

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1641

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING THE NOVATO MUNICIPAL CODE BY ADDING NEW SECTION 4-16 INCOME-BASED RENTAL HOUSING DISCRIMINATION AND FINDING THE ADOPTION THEREOF EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061 (b)(3)

WHEREAS, it is unlawful under federal statutes to restrict housing choice on the basis of race, color, disability, religion, sex, familial status, national origin, sexual orientation, marital status, ancestry, age, and source of income; and

WHEREAS, the City of Novato is committed to providing and preserving fair and affordable housing for all income levels; and

WHEREAS, the City of Novato wants to increase the availability of housing to all income levels and eliminate any limitations in the provision of housing, including discrimination based on a person's source of income; and

WHEREAS, the elimination of an exception for owner-occupied structures will expand housing options without creating an undue burden for property owners; and

WHEREAS, the Marin Housing Authority, which administers the housing voucher programs including the Housing Choice Voucher Program, also known as "Section 8," and the Veterans Affairs Supportive Housing Voucher Program reports a shortage of landlords participating in the program; and

WHEREAS, this shortage may reflect discrimination against tenants with housing vouchers; and

WHEREAS, discrimination against housing voucher holders significantly reduces the stock of rental housing that is available to them; and

WHEREAS, California Government Code §12921 prohibits housing discrimination based on source of income as defined by §12955(p)(1), which does not protect Housing Choice voucher holders as established by case law (SABI v. Sterling 183 Cal. App .4th 916 (2010)); and

WHEREAS, California law further requires the City to identify impediments to providing affordable housing and to develop strategies for removing these impediments; and

WHEREAS, in order to fulfill its commitment to fair housing, to increase affordable housing opportunities, and to fulfill its legal obligations it is necessary to prohibit housing discrimination based on source of income; and

WHEREAS, the Record of Proceedings (“Record”) upon which the City Council bases its decision on the proposed amendment to the Municipal Code includes, but is not limited to: (1) the staff reports, City files and records and other documents, prepared or and/or submitted to the City relating to the proposed amendment; (2) all documentary and oral evidence received at public meeting and hearings or submitted to the City during the comment period relating to this amendment; (3) the City of Novato 1996 General Plan and its EIR; and (4) all other matters of common knowledge to the City including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas. The custodian of records is the City Clerk of the City of Novato, 922 Machin Avenue, Novato, CA 94945.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NOVATO DOES FIND AND ORDAIN AS FOLLOWS:

SECTION 1

The City Council hereby finds that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) Section 15061 (b)(3). This ordinance does not result in additional development but affects occupancy of existing housing units. It can therefore be seen with certainty that there is no possibility that the adoption of this ordinance may have a significant effect on the environment.

SECTION 2

The City Council hereby amends the Novato Municipal Code to add new Section 4-16 Income-Based Rental Housing Discrimination as set forth in *Exhibit A*, attached hereto and incorporated herein by reference;

SECTION 3

Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

SECTION 4

Effective date. This ordinance shall become effective 30 days after the date of adoption.

SECTION 5

Posting. This ordinance shall be published in accordance with applicable provisions of law, by either: publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

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THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 28nd day of August, 2018, and was passed and adopted at a regular meeting of the Novato City Council on the 11th day of September, 2018.

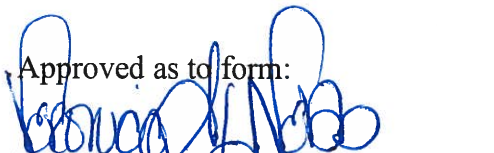
AYES: Councilmembers Eklund, Lucan, Drew, Fryday
NOES: Councilmembers
ABSTAIN: Councilmembers
ABSENT: Councilmembers Athas



Mayor of the City of Novato

Attest:


City Clerk of the City of Novato

Approved as to form:


City Attorney of the City of Novato

EXHIBIT A

4-16 – Income-Based Rental Housing Discrimination.

4-16.1 *Purpose.* It is the purpose and intent of the City of Novato in enacting this section to insure that income-based financial discrimination does not occur in rental housing. This section does not intend to restrict or limit operational aspects of rental housing management, such as establishment of tenant rules, security requirements or other landlord/tenant conditions not related to sources of income or financial discrimination.

4-16.2 *Prohibited Activity.* It is unlawful for any person to do any of the following related to the rental of real property for residential use as wholly or partially based on source of income, as defined herein:

- a. To interrupt, terminate, or fail or refuse to initiate or conduct any transaction in real property, including, but not limited to, the rental thereof; to require different terms for such transaction; or falsely to represent that an interest in real property is not available for transaction;
- b. To include in the terms or conditions of a transaction in real property any discriminating clause, condition or restriction;
- c. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee;
- d. 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.

4-16.3 *Prohibited Economic Discrimination.* It is unlawful for any person to use a financial or income standard for the rental of housing that does either of the following:

- a. Fails to account for any rental payments or portions of 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, on the same basis as rental payments to be made directly by the tenant or prospective tenant;
- b. Fails to account for the aggregate income of persons residing together or proposing to reside together or an aggregate income of tenants or prospective tenants and their cosigners or proposed cosigners on the same basis as the aggregate income of married persons residing together or proposing to reside together.

4-16.4 *Exceptions.*

- a. Nothing in this chapter shall be construed to apply to the rental or leasing of any housing unit in which the owner or any member of his/her family occupies one of the living units and it is necessary for the owner to use either a bathroom or kitchen facility common with the prospective tenant(s).
- b. Nothing in this section shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.
- c. Nothing in this chapter shall be construed to prohibit a requirement for a guarantor or co-signer based on amount of income or credit worthiness.

4-16.5 *Civil injunctive relief.* Any aggrieved person may enforce the provisions of this section by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this section may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by county counsel, the district attorney, the City attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

4-16.6 *Civil liability.* Any person who violates any of the provisions of this section or who aids in the violation of any provisions of this section is liable for special and general damages, , or up to three times the amount of one month's rent that the landlord charges for the unit in question. The court may award in addition thereto not less than two hundred dollars (\$200.00) but not more than four hundred (\$400.00), together with attorney's fees, costs of action, and punitive damages. Civil actions filed pursuant to this section must be filed within one year of the alleged discriminatory acts.

4-16.7 *Criminal penalty.* Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not exceeding six months, or both.

4-16.8 *Definitions.* For purposes of this section, the following definitions shall apply:

- a. "Source of income" as used in this chapter means all payments from a rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program, provided such funds are not paid directly to the tenant.
- b. "Person" means any individual, firm, corporation, or other organization or group of persons however organized.