

**URGENCY ORDINANCE NO. 1155**

**AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO THE FINANCIAL IMPACTS OF THE COVID-19 PANDEMIC**

**WHEREAS**, Pursuant to the California Constitution and State Government Code, the Town may make and enforce all regulations and ordinances using its police powers to regulate municipal affairs and may enact ordinances for the preservation of the public peace, health, or safety; and

**WHEREAS**, in late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China and on January 7, 2020, a novel coronavirus now known as COVID- 19 was identified as the likely source of the illness; and

**WHEREAS**, on January 30, 2020, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

**WHEREAS**, the widespread, ongoing global outbreak of respiratory illness can be spread from person-to-person, and on February 26, 2020, community transmission was confirmed by the Centers for Disease Control and Prevention (CDC) in the Bay Area; and

**WHEREAS**, on March 4, 2020, the Governor of California declared a State of Emergency due to the COVID-19 pandemic; and

**WHEREAS**, on March 11, 2020, the San Anselmo Town Manager, in his capacity as Director of Emergency Services, declared a Local Emergency in the Town of San Anselmo due to the COVID-19 pandemic, which was affirmed by resolution of the San Anselmo Town Council on March 17, 2020; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a National Emergency due to the COVID-19 pandemic; and

**WHEREAS**, on March 16, 2020, the health officers of seven jurisdictions in the San Francisco Bay Area, including the County of Marin, issued an Order to all residents of the respective jurisdictions to shelter in their homes in an effort to slow the progression of the COVID- 19 pandemic; and

**WHEREAS**, on March 16, 2020, the Governor issued Executive Order N-28-20, authorizing local jurisdictions to prohibit commercial and residential evictions due to non-payment of rent or mortgage payments, where failure to pay is related to the COVID-19 pandemic; and

**WHEREAS**, on August 31, 2020, the State enacted legislation the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, Assembly Bill ("AB") 3088 that put into place a statewide moratorium on residential evictions until January 31, 2021, and precluded local governments from extending any existing moratoria on residential evictions beyond their already enacted expiration dates; and

**WHEREAS**, on September 1, 2020, Governor Newsom signed AB 3088 into law to provide immediate protections and financial relief to residential tenants, homeowners, and small Property Owners impacted by COVID-19; and

**WHEREAS**, on January 29, 2021, Governor Newsom signed Senate Bill ("SB") 91 into law, which extends through June 30, 2021, eviction protections under AB 3088, as well as the temporary preemption of a local jurisdiction's ability to enact new or amend existing eviction protections for nonpayment of rent due to financial distress related to COVID-19; and

**WHEREAS**, at its meeting of June 8, 2021, the Town Council introduced an ordinance enacting a rent freeze for tenants who reside in nonexempt units and provide their landlords with a Declaration of COVID-19-Related Financial Distress; and

**WHEREAS**, the Town of San Anselmo is in one of the least affordable housing markets in California and the United States and federal government data collected prior to the pandemic indicates renters occupy about 24 percent of the Town's housing stock and 41 percent of renters spend more than 30 percent of their income on housing; and

**WHEREAS**, while Marin County has experienced a reduction in COVID-19 cases since January 2021, many residential tenants continue to experience serious financial impacts including the substantial loss of income due to illness, business closures, loss of employment, or reduced hours due to the COVID-19 pandemic, leaving them vulnerable to the additional financial burden of a rent increase that could lead to eviction for nonpayment of rent; and

**WHEREAS**, displacement through eviction destabilizes the living situation of tenants and impacts the health of San Anselmo's residents by uprooting children from schools, disrupting the social ties and networks that are integral to the community's welfare, creating undue hardship through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing and homeless shelters in San Anselmo, and can lead to increases in health issues, exacerbation of existing health issues, and increase in risk of earlier death; and

**WHEREAS**, in-person school instruction can lower rates of anxiety and depression, result in higher rates of immunizations, and have other positive results on health and wellbeing and evictions can interrupt this critical in-person instruction for some San Anselmo tenants; and

**WHEREAS**, the Town Council finds and determines that establishing a temporary prohibition on residential evictions for tenants providing their landlords with Declaration of COVID-19-Related Financial is necessary to protect public health and safety; and

**WHEREAS**, this Urgency Ordinance is intended to prevent avoidable homelessness by temporarily prohibiting evictions that would cause instability for individuals and families struggling during this time to pay their bills and feed their families due to COVID-19 financial hardship, thereby serving the public peace, health, safety, and public welfare; and

**WHEREAS**, implementation of a temporary eviction moratorium will reduce the likelihood of displacement by limiting the accumulation of debt due to rent increases, thereby supporting the long-term recovery of these residents, lowering the risk of displacement of San Anselmo renters and thereby protecting public health; and

**WHEREAS**, this Urgency Ordinance is temporary and not a general ordinance in force and is not required to be codified; and

**WHEREAS**, this Urgency Ordinance is expressly authorized by State law because it takes effect following the potential expiration of SB 91 on June 30, 2021; and

**WHEREAS**, although the California Legislature may extend the June 30, 2021, expiration of the state-wide eviction moratorium provided by SB 91, the Legislature has not yet acted and uncertainty surrounding possible evictions makes it difficult for individuals and families to plan how to keep themselves safely housed and protected from the pandemic; and

**WHEREAS**, without local protection, eviction notices for failure to pay rent may surge as many San Anselmo residents are unable to earn income due to the pandemic or are forced to pay substantial medical expenses associated with the pandemic; and

**WHEREAS**, based upon the above-described facts and circumstances, and for these same reasons, the Town Council finds that this Urgency Ordinance is necessary for preserving the public peace, health and safety; and

**WHEREAS**, the Town Council desires to establish a temporary residential eviction moratorium, where not preempted, through December 31, 2021.

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO** hereby ordains as follows:

**SECTION 1. Environmental Review.**

The Town Council hereby finds that adoption of a temporary residential eviction moratorium is not a "project" under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

**SECTION 2. Declaration of Threat to Public Health, Safety, and Welfare Necessitating Urgency Ordinance.**

The Town Council of the Town of San Anselmo hereby finds and declares that there is a current and immediate threat to the public health, safety and welfare and a need for the immediate preservation of the public health and safety that warrants this urgency ordinance, based upon the facts, findings, and declarations stated in the findings of this Ordinance, and all oral and written testimony presented at the June 22, 2021, regular Town Council meeting.

**SECTION 3. Establishing a Temporary Residential Eviction Moratorium.**

A temporary residential eviction moratorium for tenants who provide landlords with a Declaration of COVID-19-Related Financial Distress shall become effective upon its adoption by 4/5 vote of the Town Council pursuant to the California Government Code and shall remain in effect until December 31, 2021.

#### **SECTION 4. Definitions.**

“Declaration of COVID-19-Related Financial Distress” means the following written statement, as provided by Code of Civil Procedure Section 1179.02(d):

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury:

Dated:

This Declaration may be delivered in person, electronically, by mail, or through any method permitted by Code of Civil Procedure Section 1179.03(f).

“Financial impacts” means a substantial loss of income due to business closure, loss of compensable hours of work or wages, layoffs, missing work, or childcare expenditures due to school closure, medical expenses related to being ill with COVID-19 or caring for a member of the residential tenant’s household who is ill with COVID-19, or other similarly- caused reason resulting in a loss of income due to COVID-19. A financial impact is “related to COVID-19” if it was directly or indirectly caused by the COVID-19 pandemic, the proclamation of Local Emergency, the Health Officer’s Shelter-in-Place Order, or public health orders or recommended guidance related to COVID-19 from local, state, or federal authorities.

“Landlord” includes owners, lessors, or sublessors (of any level) of residential rental property, and the agent, representative, or successor of any of the foregoing.

“Local Emergency” includes any period of local emergency declared by the Town of San Anselmo in response to the COVID-19 pandemic.

“Notice of Termination” means the notice informing a Tenant of the termination of their right to occupy the Residential Unit in accordance with applicable California law, including but not limited to a 3- or 30-day notice to pay or quit.

"Residential Unit" means a unit that is occupied by a Tenant as their place of residence, including but not limited to apartments, houses, rooms, and residential hotels, in the Town of San Anselmo. A unit is considered a residential unit if it is used for residential occupation regardless of its permitting status.

"Tenant" means a person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a Residential Unit and includes a tenant, subtenant, lessee, sublessee (of any level), or any other person entitled to use or occupancy of residential property, including occupants who are holding over after the expiration of the term of a written or oral lease and current occupant who occupied the property with the current or prior consent of the property's Landlord or a prior owner, in the Town of San Anselmo.

**SECTION 5. Temporary Moratorium on Evictions in the Town of San Anselmo.**

A. The ordinance is effective immediately.

B. No Landlord may lawfully terminate a residential Tenancy for non-payment of rent if the residential tenant has provided a Declaration of COVID-19-Related Financial Distress to the Landlord within 15 days after receiving notice demanding payment of rent from the Landlord, that the Tenant is unable to pay rent due to financial impacts related to COVID-19.

C. For Tenants that provide the Declaration of COVID-19-Related Financial Distress provided in Section B, above, Landlords are prohibited from engaging in any of the following actions for non-payment of rent with respect to a Tenant of a Residential Unit between July 1, 2021 and December 31, 2021:

(1) Serving a notice of termination of Tenancy;

(2) Filing or serving an unlawful detainer lawsuit, ejectment action, or other action to recover possession of a residential unit; or

(3) Evicting a Tenant or requiring a Tenant to vacate a residential unit, including by seeking the entry of an eviction judgment or by causing or permitting a writ of possession to be executed, including in the case of judgments entered prior to the date of this Urgency Ordinance;

D. Actions to recover an unpaid COVID-19 rental debt, as defined in Section 1179.02 of the Code of Civil Procedure, are governed by SB 91, and nothing in this Urgency Ordinance shall be construed to supersede or conflict with SB 91.

E. To the extent state law is more protective of a Tenancy than this section, those state law provisions shall apply to the Tenancy. Nothing in this section shall be construed to supersede any applicable requirements in Civil Code section 1946.2 pertaining to relocation assistance or rent waiver.

**SECTION 6. Affirmative Defense.**

Non-compliance with any provision of this Urgency Ordinance shall constitute an affirmative defense for a Tenant in any unlawful detainer action brought pursuant to California Code of Civil Procedure section 1161, as amended. Said affirmative defenses shall survive the termination or expiration of this Urgency Ordinance.

**SECTION 7. 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 is for any reason 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 8. Effective Date.**

This Ordinance shall go into effect immediately upon adoption and shall be in effect until December 31, 2021, unless repealed earlier.

**THE FOREGOING ORDINANCE** was adopted at a regular meeting of the San Anselmo Town Council on June 22, 2021, by the following vote:

**AYES:**       **Colbert, Fineman, Burdo, Burke, Greene**

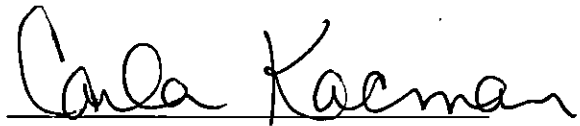
**NOES:**       **None**

**ABSENT:**   **None**

**ABSTAIN:**   **None**

A large, stylized handwritten signature in black ink, appearing to read 'Brian Colbert', written over a horizontal line.

Brian Colbert, Mayor

A handwritten signature in black ink, appearing to read 'Carla Kacmar', written over a horizontal line.

ATTEST: Carla Kacmar, Town Clerk