

**TOWN OF SAN ANSELMO  
ORDINANCE NO. 2024-1185**

**AN ORDINANCE OF THE TOWN OF SAN ANSELMO ADDING TITLE 20 “RENT  
STABILIZATION AND TENANT PROTECTIONS” CHAPTER 1 “RENT  
STABILIZATION” ESTABLISHING RENT STABILIZATION REGULATIONS  
APPLICABLE TO CERTAIN RESIDENTIAL RENTAL UNITS AND MAKING  
ASSOCIATED CEQA DETERMINATION**

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**WHEREAS**, the Town of San Anselmo (the “Town”) is a general law city incorporated under the laws of the State of California; and

**WHEREAS**, in response to community concerns regarding unaffordable rents, tenant displacement, and the need to preserve affordable residential rental housing, the Town held a series of community meetings and Town Council meetings, and engaged in extensive community outreach regarding rent stabilization and tenant protection issues as follows:

- June 21, 2023 Town Council meeting. Council received information and discussed rent stabilization and tenant protection issues including State laws and other local jurisdictions’ rent stabilization actions.
- August 2023 Town webpage created, updated, and publicized containing summary of State rental protection laws, examples of local rent protection ordinances, and upcoming dates of community or Council meetings regarding renter protections.
- August 2023 Town publicized upcoming community meeting by placing information on the Town’s website, mailing postcards to all San Anselmo residential households and out-of-town landlords, hand-distributing postcards to apartment buildings with 10+ units, placing postcards in the Library and at Town Hall, and posting notices on Town announcement bulletin boards.
- August 2023 notice regarding renter protection community meetings included and publicized in the weekly Town Manager e-newsletter (5700 subscribers).
- Notice of renter protection community meetings posted on Instagram (2150 followers) and Nextdoor (11K members, 5K households) on August 29, 2023, September 14, 2023, and October 2, 2023.
- August 24, 2023 Town issued a press release to all media contacts regarding upcoming community renter protection discussion meetings.
- August 2023 e-mail comment portal established on Town website for members of the public to submit comments regarding renter protection issues.
- September 14, 2023 Community Workshop. Community workshop focused on tenants where staff received and recorded public comment.

- October 5, 2023 Community Workshop. Community workshop focused on landlords where staff received and recorded public comment.
- October 24, 2023 Town Council meeting. Council received summary of community workshops, took additional public comment, held a discussion, and gave direction to staff to return for further Council discussion.
- January 9, 2024 Town Council meeting. Council received additional public comment, held a discussion, and gave direction to staff to prepare rent stabilization discussion points for further Council discussion.
- March 12, 2024 Town Council meeting. Council received and recorded additional public comment, held a discussion, and gave direction to staff to prepare a Rent Stabilization Ordinance.

**WHEREAS**, U.S. Census data indicates that approximately 24% of Town households are renter-occupied with a median gross rent of \$1,930, and that approximately 41% of Town renters are paying more than 30% of their income on housing; and

**WHEREAS**, pursuant to its police power under Article XI, Section 7 of the California Constitution, the Town may enact and enforce laws within its boundaries that promote the public health, safety, and general welfare that are not in conflict with general laws; and

**WHEREAS**, due to the disproportionate housing cost burden on residential tenants in the Town of San Anselmo and in order to help preserve affordable rental housing and prevent tenant displacement, the Town Council finds it necessary for the public health, safety, and general welfare to adopt an ordinance as set forth herein providing protections for residential tenants by regulating rental rates and other factors for certain residential rental units (“Ordinance”); and

**WHEREAS**, the Town Clerk caused notice of a Town Council public hearing regarding the Town Council’s adoption of the Ordinance in the Marin Independent Journal newspaper on as required by Government Code section 36933 and published the text of the Ordinance as required by State law; and

**WHEREAS**, on March 26, 2024 the Town Council held a duly noticed public hearing to consider introduction of the Ordinance and voted 3-2 in favor of the Ordinance; and

**WHEREAS**, on April 9, 2024 at its duly noticed and public meeting a majority of the Town Council voted to adopt the Ordinance; and

**WHEREAS**, the Ordinance is consistent with the Town’s General Plan, Housing Element, Policy 4 “Support the Preservation of Housing” because it helps conserve existing affordable housing stock; and

**WHEREAS**, the Ordinance does not impact the Town’s Climate Action Plan and is therefore not applicable; and

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Environmental Review.** This Ordinance is not subject to the California Environmental Quality Act (“CEQA”) because it does not constitute a “project” within the meaning of Public Resources Code section 21065, and CEQA Guidelines sections 15060(c)(2), 15060(c)(3), or 15378 because there is no potential that it will cause a reasonably foreseeable direct or indirect physical change in the environment. The restrictions contained herein, including but not limited to the residential rental cap, will not affect the physical environment. Additionally, the Ordinance is exempt from CEQA pursuant to the “common sense” exemption, CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment. There are no unusual circumstances, or other factors per CEQA Guideline section 15300.2, that support an exception to this exemption.

**SECTION 2. Findings Incorporated.** The above recitals are true and correct and incorporated as findings herein.

**SECTION 3. General Plan Consistency.** Town Council of the Town of San Anselmo does hereby find that the Ordinance is consistent with the General Plan, Housing Element, Policy 4 “Support the Preservation of Housing” because rent caps and rent stabilization protections will help preserve affordable housing.

**SECTION 4. Ordinance Amendment.** A new Title 20 to the San Anselmo Municipal Code shall be added entitled: “Rent Stabilization and Tenant Protections”.

**SECTION 5. Ordinance Amendment.** A new Chapter “Rent Stabilization” shall be added to Title 20 to read as follows:

**20-1.101 Title.** This Chapter shall be known as the “San Anselmo Rent Stabilization Ordinance”.

**20-1.102 Applicability.** This Chapter shall apply to property with three (3) or more residential rental units, none of which are exempt pursuant to Section 20-1.110, are located on the same parcel or lot, or contiguous parcels or lots, under common ownership.

**20-1.103 Purpose.** The purpose of this Chapter is to protect residential tenants from excessive rent increases, promote the long-term sustainability for tenants in the Town of San Anselmo, and preserve affordable rental housing while ensuring that landlords receive and maintain their ability to receive a fair rate of return on their rental property.

**20-1.104 Definitions.** For the purposes of this Chapter the following definitions apply:

(a) “Annual Allowable Rent Increase” shall mean the allowable increase in Rent permitted within a twelve (12) month period as set forth in Section 20-1.105(b).

(b) "Base Rent" shall mean the reference point from which the lawful Rent shall be determined and adjusted in accordance with this Chapter.

(1) Base Rent for tenancies that commenced before June 21, 2023 shall be the Rent in effect on June 21, 2023.

(2) Base Rent for tenancies commencing on or after June 21, 2023 shall be the initial rental rate charged upon the initial occupancy. For purposes of this Section "initial rental rate" means only the amount of Rent actually paid by the tenant for the initial term of the tenancy.

(c) "Fair Return Petition" shall mean a petition made by an owner of residential real property for a Rent increase in excess of that provided in Section 20-1.105 of this Chapter in order to obtain a Reasonable Rate of Return on property.

(d) "Reasonable Rate of Return" shall have the meaning assigned to the term by California and federal courts in precedential published opinions regarding rent stabilization ordinances for residential tenancies. Generally, within the context of a rent stabilization ordinance, the term refers to a rate of just and reasonable return on an owner's property that is high enough to encourage and reward efficient management, discourage the flight of capital, maintain adequate services, and enable operators to maintain and support an owner's credit status, but not so high as to defeat the purpose of curtailing excessive Rents and Rental increases.

(e) "Rent" shall mean all periodic payments and all nonmonetary consideration, including, but not limited to, the fair market value of goods and services rendered to or for the benefit of the owner under an agreement concerning the use or occupancy of residential real property, including, but not limited to, all payment and consideration demanded or paid for parking, pets, furniture, and subletting.

#### **20-1.105 Stabilization of Rent.**

(a) Upon the effective date of this Chapter, no owner of residential real property shall charge Rent in an amount that exceeds the sum of the Base Rent plus any lawful Rent increases implemented pursuant to this Chapter.

(b) Annual Allowable Rent Increase.

(1) The Annual Allowable Rent Increase shall be equal to sixty percent (60%) of the percentage increase in the Consumer Price Index (All Urban Consumers, San Francisco-Oakland-Hayward region, or any successor designation) rounded to the nearest one-tenth of a percent, or 5%, whichever is lower.

(2) More than one Rent increase within a twelve (12) month period is prohibited, unless approved by a Fair Return Petition pursuant to this Chapter or required by State law.

**20-1.106 No Direct Charge for Utilities.** A residential property owner may not charge a tenant for utility charges in addition to Rent. In order to be paid by a tenant, the utility service must be separately or individually metered and the utility account must be registered to the tenant and not the residential property owner.

**20-1.107 Reasonable Rate of Return.** The Annual Allowable Rent

Increase is found and determined to provide a Reasonable Rate of Return on property. Notwithstanding the foregoing, any owner of residential real property who contends that the Annual Allowable Rent Increase prevents the owner from receiving a Reasonable Rate of Return on property may file a Fair Return Petition to increase the amount of Rent pursuant to the provisions in this Chapter.

**20-1.108 Fair Return Petition for Rent Increase.**

(a) An owner of residential real property may petition for a Rent increase in excess of the Annual Allowable Rent Increase in order to obtain a Reasonable Rate of Return on the owner's property.

(b) A Fair Return Petition shall be on a form prescribed by the Planning Director or designee. Within five (5) calendar days of submitting a Fair Return Petition to the Town, the owner shall send a copy of the petition to the applicable tenant(s) by first class U.S. mail and promptly provide proof of such mailing to the Town. The tenant(s) will then have thirty (30) calendar days from the date of mailing a copy of the petition to reply or provide additional materials to the Town in response to the Fair Return Petition. All Fair Return Petitions pertaining to tenants in the same building will be consolidating for hearing.

(c) There is a rebuttable presumption that the Annual Allowable Rent Increase provides owners with a Reasonable Rate of Return on property. The owner has the burden of proof to rebut this presumption and show that a further increase in Rent is necessary to provide a Reasonable Rate of Return. The owner shall provide at his/her/their sole cost and expense, all documentation requested by the Planning Director or designee, or Planning Commission as applicable, to establish that the requested increase in Rent is necessary to provide a Reasonable Rate of Return on property including, but not limited to, an independent financial report and verified financial data.

(d) The owner of residential property shall pay all applicable fees as established by Town Council resolution to file a Fair Return Petition.

(e) In reviewing a Fair Return Petition, the Planning Director or designee shall consider relevant factors including but not limited to the following:

(1) Changes in the Consumer Price Index for All Urban Consumers in the San Francisco Oakland-Hayward, CA Area published by the Bureau of Labor Statistics.

(2) The length of time since the last determination on a Fair Return Petition, or the last Rent increase if no previous Fair Return Petition has been made.

(3) The completion of any capital improvements or rehabilitation work related to the residential real property specified in the Fair Return Petition, and the cost thereof, including materials, labor, construction interest, permit fees, and other items deemed appropriate.

(4) Changes in property taxes or other taxes related to the subject property.

(5) Changes in the cost of property-related insurance for the subject property.

(6) Changes in the Rent paid by the landlord for the lease of the subject property.

(7) Changes in the utility charges for the subject property paid by the owner, and the extent, if any, of reimbursement from the tenants.

(8) Changes in reasonable operating and maintenance expenses.

(9) The need for repairs caused by circumstances other than ordinary wear and tear.

(10) The amount and quality of services provided by the owner to the affected tenant(s).

(f) A Fair Return Petition shall be decided by the Planning Director or designee within sixty (60) calendar days from the date said petition has been deemed complete, including proof of service to tenant(s), unless such a decision cannot be made within this time frame due to reasons beyond the Town's control, including but not limited to, failure to receive requested information. The decision shall be emailed and sent by first class U.S. mail with proof of mailing to the property owner, the property owner's designated representative(s) for the Fair Return Petition, if any, the applicable tenant(s), and the designated representative of the tenant(s), if any.

#### **20-1.109 Appeal of Fair Return Petition for Rent Increase.**

(a) The property owner and/or affected tenant(s) may appeal the Fair Return Petition decision of the Planning Director or designee to the Planning Commission within thirty (30) calendar days of the mailing of the Planning Director's or designee's decision. The Planning Commission shall review the petition de novo pursuant to the factors in Section 20-1.108(e) of this Chapter. The Planning Commission may reverse, uphold, or modify the Planning Director's or designee's decision.

(b) The Planning Commission shall consider an appeal at a noticed public meeting within sixty (60) calendar days of receiving such appeal, unless such consideration cannot be made within this time frame due to reasons beyond the Town's control, including but not limited to, failure to receive requested information.

(c) The Planning Commission shall make a final decision in writing within thirty (30) calendar days of the closing of the appeal hearing unless such a decision cannot be made within this time frame due to reasons beyond the Town's control, including but not limited to, failure to receive requested information. The appellant shall pay a fee as established by Town Council resolution. Notwithstanding any provision contained in the San Anselmo Municipal Code, the decision of the Planning Commission shall be the final administrative decision of the Town with no right of review by the Town Council.

(d) The party appealing the Fair Return Petition decision shall pay all applicable fees as established by Town Council resolution.

**20-1.110 Exemptions.** The provisions of this Chapter regulating the amount of Rent that a residential real property owner may charge shall not apply to the following:

(a) Residential real property that has a certificate of occupancy issued after February 1, 1995, pursuant to the Costa-Hawkins Rental Housing Act (Cal. Civil Code sections 1954.50-1954.535) and any other provisions of the Costa-Hawkins Rental Housing Act or other law addressing exemptions.

(b) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Cal. Health and Safety Code section 50093 or comparable federal statutes.

- (c) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- (d) Residential real property that is alienable, separate from the title to any other dwelling unit, including single-family residences, condominiums, and townhomes.
- (e) A unit in a hotel, motel, inn, tourist home, or rooming and boarding house which is rented primarily to transient guests for a period of less than 30 days, and other transient occupancies as defined in Cal. Civil Code section 1940(b).
- (f) A unit in an institutional facility, including a hospital, medical care facility, residential care facility, asylum, group home for seniors or the disabled; a rental unit in a transitional housing program that assists homeless persons as defined in Cal. Civil Code, Section 1954.12; a convent or monastery owned and operated by a religious organization; or a fraternity or sorority house affiliated with a college or university.
- (g) A unit that the owner or the owner's immediate family occupied as their principal place of residence at the beginning of the tenancy so long as the owner or the owner's immediate family continues in occupancy.
- (h) A unit permitted as an Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU).
- (i) Two (2) or fewer residential rental units located on a parcel or lot, or contiguous parcels or lots, under common ownership.

**20-1.111 Rent Increase Ineffective.** No Rent increase shall be effective if the owner:

- (a) Fails to substantially comply with all provisions of this Chapter, including but not limited to the failure to provide notices as required by this Chapter;
- (b) Fails to maintain the residential real property in compliance with Cal. Civil Code sections 1941.1 *et seq.* and Cal. Health and Safety Code sections 17920.3 and 17920.10; or
- (c) Fails to make repairs ordered by the Town or court of competent jurisdiction.

**20-1.112 Notice Requirements.**

- (a) An owner of any residential real property subject to this Chapter shall, on or before the date of commencement of a tenancy, give the tenant written notice that must include the following information:
  - (1) The existence and scope of this Chapter 20-1 of the Town Municipal Code; and
  - (2) The tenant's right to respond to any Fair Return Petition filed with the Town by the owner pursuant to this Chapter.
- (b) No Rent increase shall take effect until the requirements of this Chapter have been met and the required notice to increase Rent has been given to the tenant(s). As part of any notice to increase Rent, an owner must include the following:
  - (1) Notice of the existence of this Chapter 20-1 of the Town Code; and
  - (2) The tenant's right to respond to any Fair Return Petition filed with the Town by the owner, and the right to appeal the decision of a Fair Return Petition to the Planning Commission.

(c) When the owner and tenant have entered into a written lease, the owner must give notices to the tenant in the language used in the lease. When the owner and tenant have not entered into a written lease, the owner must give notices to the tenant in the language that the owner and tenant used to negotiate the terms of the tenancy. Notwithstanding the foregoing, the owner must give notices to the tenant in the primary language spoken by the tenant, if known to the owner.

**20-1.113 Enforcement.**

(a) It shall be unlawful and a public nuisance for any person or legal entity to violate or fail to comply with any provision of this Chapter. The Town Attorney is authorized to abate violations and to enforce the provisions of this Chapter and all implementing regulations pursuant to the San Anselmo Municipal Code, civil action, injunctive relief, and/or any other proceeding permitted by law. All remedies are cumulative.

(b) Any property owner who intentionally demands, accepts, or retains any payment of Rent in violation of this Chapter shall be liable in a civil action to the tenant from whom such payment is demanded, accepted, or retained for damages in the sum of three (3) times the amount that exceeds the maximum that could be lawfully demanded, accepted, or retained together with reasonable attorneys' fees and costs as determined by a court of competent jurisdiction.

**20-1.114 Fees and Administrative Regulations.**

(a) The Town Manager may adopt administrative procedures and regulations to implement the provisions of this Chapter.

(b) Property owners subject to this Chapter shall pay fees as established by Town Council resolution in order to fund the Town's cost to implement and enforce the provisions of this Chapter.

**SECTION 6. Severability.** The Town Council hereby declares every section, paragraph, sentence, clause, and phrase is severable. If any section, paragraph, sentence, clause or phrase of this Ordinance for any reason is found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

**SECTION 7. Effective Date.** This Ordinance shall go into effect thirty (30) days from its adoption. Prior to the expiration of fifteen (15) days of adoption, this Ordinance or a summary thereof pursuant to Government Code section 36933, shall be published at least once in a newspaper of general circulation, along with the names of the members of the Town Council voting for and against its adoption.



**INTRODUCED AND ADOPTED** the foregoing ordinance was introduced at a regular meeting of the San Anselmo Town Council on the 26<sup>th</sup> of March 2024 and was adopted at a regular meeting of the San Anselmo Town Council on April 9, 2024, by the following vote:

**AYES:** Councilmember: Fineman, Kullaway, Burdo  
**NOES:** Councilmember: Colbert, Mayor Burke  
**ABSTAIN:** Councilmember: None  
**ABSENT:** Councilmember: None  
**RECUSED:** Councilmember: None

**APPROVED:**   
Eileen Burke, Mayor

**ATTEST:**   
Serge Avila, Town Clerk