

ORDINANCE NO. 2018-03

AN INTERIM EMERGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SANTA CRUZ ESTABLISHING A TEMPORARY MORATORIUM
ON CERTAIN RESIDENTIAL RENT INCREASES NOT TO EXCEED TWO PERCENT IN
THE CITY OF SANTA CRUZ

THE CITY COUNCIL OF THE CITY OF SANTA CRUZ hereby ordains as follows:

SECTION 1. Findings.

- A. Pursuant to Article XI, Section 7 of the California Constitution, the City of Santa Cruz ("City") may make and enforce all regulations and ordinances using its police powers.
- B. The City has one of the least affordable housing markets in California and the United States, which exacerbates the City's shortage of decent, safe, affordable, and sanitary rental housing.
- C. Renters occupy about 56 percent of the City's housing stock and 67.5 percent of renters are cost burdened under the federal definition, meaning they spend more than 30 percent of their income on housing.
- D. Through the City's Fall 2017 Community Outreach on Housing, the City received extensive public testimony about the exorbitant costs and scarcity of rental units.
- E. Given the housing cost burden faced by many City residents, excessive rental increases threaten the public health, safety, and welfare of City residents, including seniors, those on fixed incomes, those with 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.
- F. Housing insecurity and excessive rent increases could result in homelessness and displacement of low-income families.
- G. The City currently does not regulate rental amounts, rent increases, or evictions from residential housing.
- H. Residents of the City have announced plans to place a just cause for eviction and rent stabilization measure on the ballot to go before the voters at the General Municipal Election in November of 2018.
- I. If adopted by the voters, the measure is estimated to affect 22-24 percent of the City's housing stock, or about 5,100-5,800 rental units.
- J. The City Council finds and determines that in light of the announcement to place a rent stabilization measure on the November 2018 ballot, landlords of rent control eligible properties will have an immediate incentive to serve notices to raise rents or terminate certain tenancies

without cause, thereby displacing many tenants in the City who, because of a critically low vacancy rate, will be compelled to find housing elsewhere and at higher rents.

K. The City Council finds and determines that a temporary moratorium on residential rent increases for eligible rental units not to exceed a two percent inflation factor is necessary because rent increases imposed in anticipation of a rent stabilization law would defeat the intent and purpose of any potential future regulation and substantially impair its effective implementation.

L. Based upon the above-described facts and circumstances, and for these same reasons, the City Council finds that this ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and therefore that it may be introduced and adopted at one and the same meeting, and shall take effect immediately upon its adoption.

M. The Consumer Price Index (CPI) is an accepted measure of the general change over time in prices and therefore the cost of living. The Shelter or Housing component is the largest portion of CPI. A 2010 study commissioned by the Berkeley Rent Stabilization Board found that half of the shelter or housing component of CPI was due to speculation rather than maintenance costs and therefore unduly influenced the rise in overall CPI. A rate of 65% of CPI is a fair representation of the change in cost of living excluding the influence of housing speculation.

N. This interim Ordinance allows up to a 2.0 percent annual increase in rent during the moratorium period, and such figure, which is sixty-five percent (65%) of the increase in the Consumer Price Index for the Bay Area of California for August 2017, is found and determined to provide a fair return.

SECTION 2. Definitions.

A. City Council. The Santa Cruz City Council.

B. Housing Services. Housing Services include, but are not limited to, repairs, maintenance, painting, providing light, hot and cold water, elevator service, window shades, and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, Utility Charges that are paid by the Landlord, refuse removal, furnishings, telephone, parking, the right to have a specified number of occupants, the right to have pets, and any other benefit, privilege, or facility connected with the use or occupancy of any Rental Unit. Housing Services to a Rental Unit shall include a proportionate part of services provided to common facilities of the building in which the Rental Unit is contained.

C. Landlord. An owner of record, lessor, sublessor, or any other person, entity or non-natural person entitled to receive Rent for the use and occupancy of any Rental Unit, or an agent, representative, predecessor, or successor of any of the foregoing.

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D. Moratorium Period. The period of time between the effective date of this Ordinance and its automatic expiration upon the City Council's certification of the November 2018 election results if the rent stabilization measure is not approved by a majority of the voters or, if the rent stabilization measure is approved by a majority of the voters, until the effective date of the rent stabilization measure approved by the voters or, if a just cause for eviction and rent stabilization measure is not placed on the ballot for November 2018, on September 1, 2018.

E. Property. All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.

F. Rent. All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord for use or occupancy of a Rental Unit and Housing Services under a Rental Housing Agreement.

G. Rental Housing Agreement. An oral, written, or implied agreement between a Landlord and a Tenant for use or occupancy of a Rental Unit and Housing Services.

H. Rental Unit. A building, structure, or part thereof, or land appurtenances thereto, or any other rental property rented or offered for rent for residential purposes and Housing Services.

I. Tenant. A Tenant, subtenant, lessee, sublessee, or a person entitled under the terms of a Rental Housing Agreement to the use or occupancy of a Rental Unit.

SECTION 3. Imposition of Temporary Moratorium on Residential Rent Increases.

A. During the Moratorium Period, no Landlord shall increase Rent for any Rental Unit not otherwise exempted by this Ordinance or state law by more than 2.0 percent per year. This moratorium shall not apply to any Rent increase which, after proper notice to the Tenant, took effect prior to the effective date of this Ordinance.

B. Exemptions.

1. The following Rental Units are exempt from the entirety of the moratorium established under this Ordinance:

a. Units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented to transient guests for a period of fewer than thirty (30) days, including all units subject to the transient occupancy tax ordinance codified at City Code Chapter 3.28.

b. Units in a hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education;

c. Units which a government entity owns, operates, or manages, units subsidized under Section 8 of the Housing Act of 1937 (42 U.S.C. §1437f) or, if other applicable federal or state law specifically exempt such units from municipal rent stabilization and eviction controls,

2. The following Rental Units are exempt from the moratorium on residential Rent increases but are subject to the just cause for eviction provisions established under this Ordinance:

a. Single-Family Dwellings;

b. Condominiums, including but not limited to townhouses; and

c. Rental Units with an initial certificate of occupancy dated on or after February 1, 1995 pursuant to the Costa-Hawkins Rental Housing Act (Cal. Civ. Code § 1954.52), or any successor Act thereto.

C. Initial Rents. This moratorium does not regulate the initial Rent at which a Rental Unit is offered.

D. Affirmative Defense. In any action by a Landlord to recover possession of a Rental Unit, the Tenant may raise as an affirmative defense any violation of or noncompliance with any of the provisions of this Ordinance.

E. Fair Return Determinations. This moratorium, unless extended, is only effective for the Moratorium Period as defined herein. Given that a Consumer Price Index-based 2.0 percent maximum annual increase is allowed during the Moratorium Period, the City Council finds that this moratorium does not deny any owner a fair and reasonable return on their investment.

F. Petition for Relief from Moratorium. If during this Moratorium Period a property owner believes the application of this moratorium's limitation on Rent increases would deprive the owner of the ability to receive a just and reasonable return on their investment, the owner may petition the city manager for a determination of the amount of Rent necessary to provide the owner with a just, fair, and reasonable return and authorization to charge such Rent. The city manager shall establish a procedure for reviewing such petitions.

SECTION 4. Enforcement Procedures

The City, at its sole discretion, may choose to enforce the provisions of this ordinance through administrative fines and any other administrative procedure set forth in Chapter 4 of the Municipal Code, as amended. Violations of the provisions of this ordinance may be subject to fines of up to \$4,000. The City's decision to pursue or not pursue enforcement of any kind shall not affect a tenant's rights to pursue civil remedies.

SECTION 5. Civil Remedies.

A Tenant may bring a civil suit in the courts of the state alleging that a Landlord has violated any of the provisions of this Ordinance or any regulations promulgated hereunder including that the Landlord has demanded, accepted, received, retained a payment or payments in excess of the lawful Rent, failed to maintain a Rental Unit in compliance with applicable health and safety and building codes, including but not limited to Civil Code Sections 1941.1 et seq. and Health and Safety Code Sections 17920.3 and 17920.10, or decreased Housing Services. In a civil suit, a Landlord found to violate this Ordinance shall be liable to the Tenant for all actual damages, including but not limited to the damages described in this Section. A prevailing Tenant in a civil action brought to enforce this Ordinance shall be awarded reasonable attorneys' fees and costs. Additionally, upon a showing that the Landlord has acted willfully or with oppression, fraud, or malice, the Tenant shall be awarded treble damages. No administrative remedy need be exhausted prior to filing suit pursuant to this Section.

SECTION 6. 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 7. Effective Date and Expiration Date.

This ordinance shall take effect immediately following its adoption. If there is no just cause for eviction and rent stabilization measure or other similar measure placed on the ballot for the November 6, 2018 General Municipal Election, this Ordinance shall terminate on September 1, 2018. If a just cause for eviction and rent stabilization measure or other similar measure is placed on the ballot for the November 6, 2018 General Municipal Election and is not approved by a majority of the voters, this ordinance shall terminate upon the City Council's certification of election results for the November 6, 2018 General Municipal Election. In the event that a just cause for eviction and rent stabilization measure or other similar measure is approved by a majority of the voters at the November 6, 2018 General Municipal Election, this Ordinance shall terminate upon the effective date of the just cause for eviction and rent stabilization measure.

SECTION 8. Environmental Determination.

The City Council finds that the adoption and implementation of this Ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)(3) in that the City Council finds there is no possibility that the implementation of this Ordinance may have significant effects on the environment.

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PASSED FOR FINAL ADOPTION as an emergency ordinance this 13th day of February, 2018, by the following vote:

AYES: Councilmembers Chase, Brown, Noroyan; Vice Mayor Watkins; Mayor Terrazas.

NOES: None.

ABSENT: None.

DISQUALIFIED: Councilmembers Krohn, Mathews.

APPROVED:

David Terrazas, Mayor

ATTEST: _____
Bonnie Bush, Interim City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2018-03 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

Bonnie Bush, Interim City Clerk Administrator