

**ORDINANCE NUMBER: 1095**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL IMPOSING A TEMPORARY (45-DAY) MORATORIUM ON CERTAIN RESIDENTIAL RENT INCREASES IN THE CITY OF SEBASTOPOL**

**WHEREAS**, on October 18, 2016, the City Council of the City of Sebastopol (“City Council”) directed City of Sebastopol (“City”) staff to prepare an ordinance enacting a moratorium on residential rent increases in excess of 3 percent for multi-family residential units that are subject to rent regulation; and,

**WHEREAS**, California Government Code Section 36934 and 36937 authorize adoption of urgency ordinances and Section 65858 authorizes a city, to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public health or safety without following the procedures otherwise required prior to adoption of a zoning ordinance; and,

**WHEREAS**, such an urgency measure requires a four-fifths (4/5) vote of the City Council for adoption and any such ordinance adopted pursuant to Section 65858 shall be of no further force and effect forty-five (45) days from its date of adoption; and,

**WHEREAS**, Government Code section 36937 authorizes the adoption of an urgency ordinance for “the immediate preservation of the public peace, health or safety,” as long as the ordinance contains a declaration of the facts constituting the urgency and it is passed by a four-fifths (4/5) vote of the City Council; and,

**WHEREAS**, City staff plan to present recommendations regarding permanent rent stabilization and other tenant protection policies no later than December 6, 2016; and,

**WHEREAS**, according to the U.S. Census Bureau, 2010-2014 American Community Survey 5-year estimates (“2014 Census estimates”), approximately half of the units in the City are renter-occupied, totaling more than 1,800 units; and,

**WHEREAS**, according to the 2014 Census estimates, approximately 65% of Sebastopol renter households, totaling more than 1,160 units, are “overpaying households,” meaning a household which pays 30% or more of its household income on housing costs; and,

**WHEREAS**, according to the 2014 Census estimates, the rental vacancy rate in the City of Sebastopol is less than 1% and the homeowner vacancy rate is approximately 3%; and

**WHEREAS**, according to the 2014 Census estimates, 10% of families in Sebastopol have income below the poverty level, and the number of persons living below the poverty rate in Sebastopol has increased since 2010; and,

**WHEREAS**, according to the 2011 through 2014 Census estimates, the median household income in the City has decreased by nearly 13% since 2011; and,

**WHEREAS**, increasing poverty, decreasing median household incomes, and increasing rents in the City have created a growing “affordability gap” between incomes and rents demonstrated by the significant numbers of “overpaying renter households;” and,

**WHEREAS**, given this increased housing cost burden and poverty faced by many Sebastopol residents, excessive increases in rental rates threaten the public health, safety, and welfare of Sebastopol 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 increases in rental rates could result in increased homelessness in the City and the displacement of low income families; and,

**WHEREAS**, public testimony has been provided to the City regarding the impact of the excessive rent increases and their potential impact on Sebastopol residents; and,

**WHEREAS**, the City currently does not restrict increases in rental rates for residential properties other than mobile homes; and,

**WHEREAS**, the City has multi-family residential rental units that would be subject to this ordinance and that are necessary to provide housing for all residents of all levels of income; and,

**WHEREAS**, certain aspects of public health, safety and welfare are not adequately protected by the lack of rental rate control in the City, 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 potential regulations to protect affordable rental housing options 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 potential decrease of affordable housing within the City given that a significant portion of the population is already classified as overpaying households, the City Council determines that it is in the immediate interest of preserving the public health, safety, and general welfare of the City 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 rental housing options within the City, and bring forward proposed regulations related to, for example, rent stabilization, just cause for eviction policies, residential rent mediation or arbitration, and/or establishment of rent review board; and,

**WHEREAS**, the City Council finds and determines that, if a temporary moratorium on residential rental increases above 3 percent were not imposed and effective immediately, the public health, safety, and welfare will be threatened because landlords in the City may increase rent rates before the City Council could implement rent stabilization or other related tenant protection 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 permanent rent stabilization and other tenant protections, within a reasonable period of time; and,

**WHEREAS**, for reasons set forth above, this ordinance is declared by the City Council to be necessary for preserving the public welfare, health, and safety and to avoid a current, immediate and direct threat to the health, safety, and welfare of the community, and the recitals above taken together constitute the City Council's statements of the reasons constituting such necessity and urgency; 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 Guidelines section 15183 (this ordinance, in preventing excessive rent increases that might decrease affordable housing stock in the City, is consistent with the City's general plan and zoning program); section 15378 (this ordinance is not a project but an administrative action that will not result in direct or indirect physical changes to the environment); and section 15061(b)(3) (this ordinance only regulates residential rental rates and thus, there is no potential for it to cause a significant effect on the environment), and,

**WHEREAS**, by the staff report, public testimony, and documentary evidence presented at the October 18, 2016 and November 1, 2016 City Council meetings, the City Council has been provided with information upon which the findings and actions set forth in this ordinance is based; and,

**WHEREAS**, ten days prior to the expiration of this interim ordinance and any extension thereof, the City Council is required by Government Code section 65858, subsection (d) to issue a written report describing the measures taken to date to alleviate the condition which led to the adoption of this ordinance; and,

**WHEREAS**, this ordinance authorizes up to a 3 percent annual increase in rental rates during the moratorium period, and such a figure, which is based, in part, 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.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL** does ordain 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 forty-five (45) days, unless extended, or until such time as the City adopts permanent regulations relating to rent stabilization, just cause for eviction, or other tenant protection policies, whichever occurs first, no landlord shall increase rental rates in any multi-family residential unit governed by this ordinance by more than 3 percent per twelve month time period.

**SECTION 3. Petition for Relief from Moratorium.** This moratorium, without extension, is only effective for a period of forty-five (45) days. Given that a three (3) percent annual increase is allowed, the City Council finds that this moratorium will not generally deny any owner a fair and reasonable return. However, during this moratorium's forty-five day period and any subsequent extensions to this moratorium, a rental property owner may submit a written petition to the City Manager demonstrating why the moratorium's permitted annual rental rate increase is insufficient to provide a just and reasonable return to that owner for that rental unit and to request relief from the moratorium by way of an additional rental increase in excess of the moratorium's allowed three (3) percent annual rental rate increase. The City Manager shall analyze each petition for an additional rental rate increase on a case-by-case basis and may consider evidence submitted by both the owner and affected tenants regarding the potential rate increase when determining whether an additional rent increase is justified in a particular case. If it is determined that an owner will not earn a fair and reasonable return on a rental unit based on the three (3) percent increase authorized herein, the City Manager shall authorize an increase in that unit's rental rate to provide for such a fair and reasonable return. An appeal of the City Manager's decision may be taken to the City Council by a rental property owner, or a tenant of a rental dwelling unit affected by the administrative determination made by the City Manager, pursuant to Section 17.320.20 (C ) of the Municipal Code.

**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 chapter), 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 that were issued a certificate of occupancy after February 1, 1995; (5) units that are separately alienable from the title of any other dwelling (single-family homes and condominiums); (6) commercial units; (7) housing accommodation in any hospital, convent, monastery, extended care facility, convalescent home, nonprofit home for the aged, or dormitory operated by an educational institution; (8) mobile home units subject to regulation under Sebastopol Municipal Code chapter 9.28; and (9) any other units exempt pursuant to the Costa-Hawkins Act (California Civil Code Section 1954.50 et seq.), or any other applicable state or federal law.

This moratorium does not regulate the initial rent at which a unit is offered at the outset of a new tenancy.

**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 chapter.

**SECTION 6. Extension.** This moratorium may be extended by the City Council in accordance with the provisions of California Government Code section 65858.

**SECTION 7. Authority.** This ordinance is enacted pursuant to the City of Sebastopol's general police powers, Section 7 of Article XI of the California Constitution, and Government Code Sections 65858, 36934 and 36937.

**SECTION 8. Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

**SECTION 9. Effective Date.** All increases to rental rates of multi-family residential units subject to regulation pursuant to this Ordinance on or after the date of final passage and adoption of this Ordinance shall be subject to this Ordinance. As an urgency ordinance, this Ordinance becomes effective immediately upon its introduction and adoption following a four-fifths vote of the City Council.

**IN COUNCIL DULY APPROVED FOR INTRODUCTION, READING, AND ADOPTION on the 1<sup>st</sup> day of November, 2016.**

VOTE: \_\_\_\_\_

AYES: Councilmembers Eder, Jacob, Vice Mayor Glass and Mayor Gurney

NOES: Councilmember Slayter

ABSTAIN: None

ABSENT: None

APPROVED: \_\_\_\_\_

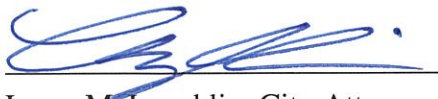
  
Sarah Gurney, Mayor

ATTEST:

A handwritten signature in black ink, reading "Mary E. Gourley", written over a horizontal line.

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM:

A handwritten signature in blue ink, reading "Larry McLaughlin", written over a horizontal line.

Larry McLaughlin, City Attorney