

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: CARMELITA HOWARD, DEPUTY DIRECTOR
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SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF SANTA ROSA
AMENDING THE SANTA ROSA CITY CODE ADDING A NEW
CHAPTER 10-46, HOUSING ANTI-DISCRIMINATION CODE

AGENDA ACTION: ORDINANCE

RECOMMENDATION

It is recommended by the Department of Housing and Community Services that the City Council introduce an ordinance adding Chapter 10-46 to the Santa Rosa City Code prohibiting rental housing discrimination based on source of income, including Section 8 Housing Choice Vouchers and other rent subsidies.

EXECUTIVE SUMMARY

The Council of the City of Santa Rosa adopted a comprehensive housing strategy as part of its Tier 1 housing goals. A component of the housing strategy is to adopt a local ordinance that prohibits rental housing discrimination against tenants using Section 8 Housing Choice Vouchers and other forms of rental assistance.

BACKGROUND

Santa Rosa is experiencing a housing crisis exacerbated by the 2017 wildfire disaster, with a severe shortage of available and affordable housing. Council identified housing as a Tier 1 priority and planned a comprehensive strategy to address the housing crisis, including sixteen specific deliverables to be completed between June 30, 2019, and the year 2023. Council has developed concurrent strategies addressing homelessness in Santa Rosa, also a Tier 1 priority. The steps outlined in the comprehensive housing strategy were developed during the Council and Executive Staff annual goal-setting workshop and were adopted by City Council on May 7, 2019.

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The Santa Rosa Housing Authority (SRHA) administers the Section 8 Housing Choice Voucher program within the Department of Housing and Community Services and has aligned its local policies to support the Council's Tier 1 goals by setting aside Housing Choice Vouchers for persons experiencing homelessness and for survivors of the October 2017 wildfires. The Housing Choice Voucher (HCV) program is the largest rental housing program in the United States, serving over 2.2 million households. Under the HCV program, Housing Authorities use federal dollars to help participants pay their rent in privately owned housing. SRHA has 1,898 vouchers under contract with HUD including 414 vouchers dedicated to homeless veterans under the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program.

The HCV program was first enacted in 1974 and has proven to be an efficient, cost-effective alternative to government-owned affordable housing with better outcomes for participating families who are able, in theory, to choose their housing located outside areas of concentrated poverty that meets their individual needs. In practice, voucher holders may find that their housing opportunities are still limited despite having the financial resource of voucher assistance since there is no requirement for housing providers to participate in the HCV program.

Eleven states and more than 50 local governments have enacted source of income protection laws that prohibit landlords from refusing to rent to voucher holders solely because they will use a voucher to help pay the rent. A December 2018 report published by the Center for Budget and Policy Priorities, a research institute that analyzes the federal budget and federal budget decisions that affect low-income families, indicated that source of income protection laws are associated with substantial reductions in the number of landlords that refuse to accept vouchers and that these protections increase the voucher success rate. The voucher success rate is defined as the proportion of families issued a voucher who succeed in leasing a unit within the program timeframe. In areas where these protections exist, the success rate for voucher holders has been estimated to increase between 5-12%. SRHA's current success rate is 61%, down from 74% in 2018 and slightly higher than a 2017 low of 59%. Many factors contribute to the voucher success rate, but the number of landlords willing to accept vouchers has been identified as a likely major contributor to this indicator.

SRHA voucher holders searching for housing have reported challenges in finding landlords who are willing to accept the voucher. A review of local rental advertisements on Craigslist and Zillow revealed listings that explicitly stated vouchers would not be accepted. Such policies impede the efforts of SRHA and Council to address the housing crisis by narrowing the pool of rentals available to families who are participating in programs designed to promote housing affordability and opportunity.

As of June 2019, sixteen California jurisdictions had passed source of income discrimination ordinances, including several North Bay cities. The purpose of these measures is to give tenants using vouchers or other third-party rental assistance equal

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access to the rental application process. If approved, Santa Rosa's ordinance will be the first of its kind in Sonoma County.

PRIOR CITY COUNCIL REVIEW

On September 15, 2015, the City Council heard a study session to review existing Fair Housing protections for tenants and a summary of case law relevant to source of income discrimination in California. Further action was not taken at that time due to pending litigation over a source of income discrimination ordinance in Santa Monica, California.

On May 7, 2019, the City Council reviewed the goals, priorities and project timelines from the final report of the executive team retreat. The Tier 1 Goals timeline included a proposal to hear a draft non-discrimination ordinance on September 10, 2019. The Council requested a re-ordering of the Tier 1 Goals timeline and on May 28, 2019, the Council voted to review the non-discrimination ordinance on August 13, 2019.

ANALYSIS

The HCV and other rental assistance programs are targeted to eligible households under certain income limits. In most areas of the country, there are more eligible households than assistance available which creates long waiting lists, particularly for the HCV program. The average wait for a voucher in Santa Rosa is approximately eight to ten years. In rental assistance programs, participants typically pay 30-40% of their income for their rent and utilities and the balance of the rent is paid directly to the landlord by the program.

California's current fair housing law prohibits housing discrimination based on a person's source of income but does not define vouchers or other third-party rental subsidies as income. Rental housing providers are permitted to enact policies that exclude rental assistance program participants, however, low-income renters who qualify for housing subsidies are often also members of other legally protected classes. Policies that deny housing opportunities to applicants using vouchers may have a disparate impact on those protected classes. Protections for Santa Rosa tenants in rental assistance programs will both affirmatively further fair housing and address the affordable housing crisis.

The proposed ordinance has been modeled after similar ordinances in California and would prohibit rental housing providers from the following activities when based wholly or partially on sources of income:

1. To interrupt, terminate, fail or refuse to initiate or conduct any transaction in real property including, but not limited to, the rental thereof; to require different terms

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for such transaction; or falsely to represent that an interest in real property is not available for transaction.

2. To include in the terms or conditions of a transaction in real property any discriminating clause, condition or restriction due to source of income.
3. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee.
4. To make, print, publish, advertise or disseminate in any way, or cause to be made, printed or published, advertised or disseminated in any way, any notice, statement or advertisement with respect to a transaction in real property, or with respect to financing related to any such transaction, which unlawfully indicates preference, limitation or discrimination based on source of income.

It would also be unlawful under the proposed ordinance for any person to use a financial or income standard for the rental of housing that does either of the following:

5. Fails to account for any rental payments that will be made by other individuals or organizations, including by a rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program including, but not limited to, the Section 8 voucher program, on the same basis as rental payments to be made directly by the tenant or prospective tenant;
6. Fails to account for the aggregate sources of income of persons residing together or proposing to reside together or an aggregate income of tenants or prospective tenants and that cosigners or proposed cosigners on the same basis as the aggregate income of married persons residing together or proposing to reside together, so long as legal occupancy limits are not exceeded.

The proposed ordinance does not prevent landlords from screening applicants based on other permissible suitability factors such as credit scores and rental history. The ordinance does not compel landlords to participate in rental assistance programs but does require that applicants with these forms of assistance are treated equally in the application process.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

This action is exempt from 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

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the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Correspondence
- Ordinance

CONTACT

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