ORDINANCE NO. 1130

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO AMENDING TITLE 19 (CENTRAL MARIN POLICE AUTHORITY MATTERS), CHAPTER 1 (SOCIAL HOST ACCOUNTABILITY ORDINANCE), SECTIONS 19-1.01 THROUGH 19-1.04, OF THE SAN ANSELMO MUNICIPAL CODE

WHEREAS, the Town of San Anselmo has had a Social Host Accountability Ordinance in place since 1993; and

WHEREAS, on January 13, 2015, at the request of the Central Marin Police Authority (CMPA), the Town updated its Social Host Accountability Ordinance and conformed the numbering system of the similar criminal enforcement provisions located in the three City/Town municipal codes and codified the Social Host Accountability Ordinance in new Title 19, under Chapter 19.01; and

WHEREAS, on June 13, 2017, the Marin County Board of Supervisors approved an amendment to the County Social Host Ordinance extending its application to unruly gatherings where marijuana is present as well as encompassing any unruly gatherings on “party buses and limousines”; and

WHEREAS, on May 3, 2018, the CMPA Police Council recommended amending the Social Host Ordinances within its jurisdiction to do the following: add the ingestion of controlled substances and marijuana to the ordinance; expand the definition of “premises” to include public premises, party bus, or limousine; expand “the person in charge of the event” to include the owner, renter, or lessor; and add a restorative justice element to the ordinance; and

WHEREAS, at its meeting of November 13, 2018, the Town Council discussed the proposed changes to the Town’s Social Host Accountability Ordinance and directed staff to bring the ordinance forward for introduction;

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

SECTION 1. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. The Town Council hereby finds that under Section 15061(b)(3) of the CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

SECTION 2. Title 19 (Central Marin Police Authority Matters), Chapter 1 (Social Host Ordinance), Sections 19-1.01 through 19-1.04 are amended as follows:

19-1.01 – Purpose and findings.

The Town Council of the Town of San Anselmo does hereby find and declare all of the following:
(a) The intent of this chapter is to protect the public health, safety and general welfare, rather than to punish;

(b) The consumption of alcohol, the ingestion of controlled substances and the use or possession of marijuana by persons under the age of twenty-one (21) years is unlawful and presents a threat to the well-being of the minor and other persons having contact with the minor who has consumed alcohol or used controlled substances or marijuana;

(c) Any party or gathering where the person owning or controlling the premises or event suffers or permits any minor to consume alcohol or ingest controlled substances and/or marijuana is being conducted in a manner that is not properly supervised or controlled and presents a threat to the public safety, health, and welfare;

(d) Unsupervised parties on private or public property where alcohol, marijuana or controlled substances are consumed by minors constitute a potential hazard for the partygoers and those who might come into contact with them during the party or after the minor leaves the party and enters the public domain;

(e) Control by the police of unsupervised parties, gatherings, or events as described above is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public;

(f) The occurrence of parties or gatherings as described above contributes to an increase in alcohol and drug abuse and driving under the influence by minors, excessive noise, traffic, and vandalism within the neighborhood or area of the party or gathering, and threatens public safety by permitting violations of law to go unpunished and unabated and increasing the risks of alcohol or drug-related incidents causing personal injury and/or death; and

(g) State law prohibiting conduct which contributes to the delinquency of minors does not address liability for allowing consumption of alcohol by persons who are eighteen years of age or older, but under the legal drinking age, on premises under the control of the adult.

19-1.02 – Definitions.

As used in this chapter, the following terms shall be defined as follows:

(a) Alcohol means ethyl alcohol, hydrated oxide of ethyl. or spirits of wine, from whatever source or by whatever process produced.

(b) Alcoholic beverage means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, liquor, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(c) Controlled Substance means a drug or substance the possession and use of which are regulated under the California Controlled Substances Act (California Health and Safety Code Section 11000 et seq.). Such term does not include any drug or substance for which the individual found to have consumed or possessed such substances has a valid prescription
issued by a licensed medical practitioner authorized to issue such a prescription, or in the case of medical cannabis, a recommendation for medical marijuana from an approved provider, or a State of California medical marijuana ID card.

(d) Marijuana is defined as any and all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin and includes concentrated marijuana. The prohibition herein includes marijuana in any form including but not limited to cigarettes, vapor, food products containing marijuana or concentrated marijuana, hash oil and any other product of marijuana that can be smoked or ingested.

(e) Person responsible for the event means and includes, but is not limited to:

(1) The person who owns, rents, leases or otherwise has control of the private or public premises, party bus, limousine or other conveyance where the gathering occurs; and/or

(2) The person in charge of such premises; and/or

(3) The person who organized the event. If the person responsible for the event is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable under this chapter.

(f) Hearing officer means an individual selected by the town manager from an existing list of duly-qualified hearing officers maintained for the purpose of hearing appeals under this chapter. The employment, performance, evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

(g) Minor means any person less than twenty-one (21) years of age.

(h) Juvenile means any person less than eighteen (18) years of age.

(i) Town means Town of San Anselmo and its officers, employees, and all other persons acting on its behalf.

(j) Party, gathering, or event means a group of persons who have assembled, or are assembling, for a social occasion or for a social activity that is occurring at a place where alcohol is being consumed or controlled substances/marijuana is being ingested by one or more persons.

(k) Loud or unruly gathering means a party or gathering of two or more persons at a residence or on other private or public property or a party bus, limousine or other conveyance or rented property upon which loud or unruly conduct occurs. Such loud or unruly conduct constitutes a public nuisance and includes but is not limited to:

(1) excessive noise;

(2) excessive traffic;
(3) obstruction of public streets and/or the presence of unruly crowds that have spilled into public streets;

(4) public drunkenness or unlawful public consumption of alcohol or alcoholic beverages;

(5) assaults, batteries, fights, domestic violence or other disturbances of the peace;

(6) vandalism;

(7) litter; or

(8) any other conduct which constitutes a threat to the public health, safety, or quiet enjoyment of residential property or the general welfare.

19-1.03 – Unlawful minor gatherings.

Except as permitted by Article 1, Section 4, of the California Constitution, no person responsible for an event shall suffer, permit, allow, or host a loud or unruly party, gathering, or event at his or her place of residence or other private property, place, or premises under his or her control or host a gathering at a public place under his or her control or arrange for a party bus, limousine or other conveyance or the renting of same where two or more minors are present and alcoholic beverages, controlled substances or marijuana are in the possession of, or being consumed by or ingested by, one or more minors. This section shall not apply to a parent or legal guardian who provides an alcoholic beverage at a family gathering to a minor under the parent or legal guardian’s care. Any violation of this section shall be deemed a public nuisance.

19-1.04 – Enforcement and penalties.

(a) Upon a determination that a violation of section 19-1.030 has been committed, a public safety officer of the Central Marin Police Authority may issue a notice of violation. A notice of violation shall Indicate whether the violation shall be enforced as a criminal offense or administrative penalty. If the violation is enforced as a criminal offense, the notice of violation shall be issued and forwarded for prosecution in the same manner as all other criminal offenses punishable as misdemeanors under this code. If the violation Â-1s enforced as an administrative penalty, then the administrative penalty procedures in this chapter shall be followed.

(b) In determining whether the offense should be subject to criminal prosecution, the officer shall exercise his or her discretion in considering the following factors: the circumstances surrounding the incident; the number of complaints received regarding similar incidents at the same location or involving the same persons within a twelve-month period; the number of minors attending the party, gathering, or event. the number of minors consuming or in possession of alcohol and/or marijuana or controlled substances, and the conduct of the minors attending the party, gathering, or event; and any other factors that would support criminal prosecution. The selection of criminal or administrative enforcement under this section shall not be subject to any form of challenge or appeal.
(c) If enforced as a criminal offense, a violation of section 19-1.030 is punishable as a misdemeanor and subject to a fine not to exceed one thousand dollars per violation.

(d) If enforced as an administrative penalty, a first violation of section 19-1.030 shall be subject to an administrative penalty of a fine in the amount of seven hundred fifty dollars. A second violation within a twelve-month period shall be subject to an administrative penalty of a fine in the amount of eight hundred fifty dollars. A third or subsequent violation within a twelve-month period shall be subject to an administrative penalty of a fine in the amount of one thousand dollars for each violation. The hearing officer may in his or her discretion require community service for a violation of section 19-1.030 in addition to or in lieu of an administrative fine. For juvenile offenders the administrative fines set forth above may be waived in the discretion of the Chief of Police or the Hearing Officer upon proof of successful completion of a juvenile diversion program.

(e) In the event that a person in violation of section 19-1.030 is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for any administrative fine imposed under this chapter.

SECTION 3. Severability. The Town Council hereby declares every section, paragraph, sentence, cause 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 4. Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in Section 2 be made a part of the San Anselmo Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

SECTION 5. Effective date. This Ordinance shall go into effect 30 days after its adoption and shall be posted or published as required by State law.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on November 27, 2018, and was adopted at a regular meeting of the San Anselmo Town Council on December 11, 2018, by the following vote:

AYES: Wright, Brown, Coleman, Greene, Colbert
NOES: None
ABSENT: None
ABSTAIN: None

[Signature]
Matt Brown, Mayor

ATTEST:
[Signature]
Carla Kacmar, Town Clerk
ORDINANCE NO. 1131

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
ADDING NEW CHAPTER 13 TO TITLE 10 (PLANNING AND ZONING) TO PROHIBIT
DISCRIMINATION BASED ON SOURCE OF INCOME

WHEREAS, in San Anselmo it is unlawful 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 Town of San Anselmo is committed to providing and preserving fair and
affordable housing for all income levels; and

WHEREAS, the Town of San Anselmo 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 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 and federal law further requires the Town to identify impediments to
providing affordable housing and to develop strategies for removing those 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.

NOW, THEREFORE, BE IT RESOLVED, THE TOWN COUNCIL OF THE TOWN OF SAN
ANSELMO DOES ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance was assessed in accordance with the authority and criteria contained
in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the
environmental regulations of the Town. The Town Council hereby finds that under Section
15061(b)(3) of the CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA.
because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

SECTION 2. Title 10 (Planning and Zoning) is amended to add a new Chapter 13 as follows:

Chapter 13
INCOME-BASED RENTAL HOUSING DISCRIMINATION

Sections
10.13.010 Housing
10.13.020 Civil injunctive relief
10.13.030 Civil liability
10.13.040 Criminal penalty
10.13.050 Definition

10.13.010 - Housing.
(a) Prohibited Activity. It is unlawful for any person to do any of the following as wholly or partially based on source of income:
1. 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;
2. To include in the terms or conditions of a transaction in real property any clause, condition or restriction;
3. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee;
4. 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.
5. For purposes of this subsection, "source of income" means all lawful sources of income or rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program. Source of income includes any requirement of any such program or source of income or rental assistance.

(b) 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:
1. Fails to account for any rental payments or portions of rental payments that will be made by other individuals or organizations on the same basis as rental payments to be made directly by the tenant or prospective tenant;
2. 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.
(c) Exceptions.

1. 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 (1) it is necessary for the owner to use either a bathroom or kitchen facility common with the prospective tenant, or (2) the structure contains fewer than three dwelling units.

2. Nothing in this chapter shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.

10.13.020 - Civil injunctive relief
Any aggrieved person may enforce the provisions of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this chapter 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 town counsel, the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

10.13.030 - Civil liability
Any person who violates any of the provisions of this chapter or who aids in the violation of any provisions of this chapter is liable for, and the court must award to the individual whose rights are violated, three times the amount of special and general damages, or, in the case of unlawful discrimination in the rental of a unit, 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 no less than $200.00 but not more than $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.

10.13.040 - Criminal penalty
Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall be guilty of a misdemeanor or infraction as provided in Section 1-2.01 of the Town Municipal Code (Violations, misdemeanors, infractions or nuisances).

10.13.050 - Definition
The word "person" as used in this chapter means any individual, firm, corporation, or other organization or group of persons however organized.

SECTION 3. Severability. The Town Council hereby declares every section, paragraph, sentence, cause 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 4. Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in Section 2 be made a part of the San Anselmo Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.
SECTION 5. Effective date. This Ordinance shall go into effect thirty (30) days from its adoption.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on November 27, 2018, and was adopted at a regular meeting of the San Anselmo Town Council on December 11, 2018 by the following vote:

AYES: Wright, Brown, Coleman, Greene, Colbert
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:
Carla Kacmar, Town Clerk

Matt Brown, Mayor