACT

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.

ATTACHMENTS

- Ordinance

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